



Modernizing Connecticut’s Bottle Bill Scoping Comments

August 27, 2021

Connecticut’s Container Deposit Law (CGS sec. 22a-243 - 22a-246) is a critical piece of Connecticut’s recycling policy. Refundable container deposits are a proven, effective way to promote recycling of single-serve beverage containers, expand consumer access to convenient recycling options, reduce litter removal and solid waste disposal costs, save taxpayers money, and create green jobs.

In June of 2021, the CT General Assembly passed Public Act 21-58, which included a number of important updates aimed at increasing redemption rates, significantly expanding the types of containers included in the program, and to strengthen and expand public access to convenient redemption options for deposit containers. These include the following:

1. The law raises the handling fees paid by beverage distributors to support the redemption network;
2. It expands the program to include non-carbonated beverages (i.e., juices, teas, and sports drinks), hard ciders and hard seltzer beverages (effective January 2023);
3. Raises the refundable beverage container deposit from \$.05 to \$.10 cents, to increase the redemption rate on containers (effective January 2024).

In addition to these critical program updates, an important budget provision was approved during the June special budget session, which calls for a grant program to expand access to redemption infrastructure in underserved areas.

The CT Bottle Bill Works Coalition supports these measures and urges DEEP to give these reforms the time they need to take effect *before* approving a plan to redesign the State’s existing container recycling program. Raising the handling fees, expanding the universe of containers covered by the program, and increasing the deposit value alone are expected to produce marked improvements in redemption rates, in addition to strengthening the state’s redemption infrastructure over time.

Pursuant to DEEP’s commitments to modernize Connecticut’s container deposit program, the agency’s first priority should be to enforce the law that exists in statute today. *Addressing problems related to free riders in the system, inconsistent sales reporting and ensuring timely payments to authorized redemption centers will go a long way towards addressing inefficiencies and data gaps that currently impede the program’s performance.*

DEEP should approve a new stewardship program to collect and recycle single-serve beverage containers *only after* new system reforms have been implemented, and it is determined that additional changes are warranted to achieve further improvements in the state's redemption rate. Additionally, the agency must maintain a level of oversight over such a program, in order to ensure continual progress in meeting performance targets over time.

Concerns regarding an industry-run stewardship program include:

1. **The ABA proposal submitted to the legislature in 2021 would have given beverage distributors control over Connecticut's deposit program *in addition to* an incentive to recycle fewer containers.** A producer-funded stewardship organization that gains revenue when the redemption rate is low (unredeemed deposits) requires robust oversight and enforcement mechanisms from the state. Without proper guardrails in place (i.e., clear enforcement measures and ample, meaningful opportunities for stakeholder comment), the stewardship organization is likely to seek out cost-saving measures (reducing the number of redemption options available to the public instead of adding new locations, setting daily redemption limits, etc.).
2. **The lack of adequately defined rules and regulations regarding beverage industry management creates the potential for unfair business practices that may impact small businesses and local operators.** A stewardship organization comprised of the state's deposit initiators could, without proper protections in place; exert unfair pressure through a variety of means on stakeholders it seeks to eliminate (including independent redemption centers and other small business owners), suppress important data, etc. With that kind of uncertainty, redemption centers are unlikely to invest in new locations, at the expense of consumer convenience.

Scoping Questions from DEEP Re: Bottle Bill Modernization

- I. **Are the tentative objectives listed the right objectives to guide DEEP's implementation of its responsibilities with respect to the Bottle Bill? Are there other objectives that should be included? Are there special considerations related to how these objectives should be balanced?**

Answer: We support the objectives listed above and applaud DEEP for the focus on increasing redemption rates, expanding convenient and equitable public access and ensuring the highest and best use for recycled materials. With that said, we note that measures recently approved under Public Act 21-58 (i.e., increased handling fees and deposit value) already address many of these concerns. *DEEP must clarify how this process (and the approval of a beverage industry-run stewardship organization) will benefit the public and improve the state's container recycling rates beyond what we expect to see when the new handling fees, expansion plan and deposit values go into effect.*

In addition to the above principles, we recommend an emphasis on:

- **Providing ample, meaningful opportunities for public and stakeholder engagement** - This process should include regular opportunities for stakeholder input; not only during the development of the stewardship organization and its initial plan, but regarding the ongoing performance of the deposit system going forward.

