

Nestlé USA

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Submitted electronically via DEEP.MMCAPlanning@ct.gov

Ms. Jennifer L. Perry, P.E.
Bureau Chief, Materials Management and Compliance Assurance
Connecticut Department of Energy & Environmental Protection
79 Elm Street
Hartford CT 06106-5127

Re: Bottle Bill Advisory Group Notice: DEEP requesting feedback on revocation of use of "CTRV" on covered containers

Dear Ms. Perry:

Thank you for the opportunity to submit comments regarding Connecticut's Department of Energy and Environmental Protection's (DEEP's) notice of intent to revoke the use of the "CTRV" marking on containers subject to the state's deposit program. Nestlé is a trusted leader in nutrition, health, and wellness. In the United States (U.S.), our company operates in 31 states and offers a wide and varied portfolio of food and beverage products for people and their pets. Our company proudly makes products in 96 facilities around the country, sourcing most of our ingredients in the U.S., and we employ 31,000 people. Nestlé is the world's largest food and beverage company, and the U.S. is Nestlé S.A.'s largest market with combined product sales totaling more than \$28 billion. Our products are purchased by 97% of U.S. households. Nestlé offers a wide range of beverages subject to the state's beverage deposit program including still and sparkling waters as well as coffees.

As described in greater detail below, Connecticut's recent increase in the beverage deposit rate appears to be having the intended positive effect of increasing redemption rates in the state. Therefore, it would be appropriate for this proposal to change labeling requirements, which just went fully into effect in January of this year, to provide the opportunity for further stakeholder dialogue to clarify the perceived challenges and proposed solution. Moreover, if DEEP still plans to go forward with this proposed change, we ask the agency to allow for the time needed to update labeling accordingly.

1. The “CTRV” deposit marking appears to be successful in informing consumers what items are subject to a deposit refund in Connecticut and incentivizing redemption.

In the aforementioned notice, DEEP cites reports of consumer confusion as the reason container deposit markings should to be updated from the current “CTRV” to “CT 10¢.” Nestlé encourages DEEP to make the quantitative data demonstrating consumer confusion available to the public. Doing so provides greater transparency and a further opportunity for the public to collaborate with DEEP on identifying any potential challenges facing the program and collectively working toward a solution.

The change in deposit from five to ten cents appears to be correlated with a meaningful increase in the redemption rate. Prior to the ten-cent rate going into effect on January 1, 2024, the quarterly redemption rate in 2023 ranged from 38.8 percent to 50.4 percent.¹ Since that time, the quarterly redemption rate has steadily increased to 74.2 percent by the end of the third quarter (September 30, 2024) suggesting the greater deposit refund amount is incentivizing increased redemption by consumers as intended.

Further, consumers in other states with similar markings understand them and act upon them. California has a long-standing beverage container deposit program and permits the use of the marking “CRV” to indicate what items are subject in the state. According to the most recent report covering the first half of 2024, California averaged a redemption rate of 77 percent, which puts it among the most successful programs in the country.²

Finally, DEEP previously envisioned that consumer education would be necessary. In 2022, Commissioner Dykes issued an order to permit the use of the phrase “CTRV” to provide much needed flexibility to accommodate multiple labeling changes in a short period of time. The order further outlined, “[t]he Department, in conjunction with this order, will work with manufacturers and retailers to execute a campaign to educate consumers on the new types of beverages

¹ Connecticut Department of Energy & Environmental Protection. The Connecticut Bottle Bill. Retrieved December 2, 2024, from https://portal.ct.gov/-/media/deep/reduce_reuse_recycle/bottles/bottle-bill-data---nov-2024---thru-q3-2024---table.pdf?rev=1dbc5b44bc524d168eee2f527ab90ed3&hash=869C16F63ECA28930AB7250CC278BDEC.

² California Department of Resources Recycling and Recovery. CalRecycle Official Notices. Retrieved December 2, 2024, from <https://www2.calrecycle.ca.gov/Docs/Web/129396>.

covered by the bottle bill and the correct redemption value.”³ Nestlé agrees the consumer education campaign envisioned by Commissioner Dykes would be beneficial and encourages DEEP to conduct such a campaign to further inform and incentivize consumers to participate in the deposit program before making an abrupt change to container marking requirements so soon after they have just gone into effect.

2. If a deposit marking change is pursued, the compliance date should be established as the date the label is affixed to the product, not an on-shelf date as currently proposed.

Regulatory compliance dates should be established based around the practices the regulated entity owns and manages. The beverage manufacturers subject to implementing container deposit markings do not control the date of on-shelf presence in a retail environment. Furthermore, the shelf-life of products subject to DEEP’s beverage container deposit program can vary widely and many can be lengthy, at least 18-24 months. Therefore, any eventual compliance date should be based on the date of labeling or the date of manufacture of a product, not an on-shelf date.

3. If a deposit marking change is pursued, we ask for a compliance date of at least three years from the date the order is officially revoked.

The changeover of product labeling is a lengthy and complex process. Nestlé asks DEEP to consider multiple factors including the length of time required to physically change individual labels, the fact that all labels cannot physically be changed at once, and that manufacturers need to harmonize such changes with other upcoming labeling updates.

The update to a single product label can take upwards of six months to complete from the beginning of revisions to graphics through initial use in the manufacturing facility. This includes time for revisions and approvals to graphic files, printing, and delivery. Furthermore, for aluminum cans where deposit markings are often engraved, the process to execute this change with suppliers can also take upwards of six to nine months.

When changing many labels, manufacturers often cannot touch every product at once and instead need to apply a staggered approach. The resources needed to implement labeling changes are not just finite within a manufacturer’s operations. Our partners for graphics,

³ Connecticut Department of Energy & Environmental Protection. The Connecticut Bottle Bill. Retrieved December 2, 2024, from https://portal.ct.gov/-/media/deep/reduce_reuse_recycle/bottles/finalbottlebillorder8-2-2022.pdf?rev=3dde82aa09fc45aeafd70a026584db11&hash=9027911E5778F9D893D9575921550F2B

printing, and shipping are also unable to accommodate all labeling changes from a single manufacturer at once, let alone when there is high demand from many manufacturers.

Finally, manufacturers need additional flexibility to best harmonize their compliance with a new required labeling change such as this alongside other voluntary and mandatory labeling changes planned in the near term. Doing so helps ensure the appropriate drawdown of existing packaging stock to minimize packaging waste and avoids the inefficiency of back-to-back changes.

For all the reasons indicated above, federal agencies often give at least three years to comply with labeling changes and, therefore, we ask for the same in this case. Two such recent examples include:

- The U.S. Food and Drug Administration's Revision of the Nutrition and Supplement Facts Labels gave over three and a half years for compliance. Final rules were published on May 27, 2016, with a final compliance date of January 1, 2020.⁴
- The U.S. Department of Agriculture Bioengineered Food Disclosure Standard gave over three years for compliance. Final rules were published on December 21, 2018, with a final compliance date of January 1, 2022.⁵

Thank you for your consideration of our comments.

Sincerely,

DocuSigned by:

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Molly Fogarty

SVP Corporate & Government Affairs

Nestle

⁴ 83 FR 19619-19626

⁵ 83 FR 65814-65876