



1700 Diagonal Road, Suite 650
Alexandria, VA 22314
Ph: 703-647-4605
cmartin@bottledwater.org
Web: www.bottledwater.org

August 27, 2021

Chris Nelson
Connecticut Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

RE: Bottle Bill Modernization

Mr. Nelson:

The International Bottled Water Association (IBWA)¹ appreciates the opportunity to provide input as the Connecticut Department of Energy and Environmental Protection (DEEP) seeks to implement changes to the state's bottle deposit program (the Act)². We applaud your willingness to request and implement comments from stakeholders. We look forward to working with you on this important matter.

In its July 16, 2021, notice of proceeding, DEEP asked several questions regarding how to move forward with implementing revisions to the state's bottle deposit program. Our comments will focus on your questions regarding the creation and oversight of beverage container stewardship organizations. The questions are listed below and italicized.

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

IBWA believes that DEEP should apply the three criteria required as described in the legislative language. All stewardship organizations should be established as a 501(c)(3) not-for-profit organization; the governing board should consist of a range of beverage initiators subject to the state's container redemption program; and each organization should demonstrate that has

¹ Founded in 1958, International Bottled Water Association's (IBWA) membership consists of U.S. and international bottlers and distributors that produce and deliver bottled water products and the suppliers that serve them. While IBWA represents companies of all sizes, the vast majority of our member bottlers are small, locally owned companies, with 60 percent reporting less than \$2.6 million in annual gross sales and 90 percent reporting less than \$10 million in annual gross sales. They are local, family entrepreneurs with deep roots and strong ties within their communities. They are committed to providing not only healthy hydration products to the communities they serve but also highly sought-after jobs. IBWA serves as the voice for the bottled water industry and represents uncompromising commitment to the safety and availability of bottled water worldwide.

² State of Connecticut Public Act 21-58. Available at: <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00058-R00SB-01037-PA.PDF>

adequate financial responsibility and financial controls in place, including fraud prevention measures and an audit schedule, to ensure proper management of funds.

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

Flexibility is critical to ensure the viability of the stewardship organization as it allows member participants and the government to react in a timely manner to changes in the market (e.g., consumer engagement in the program due to the ongoing pandemic, state emergency situation, etc.). When responsibility to achieve a specified recovery rate, and the associated costs, are imposed on industry, then industry should have sufficient oversight over the process to gauge performance, ensure compliance, and promote efficient systems for the circular use of materials and strong environmental performance. This also allows for new products to potentially enter the recycling stream in the future, matching with similar packaging types to help ensure a robust and efficient recycling stream.

IBWA strongly supports the directive in the Act mandating that producers constitute the stewardship organizations leadership. As has been shown in Oregon, their producer-led program has led to increasing recycling rates, lower taxpayer expenditures, and greater cost efficiencies within the program.

Included in the application of the stewardship organization should be an explanation of a plan of the organization to prevent and reduce fraud in product redemption. Like the Oregon model, IBWA believes that industry is best suited to ensure compliance when participating in the program and the state should address fraudulent issues occurring at the time of the container redemption.

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?

DEEP should set a specific deadline for the submission of an application to be recognized as a stewardship organization. IBWA believes the deadline should be October 29, 2021, for applications, responses from DEEP four weeks later, and final approval required by December 31, 2021. This will allow approved stewardship organizations adequate time to collect data and prepare a plan on or before July 1, 2022.

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?

The Connecticut bottle deposit program should have reasonable and specific goals applicable to all entities included in the program and not any specific producer, and these goals should be measured and evaluated on an annual basis. These goals should be data driven and set by the

stewardship organization and, to the greatest extent possible, not have to rely upon the legislature to set these goals. It is critically important that this data include quality of the materials recovered in the program and not solely focus on quantity recovered.

Targets should be measurable, achievable, and cost effective, while seeking strong environmental performance. The bottle deposit program needs to find the optimal balance between material collection for recycling and costs. Material-specific targets need to be established for all different packaging included in the program (e.g., plastic types, glass, and metals). Revision of targets should be carried out at appropriate intervals.

The stewardship organization should have the autonomy to establish methods or techniques for data collection and reporting to ensure recycling streams are optimal. This will allow for proper evaluations to help ensure that programs are making progress towards meeting goals. Any such data collection standard will treat all material types equitably and provide the stewardship organization real-time data to help determine progress within each material type.

The rate target should have a target date that is set by the stewardship organization. The stewardship organization should be given adequate time to meet the rate. High rates seen in Oregon are the result of mature, industry-led systems that are very different from what now exists in Connecticut.

Regarding Section 9(c)(4), DEEP should clarify that the highest and best use be defined as the packaging being recycled and provided to the industry that originally introduced the packaging into the market. This, for example, will help ensure that food quality rPET and rHDPE are accessible to bottlers to reuse in packaging and not downcycle the recycled plastics.

Regarding Section 9(c)(5), DEEP should give stewardship organizations the flexibility needed to use specific data metrics to determine the number of redemption centers needed to serve the state's population. For example, the number of reception centers available may be determined using the number of containers sold in the state or based on a certain segment of the total population who can be served by the center.