Allowing beverage industry actors to manage a system which provides a public service means the public must have meaningful opportunities to comment on the service and have performance data available to vet progress. To that end, we recommend a process that is *transparent*, meaning all pertinent information (redemption rates, location of redemption services, etc.) should be made easily accessible to the public.

- **Clarifying an appropriate oversight/enforcement role for DEEP** - A producer-funded stewardship organization that receives no monetary penalties for failing to achieve the 80% redemption rate has no incentive to meet its responsibilities under the law. With this in mind, consideration must be given to DEEP's role in clarifying rules, identifying violations, issuing penalties, and arbitrating disagreements, where necessary.
- **Designing a system where new products that come to market are automatically added to the program** - or giving DEEP the authority to decide in this respect.
- **Create opportunities to promote the use of refillable containers.**
- **Incentivize continual improvement** – Connecticut needs a framework that rewards innovation, in order to achieve recycling rates of 80% and above. The stewardship organization and DEEP's oversight should both be positioned to capitalize on innovative new strategies to achieve, and opportunities to exceed the 80% redemption target. Bag Drop recycling solutions have become an increasingly popular strategy to drive recycling rates and meet consumer demand. The PRO should not create undue or onerous barriers (i.e., operational or financial constraints) that could preclude the use of bag drop and/or other redemption innovations. At the same time, the system must continue to provide robust return-to-retail options, as called for in P.A. 21-58, to provide consumers with equitable, convenient access to deposit repayment options.
- **Promoting public awareness and consumer engagement within the deposit system** - the public should be made aware of changes to the program, i.e., containers that are eligible for a cash deposit refund today and in the future, in addition to information about where and how they can be redeemed. *Existing deposit stewardship organizations also bear responsibility for allocating a certain percentage of revenue towards marketing the program, such as promoting its litter reduction benefits and value to the community, which Connecticut should embrace.*

II. How should DEEP apply the criteria in Section 9(a) in approving an application from a beverage stewardship organization? Are there particular substantive or procedural criteria that DEEP should require or encourage applicants to meet?

Answer: P.A. 21-58 contained several critical components necessary to achieve the objectives stated above; those changes should be given time to take effect. Any application to form a stewardship organization must allow for the full implementation of these changes, and any application must demonstrate in concrete terms how the organization will act in furtherance of those objectives, not backslide.

DEEP must implement and enforce existing provisions of the law first, before restructuring how the program is administered. The agency should assess the need for a stewardship organization only after the modernization measures in P.A. 21-58 have taken effect.

Additionally, appropriate guardrails need to be in place to ensure continuous program improvement over time, with checks and balances in place (i.e., establishing enforceable performance standards, requiring annual reporting, periodic opportunities for program review and public comment).

III. What guiding principles should govern the formation of a stewardship organization?

- 1) **Transparency, accountability, and enforcement** - Without them, the State risks creating a self-serving entity, which the industry may use to suppress data or cut costs at the expense of consumer convenience.

- 2) **Stakeholder involvement-** Ensure sufficient representation for additional community and business stakeholders. Offer formal membership to key stakeholders including redemption centers, retailers, municipalities, public interest and/or EJ advocates, and RVM system operators.
- 3) **Requirement that the PRO member registry be published and updated regularly** - VT has recently made it's deposit initiator registry public, which could serve as a model.

IV. Given the need to approve a stewardship organization in advance of the July 1, 2022, deadline for submission of a stewardship plan, should DEEP set a specific deadline for submission of an application?

Answer: All applications should be received no later than January 1st, 2022, applications should be made public and should include a minimum 90-day public comment period.

