



RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

April 30, 2024

Krystal Acierto
Acting Director, Department of Resources
Recycling and Recovery
1001 I Street
Sacramento, CA 95814

RE: SB 1013 Dealer Cooperatives Formal Rulemaking Comments

Dear Acting Director Acierto:

On behalf of the Rural County Representatives of California (RCRC), we are pleased to provide comments on CalRecycle's Senate Bill 1013 Dealer Cooperatives Proposed Regulation. We believe the proposed regulation must be modified to bring it in line with SB 1013's statutory requirements and avoid widespread consumer confusion and frustration.

RCRC is an association of forty rural California counties, and the RCRC Board of Directors is comprised of elected supervisors from each member county. RCRC has long advocated for expansion of convenient beverage container redemption opportunities. The Environmental Services Joint Powers Authority, which includes twenty-seven of RCRC's forty member counties, supported SB 1013 (Atkins, Chapter 610, Statutes of 2022) to increase consumer access to convenient redemption opportunities and improve the amount and quality of glass entering the recycling system.

Convenient beverage container redemption opportunities do not exist for many Californians. Without convenient redemption opportunities, the Beverage Container Recycling Program (Program) becomes a regressive tax that disproportionately impacts lower-income Californians. For this reason, it should be as easy for a consumer to get his or her CRV deposit back as it is to pay it in the first place.

RCRC believes dealer cooperatives will increase access to convenient beverage container redemption opportunities and could form the foundation for development of depots that take back a wide variety of recyclable materials. RCRC appreciates CalRecycle's efforts to create a clear regulatory structure for the establishment of dealer cooperatives to redeem beverage containers. Unfortunately, we fear that the proposed regulations – as currently drafted – fall short of SB 1013's expectations, will increase

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consumer confusion and frustration, and could be manipulated by cooperatives to the detriment of consumers.

SB 1013 Intended to Increase Consumer Access to Redemption Opportunities

Senate Bill 1013 was intended to increase consumer access to redemption opportunities.¹ It did so by repealing the ability for dealers in unserved zones to pay a \$100/day in lieu fee to the state to avoid having to take empty containers back from consumers. Under SB 1013, dealers in unserved zones must either take containers back in-store or join a dealer cooperative that redeems empty containers. Dealer cooperatives are supposed to provide a level of convenience comparable to the existing redemption system.

Proposed Regulations Conflict With SB 1013 and Fail to Provide Comparable Consumer Access to Redemption Opportunities

Under SB 1013, CalRecycle’s regulations must “provide access and convenience for consumers comparable to subdivision (a) of Section 14571.”² That section requires at least one recycling center or location within every convenience zone that accepts and pays the refund value for all types of empty beverage containers. The proposed regulations, however, directly contradict this requirement by absolving the dealer cooperative from having to have at least one location where all types of empty beverage containers can be redeemed.

Proposed Section 2375.1(b)(7)(E) states that, “Not all redemption locations are required to redeem all beverage container material types.” There is nothing in the proposed regulations requiring all container types to be redeemed at a single location. This directly conflicts with PRC 14578.5’s requirement to provide comparable consumer access to redemption opportunities pursuant to PRC 14571 (which itself requires at least one location to accept all types of beverage containers).³ The proposed regulations seek to remedy this conflict by requiring all beverage container types to be redeemed within each convenience zone. Under this model, a dealer cooperative could deploy multiple redemption machines or centers across the convenience zone, with each location accepting only a single container type. Under this system, a consumer may only be able to redeem plastic containers at one location before having to drive to a second location to redeem glass bottles and a third location to redeem cans. This framework establishes

¹ Assembly Natural Resources Committee Analysis of SB 1013 (Atkins), August 29, 2022, page 7.

² Public Resources Code Section 14578.5(b).

³ PRC 14578.5(b) specifically requires comparable convenience to that established under the more stringent PRC 14571(a). Other provisions of PRC 14571 provide greater flexibility for operators of bag drop and reverse vending machines (technologies that will also be used in dealer cooperative programs). PRC 14571(i) allows reverse vending machines and bag drops to reject some large containers as long as they are accepted by an attendant during at least 10 hours per week. In the event of equipment failure, PRC 14571(h) still requires the business to redeem empty beverage containers at all open cash registers or one designated location at the store. The proposed SB 1013 regulations contain none of these safeguards, meaning that the dealer cooperative can enjoy even more relaxed regulatory requirements than non-dealer cooperative redemption centers (all at the expense of the consumer).

a perverse model that will increase consumer confusion and force consumers to play “whack-a-mole” when trying to redeem CRV containers. Having a clear expectation that at least one location in each convenience zone will redeem all container types will help address this concern.

RCRC appreciates changes to the proposed regulations to clarify that dealer cooperatives shall not refuse to redeem beverage containers that are not sold by dealer members of that cooperative.⁴ This is a marked improvement, as the pre-regulatory draft only required dealer cooperatives to redeem those containers and brands sold by member dealers. We agree that dealer cooperatives must be required to redeem all CRV containers, regardless of the brand or who sold them. At the same time, the regulations should be modified to resolve inconsistency between the first and second sentences of Section 2375.1(B)(7)(A). While the second sentence requires a dealer cooperative to redeem all CRV containers regardless of who sold it, the first sentence still only requires the dealer cooperative to have “the capability to provide convenient redemption of all material types, and the capacity to redeem 100 percent of the beverage containers sold by the dealer members into convenience zones in which any of the dealer members operate.” This second clause must be stricken as it causes confusion and is fundamentally inconsistent with the requirement to redeem all containers and beverages - not just those sold by dealer members.