A stewardship organization should have a strong interest in leveraging existing redemption centers and supporting new ones that serve the program's objectives. Duplicate centers serving the same areas or located in border areas are counter to the goals of the program. We believe that siting new redemption centers should be paused or minimized until the stewardship organization is operating and that DEEP should consult with the organization in the interim over grants and approvals for new redemption centers.

In addition, IBWA encourages DEEP to create programs to help educate consumers on the need to engage in the bottle redemption program. DEEP should allow stewardship organizations to ensure that consumers have plentiful access to recycling and redemption opportunities and not have redemption be driven solely by a more professional recycler. We believe Oregon's success is due to providing ample opportunities for individual consumers to engage and be a part of the program's success.

Section 9(c)(9) specifically requests feedback from DEEP regarding potential legislative changes to the Act. IBWA strongly encourages DEEP to work with the Connecticut Legislature to work to have funds designated to be deposited into the General Fund to instead be used to pay for enforcement actions, improve the states recycling infrastructure, or educate consumers on the benefits of recycling in order to help create a robust circular economy.

In addition, IBWA believes that having a uniform handling fee for all beverages would alleviate possible confusion and create greater efficiencies within the program. Having separate handling fees would in essence create different redemption programs. IBWA requests that DEEP work with the Legislature to move all handling fees to 2 ½ cents.

Lastly, IBWA believes that stewardship organizations should be provided with the flexibility needed to alter handling fees when appropriate. It may be that greater efficiencies exist when collecting some materials over others, and the industry should be able to react appropriately to set handling fees based on the needs of the program. As Connecticut is using the Oregon model as an example, it is important to note that the Oregon redemption program has no direct handling fees. This is because producers and retailers engaged in the program have created an efficient market that avoid unnecessary fees. IBWA believes that it is important to give Connecticut's redemption program the flexibility needed to create market efficiencies while achieving the programs' requirements.

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?

Performance criteria are already included among the evaluation criteria in the law and we have proposed some additional criteria below. In general, these should include recovery rates, consumer satisfaction, financial sustainability, public communications, end markets utilized, and responsible governance of the system.

Consideration of penalties is not appropriate, aside from clearly specified infractions such as governance not adhering to regulations or administrative failings. (Penalties for individual producers not in compliance with the law are separate and should be enforced.) Penalties linked to system performance should not be considered until well after a transition period given that the stewardship[organization would be assuming control of a system not of its own creation.

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

IBWA believes that the stewardship plan should include other provisions. This includes:

- (1) Contact information for the stewardship organization.
- (2) A list of registered deposit initiators and the brands they represent.
- (3) A process for collaboration with the department to identify brands, distributors, or manufacturers who are not fulfilling their obligations as deposit initiators and subsequent enforcement by the department.

- (4) A proposed network of redemption sites to achieve consumer satisfaction and performance goals utilizing:
 - A. Standalone redemption centers to accommodate high-volume redemptions located in accessible, high-traffic areas.
 - B. Drop-and-go redemption sites at dealer or other locations.
 - C. Dealer sites.
- (5) A plan to respond to the needs of environmental justice communities in establishing and operating the redemption network including locations, operating hours, and redemption options.
- (6) Financial terms for participating dealers, operators of redemption centers, and other redemption sites.
- (7) Conditions and criteria for dealers to be participating dealers, thereby being exempt from or have reduced responsibility for accepting empty beverage as established in Section 4. These conditions should include financial participation by the dealer in establishing redemption centers or other redemption options.
- (8) Description of a public education and outreach program to promote redemption of empty beverage containers including publicity for the program and accessible information on the locations and hours of redemption sites.
- (9) Description of a system to collect redeemed beverage containers from all redemption sites in a timely manner and process them for sale to end markets
- (10) A plan for processing and selling redeemed material consistent with principles of a circular economy and environmental justice. This shall include a description of the means by which deposit initiators have the right of first refusal to purchase their share of redeemed material.
- (11) A plan for mitigating fraud in the system including, but not limited to, reducing the incidence of selling beverage containers in Connecticut without initiating deposits and redemption of out of state, ineligible, or already redeemed containers
- (12) A plan for minimizing the non-marketable or non-recyclable fraction of empty beverage containers including incentives for brands and manufacturers to improve recyclability and package design and how the stewardship organization's collection and processing system will contribute to this goal.
- (13) Planned market development activities for glass container material
- (14) A plan for regularly assessing whether the stewardship organization should recommend to the department an increase in the refund value in order to achieve redemption targets. This should consider refund values in neighboring states, equity issues across consumers, impacts on border businesses, and progress toward the target.
- (15) A plan effective date on which the stewardship organization assumes control of the existing beverage container refund system.

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?

While the stewardship organization will be led by industry, other stakeholders, including government, haulers and processors, non-governmental organizations (including historically under-represented communities of interest), and retailers may be included as members of an organization's advisory committee (or some equivalent advisory group determined by the stewardship organization).

IBWA appreciates the opportunity to submit these comments regarding the implementation of new bottle bill requirements mandated in the Act. We look forward to working with DEEP and others engaged in the bottle redemptions in the state in anticipation of the July 1, 2022, implementation of the new law.

Sincerely,

A handwritten signature in black ink, appearing to read "Cory Martin", with a long horizontal line extending to the right.

Cory Martin
Vice President, Government Relations