V. Section 9(c)(1)-(9) spells out many specific requirements that must be included in a stewardship plan in order to be approved by the DEEP Commissioner. Should DEEP clarify any of these requirements, or require specific demonstration of these elements, in the Request for Submissions? For example, should DEEP specify a timeline for achieving and exceeding the eighty per cent annual redemption rate, pursuant to Section 9(c)(1), in the Request for Submissions?

Answer:

1. Since the performance of the deposit program will fluctuate over time (due to the value of the deposit), the availability of redemption locations, and the level of investment the PRO puts into education and infrastructure, the organization should be required to submit its stewardship plan for renewal at least every three years.
2. Transparency is critical to allow the public to monitor the program's performance and better understand how their unredeemed deposits are invested. *To that end, the stewardship organization should report on the overall system's performance, including:*
 - (1) On or before July 1 in each year, a producer with an approved plan must:
 - a. Provide to DEEP a report regarding the one-year period ending December 31 of the previous year, and;
 - b. Post the report on the PRO's web page and the DEEP website.
 - (2) The report referred to in subsection (1) must include:
 - a. The total number of beverage containers produced and collected, by material type;
 - b. The overall redemption rate;
 - c. The redemption rate for each material type;
 - d. The effective rate of recycling by material type, after eliminating contamination.
 - e. Redemption and recycling rates shall be reported by number of units and by weight each quarter and annually;

- f. Independently audited financial statements detailing all PRO revenues and expenses, including deposits received and refunds paid by distributors;
- g. Reasonable assurance report prepared by a third-party auditor that reviews and confirms information presented in the Annual Report, including the number and locations of collection points, weight of materials collected for recycling, and other data;
- h. A comparison of the approved plan's performance for the year, by material type, compared to the 80% redemption rate target and other performance metrics;
- i. A description of any improvements made in the previous year, in addition to improvements that will be necessary to improve consumer access, consumer convenience, and demand, to achieve the 80% redemption target (these include but not limited to expanding the number of locations that offer collection services, including redemption centers, bag drop programs and RVMs);
- j. A description of how collected beverage containers were managed in accordance with the pollution prevention hierarchy, by material type;
- k. Efforts taken by or on behalf of the producer to reduce environmental impacts throughout the product life cycle, and to increase reusability or recyclability at the end of the life cycle, by material type;
- l. An overview of the state's redemption network, including reporting the total number of redemption locations statewide, broken down by type (return-to-retail vs. redemption center, automated vs. manual redemption methods, etc.), redemption locations by county, major urban areas, etc., and report on changes in the availability of redemption services from the previous report; identify regions of the state with the greatest need (by population served and distance), and any plans on the part of producers to improve the availability of collection points in underserved areas;
- m. A description of educational materials, public education strategies the producer has used or intends to use;
- n. Any other information specified by the DEEP Commissioner.

Specific requirements for the stewardship plan have been set out in the Public Act (section 9) and are quoted below. Recommended clarifications for each requirement are enclosed:

- 1) **Achieving and exceeding an annual redemption rate of eighty per cent by a specified timeline:**
No later than January 2026.
- 2) **Achieving financial self-sustainability:**
No comment.
- 3) **Achieving verifiable performance metrics for enhanced customer satisfaction with the beverage container redemption system:**

First, retailers provide a backbone to Connecticut's redemption system. To ensure all Connecticut residents, regardless of ability, income, or geography, have convenient access to redemption services, it is critical that retailer's current redemption obligations remain intact.