Unless amended, the proposed regulation will both increase vehicle miles traveled (VMT) and consumer frustration because they deny consumers the one stop redemption shop to which they are entitled under PRC 14571. This model may also be exploited by dealer cooperatives to obstruct consumers, resulting in the “donation” of containers that the operator refuses to redeem at a given location. These “donated” materials would then provide additional revenues that enrich the operator at the consumer’s expense. Again, this strikes RCRC as patently unfair to the consumer expectations set forth in SB 1013.

Daily Redemption Limits Will Severely Undermine Consumer Ability to Recover Deposits

These proposed regulations commendably seek to facilitate the deployment of innovative methods of redemption, such as bag drop program, reverse vending machines, and mobile collection programs. Unfortunately, by requiring at least one “innovative method of redemption” in each dealer cooperative,⁵ the regulations ultimately mandate the use of redemption solutions that are inherently unable to provide the level of service that consumers need and deserve.

The proposed regulations allow dealer cooperatives to establish daily customer redemption limits.⁶ This appears to be “necessary” because CalRecycle insists on

⁴ Proposed 14 CCR 2375.1(b)(7)(A).

⁵ Proposed 14 CCR 2375.1(b)(6).

⁶ Proposed 14 CCR 2375.1(b)(6) and (b)(8).

requiring the inclusion of innovative methods of redemption into dealer cooperative programs.⁷ “Innovative methods of redemption” are presumably unable to accept all container types and forms and may not have the same storage capacity as conventional redemption centers.

Daily redemption limits will most harm those residents who live in rural areas of the state where consumers save large quantities of bottles and cans because of the long distance to the redemption center. Assuming an average price of gasoline of \$5/gallon and vehicle fuel efficiency of 20 miles/gallon, it would cost a consumer 100 cans just to break even to take their CRV containers to a redemption center located 10 miles away. In rural areas where distances to redemption opportunities are even greater, daily redemption limits will effectively undermine consumers’ ability to recover deposits and could lead to a significant regional reduction in the quantity of containers recycled. Even in urban areas, these limits could increase VMT by forcing consumers to make multiple trips to redeem their containers.

Rather than accommodate the use of technology that falls short of existing requirements, CalRecycle should instead require technology to adapt to participate in the program. Unfortunately, this overaccommodation of “innovative methods of redemption” will do a great disservice to consumers and their ability to redeem empty beverage containers.

Suggested Modifications to the Regulatory Text

To protect consumers and avoid inconsistency with other statutes, RCRC suggests the following modifications to the Draft Regulations (changes are signified in bold, italicized font):

- 14 CCR 2375.1(b)(6) “A minimum of one innovative method of redemption per convenience zone. **~~This may include a corresponding daily redemption limit for the innovative method of redemption pursuant to subparagraph (B) of paragraph (8).~~**”
- 14 CCR 2375.1(b)(7) (A) “How the dealer cooperative will have the capability **and capacity** to provide convenient redemption of all material types, **and the capacity to redeem 100 percent of the beverage containers sold by dealer members into convenience zones in which any of the dealer members operate.** A dealer cooperative shall not refuse to redeem a beverage container on the basis that the beverage container material type or the beverage type is not sold by a dealer member of the dealer cooperative.”

⁷ The Initial Statement of Reasons (ISOR) suggests redemption limits are necessary to accommodate innovative methods of collection that may not have the capacity of existing redemption centers. ISOR, page 48.

- 14CCR 2375.1(b)(7)(E) “Not all redemption locations are required to redeem all beverage container material types, **but at least one location in each convenience zone must redeem all beverage container material types.** All beverage container material types shall be redeemed as part of the stewardship program within each convenience zone in which the dealer cooperative operates.”
- 14 CCR 2375.1(b)(8)(B) “~~**The stewardship plan may establish redemption limits, such as per customer per day or per innovative method of redemption, if the necessity of the redemption limit is established and justified in the stewardship plan. The justification shall demonstrate that the needs of the community and the goals of the Act will be best served by the redemption limits. The department may disapprove a stewardship plan pursuant to section 2376 if it does not find the justification sufficient.**~~”

RCRC appreciates your consideration of these comments. We look forward to continuing to work with you on efforts to expand consumer access to redemption opportunities and the development and implementation of these regulations. If you should have any questions, please do not hesitate to contact me at jkennedy@rcrcnet.org.

Sincerely,



JOHN KENNEDY
Senior Policy Advocate

cc: The Honorable Toni Atkins, California State Senator
The Honorable Benjamin Allen, Chair, Senate Environmental Quality Committee
The Honorable Isaac Bryan, Chair, Assembly Natural Resources Committee
Elizabeth MacMillan, Consultant, Assembly Natural Resources Committee
Brynn Cook, Consultant, Senate Environmental Quality Committee