



NYPSC Board of Directors

*Chair, Andrew Radin
Onondaga County
Resource Recovery Agency*

*Ken Armellino, P.E.
Covanta*

*Barb Eckstrom
Tompkins County Recycling and
Materials Management*

*James Bunchuck
Town of Southold
Solid Waste District*

*Resa Dimino
Recycling and Materials
Management Consultant*

*Todd Ellis
Call2Recycle*

*Katherine Kitchener
New York City,
Department of Sanitation*

*Ted Osborne
Consulting and Brokerage*

*Ed Gottlieb
Ithaca Area Wastewater
Treatment Facility*

*Debra Smith
Broome County Division of Solid
Waste Management*

*Eric Swenson
New York State Assoc.
for Solid Waste Management*

*Dawn Timm
Niagara County
Dept. of Public Works*

February 1, 2018

The Honorable Steve Englebright, Chair, Environmental Conservation Committee
New York State Assembly

The Honorable Tony Avella, Vice Chair, Environmental Conservation Committee
New York State Senate

**RE: Recommendations for A6280-A /S1448-A;
Establishing a Battery Stewardship Program for Alkaline Batteries**

Dear Assemblyman Englebright and Senator Avella:

As outlined in our previous communications, the NY Product Stewardship Council **strongly supports** the intent of A6280-A/S1448-A, requiring primary battery manufacturers to take responsibility for their unwanted products. We believe the bill has the potential to capture nearly 7 million pounds of such batteries annually.

Please find on the following pages certain proposed revisions to improve the overall success and sustainability of the resulting program, specifically:

- Five suggested revisions that are aimed at achieving the legislative intent of the bill
- Five additional items that simply require some clarification in the language.

We are prepared and willing to assist in any way. Thank you for your consideration and continued strong leadership on this important issue.

Respectfully,

Andrew J. Radin
Board Chair
New York Product Stewardship Council



- 1) **The proposed provision for the number of drop off locations for counties of populations greater than 100,000 conflicts with the intent to provide convenient battery drop off.** Subsection 27-1605.2.c.(ii) sets forth drop-off convenience standards for counties of various populations. For counties with a population greater than one hundred thousand, requires “at least one location within each town, village and city with a population greater than fifty thousand.” In example, this would appear to result in only one drop off location for Kings County with a population of over 2.6 million people, and Monroe County would appear to only have three drop off locations to serve its population of nearly 750,000 residents. This will not provide convenient drop off for counties with populations of 100,000 + and will undermine the convenience standards of the bill. **[Action: NYPSC recommends the following language to ensure adequate convenient drop off standards for counties with populations of greater than 100,000 residents:**

(ii) provide, at a minimum, no fewer than two permanent collection facilities in each county in the state with a population of less than fifty thousand people; no less than three drop-off locations for counties with populations between fifty thousand and one hundred thousand; and, for all counties with a population greater than one hundred thousand, at least one drop-off location per each 50,000 in population of that county;

In example, this would more properly require at least 52 drop off locations for the 2.6 million residents of Kings County, and Monroe County’s population of 749,600 residents in upstate NY, would be served by 15 convenient drop off locations.].

In addition, with issues concerning proper safety training and rural site availability in general, suggest adding text to allow for an “out” if these parameters cannot be met. **[Action: Add text - “At its sole discretion, the Department can grant an exemption to the above minimums if the Stewardship Program can display circumstances which prohibit meeting the minimums in a specific county(ies)”].**

- 2) Page Three, Lines 20-21 & Lines 24-25 – **Definition of a Primary Battery #7 ... this definition creates legal “free riders”** which will jeopardize the long term sustainability of a program and also appears to exempt hearing aid batteries. **[Action: Eliminate these “carve outs,”** which currently include *batteries intended for industrial, business to business, warranty or maintenance services, or non-personal use, as well as . . . a battery that is sold or used in a medical device regulated by the United States Food and Drug Administration*; hearing aid batteries should be specifically referenced and included in the definition of eligible primary batteries].
- 3) Page Six, Lines 30-33, 27-1609. Agency Responsibilities, #4. Public Input. **Public input on all plan changes can undermine timely collection and processing** – for example, if a change in processors is necessary, as happened in VT, a wait for that change to go through while public review is conducted can halt timely collection and processing. **[Action: Delete “or amendment”].**

- 4) Page Three, Line 18 – Definition of a Primary Battery #7 ... **NYPSC suggests additional text to account for future chemistries.** Precedent for addition in rechargeable battery law – don't limit the program in scope based on today's technology [**Action:** "two kilograms of less, including, but not limited to, alkaline ..."].
- 5) Subsection 27-1605 2.c.(iii) allows for the acceptance of up to 20 batteries per visit (unless the collection facility agrees to accept more). This is very low. [**Action:** increase to up to 100 batteries per visit].

A FEW ITEMS REQUIRING CLARIFICATION:

- 1) **There is no definition of a Primary Battery Stewardship Organization** – used term in 27-1607, Annual Report; plan audit. [**Action:** Add definition].
- 2) Page Three, Lines 43-44 – Definition of a Rechargeable Battery #11 ... **reference to "27-1803", section doesn't appear to exist.** [**Action:** Insert definition or remove altogether].
- 3) Page Four, Lines 8-9 – Sale Prohibition (b) ... Clarification – **it's unclear when the 1st fee is due** – reference to section 27-1613 – is it due upon plan submittal in April 2019 or is it on January 1, 2020? When is on-going fee due - January or April when report is due? [**Action:** Clarify these questions and add text where appropriate].
- 4) Page Four, Lines 48-49, C. Collection; Convenience (i) ... **Suggest a cleaner definition as sites can opt in, but must meet minimum qualification standards, which would be outlined in the plan.** [**Action:** Change text to - Allow all retailers, municipalities, and certified solid waste management facilities, who meet the minimum collection site requirements specified in the stewardship plan, to opt to be a collection facility].
- 5) Page Seven, Lines 14-18, 27-1613. 1. **Fees Assessed ... Text is confusing.** This may be typo. [**Action:** Change text to – "1. Fee assessed. A producer acting individually shall pay a fee of nine thousand dollars annually and a primary battery stewardship organization, representing at least two producers, shall pay a fee of fifteen thousand dollars annually for operation under a stewardship plan approved by the commissioner under section 27-1609 of this title"].