In addition to *a, h, i and l* above, the stewardship plan and the stewardship organization's annual reporting requirements should include:

- a. The number of redemption locations available in relation to the population - Report the number of redemption locations per every 700 people in the state, the number of redemption locations in each county, and urban center. (Michigan has the country's highest redemption rate at 89%, offers one redemption point for every 739 people);
 - b. Hours of operation of redemption locations;
 - c. Estimated average redemption wait time;
 - d. Posting of educational/marketing materials;
 - e. Results of public opinion polling to measure effectiveness of public education (designed or commissioned by DEEP, funded by the stewardship organization).
- 4) **Adopting policies and making investments to ensure that recovered materials are returned to their highest and best use:**
- a. Include the total weight and count of containers sold by beverage type and material type;
 - b. Include the total weight and count of containers redeemed by overall container amount and material type;
 - c. Include the total weight of containers utilized in final recycling, broken down by end market (e.g., container packaging, fiberglass, insulation, automotive parts, etc.) - and container equivalents.
- 5) **Providing a detailed description of how existing collection and redemption centers throughout the state are to be utilized as part of such beverage container stewardship program:**
- a. Operating guidelines for redemption centers should remain unchanged from current law; existing business operations must not be adversely impacted by any approved plan.
 - b. The stewardship organization should report on how it intends to incorporate existing redemption network stakeholders into the management plan, including independent redemption centers and system operators, in addition to bag drop systems and other collection services.
 - c. Given the number of redemption centers in operation today and the small business growth potential from the increased handling fee, DEEP should reject any plan that would result in the closure of existing redemption centers or a decline in the availability of redemption services.

- d. The stewardship organization must report a detailed assessment of any projected impacts on jobs as a result of the proposed plan, in addition to annual reporting on anticipated job growth and loss.
- 6) **Disclosing applicable rates of redemption as of the time of such plan and those projected over the next five years under the proposed beverage container stewardship program and the recommended refund value for such containers that is necessary to achieve such redemption rates:**
- a. Pursuant to P.A. 21-58, the deposit value shall increase from five to ten cents, effective January 1, 2024.
 - b. Forecasted redemption rates should be reported for the next three to five years, along with an explanation as to how the PRO arrived at its conclusions.
 - c. See *a* and *h* above for more performance metric requirement clarifications
- 7) **Identifying how the plan will yield costs to the state or any participant of said program:**
- a. Report on the number of unredeemed deposits retained by deposit initiators and separately by the PRO.
 - b. Report on any costs related to administration and enforcement of the deposit program. In the spirit of placing responsibility for container waste with producers, *the PRO should provide funds to cover administrative and enforcement costs incurred by the State.*
- 8) **Specifying revenues that escheat to the state pursuant to said beverage container stewardship program and any projected diminishment in the state's use or collection of such revenues in the next five fiscal years beginning July 1, 2022:**

No comment.

9) **Identifying any legislative changes necessary to carry out such plan:**

Given that P.A. 21-58 already includes several critical measures needed to modernize CT's deposit program, the following provisions should be allowed to take effect before the approval of any stewardship plan:

1. Raise the handling fee on covered containers (October 2021),
2. Expand the program to include additional beverage categories (January 2023),
3. Raise the deposit value from five to ten cents (January 2024).

It is critical that the approval of a PRO does not disrupt or delay these measures from implementation. These measures were identified as necessary through a multi-year stakeholder process, to achieve marked improvements in the state's redemption rates and strengthen existing redemption infrastructure. To that end, any approved stewardship plan must demonstrate that it will not eliminate or bypass any aspect of the law's existing framework.

10) **Any other parameters or requirements specified by the commissioner:**

No comments.

11) **The commissioner shall not approve any such plan without verification that such organization obtained input from members of the independent redemption centers community, municipal resource recovery facilities, municipal leaders, wine and spirits distributors and reverse vending machine operators.**

1. In furtherance of the goals of P.A. 21-58, DEEP should establish regular intervals for public comment on the performance and management of the deposit program, with notification of such events posted online.
2. Any approved stewardship plan should provide a detailed description of how the stewardship organization plans to obtain input from the stakeholders mentioned above, and should provide a detailed description of those efforts, along with a summary statement from each stakeholder type in the annual report.

VI. What performance criteria should a stewardship organization need to include in its submitted plan? Are there any penalties, oversight, and accountability metrics that should be applied to a stewardship organization?

- a. Given that P.A. 21-58 places responsibility for achieving an 80% redemption rate with the stewardship organization, if the organization fails to reach that target by January 2026, DEEP should review the stewardship organization's plan and recommend modifications. Other best practices include levying penalties in the event of the organization's failure to meet performance targets, automatically raising the deposit value, and potentially revoking the deposit initiator's retention of unredeemed deposits.
- b. Penalties should be assessed to the stewardship organization if it causes harm or undue delays to any part of the redemption system:
 - i. Failure to provide adequate pickups to retailers and redemption centers in a timely manner;
 - ii. Failure to process payments of handling fees/deposits back to retailers and redemption centers in a timely manner;
 - iii. Undue hardship or imposing standards that are inconsistent with formal operating agreements between the stewardship organization and redemption providers;
 - iv. Fines of at least \$1,000 per infraction should be assessed on a per-occurrence basis. Any harm or financial impacts to independent redemption operators should be paid by the stewardship organization;
 - v. There should be oversight mechanisms in place, from both the stewardship organization and from DEEP.

VII. What additional parameters or requirements should the DEEP Commissioner specify, pursuant to Section 9(c)(10), to include in an approvable Stewardship Plan?

1. **Public comment-** Any changes that the stewardship organization proposes that may affect stakeholders must go through a stakeholder comment period, with all parties notified a minimum of 90 days in advance of the meeting.
2. **Continuous investment in the redemption system-** the value of the handling fee must be adjusted over time to keep up with inflation and the cost of doing business. An annual meeting should be held with all parties involved to discuss costs, market trends, opportunities for innovation, the need to increase the handling fee over time, etc.

VIII. *How should DEEP go about ensuring that members of the independent redemption centers community, municipal resource recovery facilities, municipal leaders, wine and spirits distributors, and reverse vending machine operators, and/or any others not specified in Section 9(c) are able to provide input on the Stewardship Plan?*

1. DEEP should identify a focal point from each party above that oversees outreach to interested parties within their field. That party will relay back to DEEP the number of stakeholders in their industry, to establish a quorum for each.
2. DEEP should establish regular intervals for public comment on the stewardship plan prior to approval and in addition, comment on the ongoing performance and management of the deposit program, with notification of such events posted online. DEEP should ensure stakeholders have access to the draft plan e.g., sharing files, public meetings and/or video calls.
3. DEEP should make sure there is a quorum for each of the parties listed above before any decisions are made.
4. In the stewardship plan, the stewardship organization should provide a detailed description of how it plans to obtain input from the stakeholders mentioned above (e.g., one on one meetings with each stakeholder type and at least one group meeting) and should provide a detailed description of those efforts in the annual report, along with a statement from each stakeholder group summarizing their contributions.

IX. *Redemption Center Grant Program. DEEP anticipates issuing a Funding Opportunity Announcement for grants for redemption facilities pursuant to Section 65 of June Special Session, Public Act 21-58.*

Beyond the criteria specified in Section 65, are there any other criteria or considerations should DEEP consider to optimize redemption center grant funding to (a) ensure equitable access to redemption, (b) support economic development opportunities in underserved communities, (c) expand consumer access to redemption, and (d) provide for compatibility of investments with a potential future transition to a stewardship organization-led redemption program?

1. DEEP should make every effort to improve the convenience of the redemption system, including distributing grant funds as quickly as possible;
2. DEEP should post online and advertise the redemption center grant program details, application, and deadlines, as soon as possible;
3. DEEP should offer application assistance, including translation, where necessary;

4. As stated in the budget implementer, the grant program should prioritize underserved areas (e.g., areas without at least one redemption location per 700 residents) and recipients from urban areas, communities of color, and women entrepreneurs;
5. DEEP should utilize GIS mapping and reporting tools to determine where the greatest geographic need for additional redemption infrastructure exists;
6. If DEEP does not expend allocated grant funds by the program deadline, the deadline should be extended to allow recipients to access seed funding, until all funds have been depleted.

X. *Draft Memorandum of Agreement for In-State Processing of Wine & Liquor Beverage Containers: DEEP is required to submit a draft MOA to the Environment Committee of the General Assembly by January 15, 2022. What are the requisite parties that should be included in such an MOA, and how can DEEP efficiently facilitate discussions among such parties?*

Given the MOA is intended to increase the collection and recycling of containers originating from the state’s wine and liquor industries, we suggest the MOA remain between the regulatory body (DEEP) and the business that first sells the wine and/or liquor container in the state of Connecticut (equivalent to a ‘deposit initiator’). This regulated party has the responsibility (and the freedom to decide how) to achieve the 80% recycling rate stipulated in Section 8 of P.A. 21-58. If such parties fail to achieve an 80% recycling rate for wine and spirits by January of 2024, DEEP should consider automatically rolling those products into the container deposit program.

XI. *What best practices/programs should the wine and liquor industry utilize to help them achieve the goal of collecting and processing at least 80% of the wine & liquor containers sold in the state?*

1. Given the only U.S. state to achieve a true recycling rate of glass bottles close to 80% is Maine (a state with a comprehensive bottle deposit system that covers both wine and liquor), we would recommend that the wine and liquor industry seriously consider the power of a refundable container deposit to reach their recycling targets¹.
2. The European Union is currently undergoing a re-adjustment of their recycling rate methodology, which could be helpful for this process. The EU is adjusting its measurement point from the material sent to a MRF to the amount of material that is actually utilized in “final recycling”, which is similar to the specific language in Section 8. We encourage DEEP to review the EU’s new approach and how it can make measurement of a true glass recycling rate more practical.










XII. *Are there other issues DEEP should consider with respect to bottle bill modernization?*

No comment.

¹ “50 States of Recycling: A State-by-State Assessment of Containers and Packaging Recycling Rates,” Eunomia. 2021. Available here: <https://www.eunomia.co.uk/reports-tools/the-50-states-of-recycling-a-state-by-state-assessment-of-containers-and-packaging-recycling-rates/>

Appendix

STATE-BY-STATE OVERVIEW OF CCPM RECYCLING RATES LISTED ACCORDING TO CCPM RECYCLING RANK (EXCLUDING CARDBOARD/BOXBOARD)

	 CCPM Recycling Rate without Cardboard	 Rigid Plastics Total	 PET bottles	 Aluminum Cans	 Steel Cans	 Glass Bottles and Jars ^a	 Glass Bottles and Jars ^b	 Bottle Bill	 CCPM Supportive Legislation
1 MAINE	72%	57%	78%	85%	29%	83%	73%	Yes	No
2 VERMONT	62%	37%	51%	67%	48%	76%	55%	Yes	Yes
3 MASSACHUSETTS	55%	28%	38%	70%	39%	71%	50%	Yes	Yes
4 OREGON	55%	26%	68%	85%	35%	72%	53%	Yes	No
5 CONNECTICUT	52%	33%	47%	61%	24%	66%	46%	Yes	No
6 NEW YORK	51%	32%	54%	64%	43%	66%	52%	Yes	No
7 MINNESOTA	49%	14%	25%	43%	48%	66%	35%	No	No
8 MICHIGAN	48%	39%	57%	86%	35%	56%	42%	Yes	No
9 NEW JERSEY	46%	27%	22%	60%	60%	56%	30%	No	No
10 IOWA	44%	18%	30%	76%	19%	66%	61%	Yes	No
11 CALIFORNIA	44%	30%	57%	78%	29%	54%	44%	Yes	Yes
12 WISCONSIN	44%	21%	24%	27%	61%	65%	34%	No	Yes
13 MARYLAND	44%	31%	30%	54%	57%	52%	27%	No	No

^a Including use as aggregate and landfill cover
^b Excluding use as aggregate and landfill cover

Respectfully Submitted,
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Undersigned,

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