



September 12, 2023

Rachel Machi Wagoner
Director, Department of Resources Recycling and Recovery
1001 I Street
Sacramento, CA 95814

RE: SB 1013 Dealer Cooperatives Draft Proposed Regulation Text Comments

Dear Director Wagoner:

On behalf of the Rural County Representatives of California (RCRC), we are pleased to provide comments on your recent Senate Bill 1013 Dealer Cooperatives Draft Proposed Regulation text.

RCRC is an association of forty rural California counties and the RCRC Board of Directors is comprised of elected supervisors from each of those member counties. RCRC has long advocated for expansion of convenient beverage container redemption opportunities. We note that the Environmental Services Joint Powers Authority, which includes twenty-seven of RCRC's forty member counties, supported SB 1013 as a way to increase consumer access to convenient redemption opportunities and improve the amount and quality of glass entering the recycling system.

With the closure of many certified recycling centers, "convenient" beverage container redemption opportunities do not exist for many Californians. Without convenient redemption opportunities, the Beverage Container Recycling Program (Program) can easily become a regressive tax that disproportionately impacts lower-income Californians. Simply stated, 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 appreciates CalRecycle's efforts to create a clear regulatory structure for the establishment of dealer cooperatives to redeem beverage containers; however, we have serious concerns with some provisions included in the Draft Proposed Regulation Text (Draft) that are inconsistent with existing statutes, will increase consumer confusion, and could be manipulated by cooperatives to the detriment of consumers.

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The Draft Impermissibly Allows Cooperatives to Avoid Having to Redeem All CRV Containers at Each Location

RCRC is deeply concerned that the Draft Regulations appear to let dealer cooperatives avoid having to redeem all CRV containers brought for redemption by consumers. In particular, proposed 14 CCR 2575.1(b)(8) outlines what the dealer cooperative's stewardship plan must include. According to Section 2575.1(b)(8)(A), the plan only needs to explain how the cooperative will redeem beverage containers and types *that are sold by its dealer members into convenience zones*.

This is inconsistent with SB 1013 and Public Resources Code Section 14571. SB 1013 requires CalRecycle's regulations to provide access and convenience for consumers comparable to PRC Section 14571, which in turn requires recycling centers to accept and pay the refund value "for all types of empty beverage containers." PRC 14571 calls for redemption of all containers, not just those sold by the cooperative's members. Similarly, SB 1013's PRC 14578.5(c)(3)(A) requires dealer cooperatives to "redeem all material types." Nothing in the statute or legislative record appears to let dealer cooperatives refuse redemption of containers that are not sold by the cooperative's members. Unfortunately, the Draft Regulation appear to allow the cooperative to reject brands, sizes, or container types not sold by its member dealers. With the addition of wine to the beverage container recycling program, this provision will also allow a cooperative to reject covered wines that it claims are not sold by any of its dealer members.

Next, Section 2575.1(b)(8)(E) exempts cooperatives from having to accept all beverage container material types *at all locations*. This is in stark contrast to PRC 14571, which requires each recycling center to accept and pay the refund value for all types of empty beverage containers. Allowing a cooperative to tell a consumer to take a particular type of CRV container to a different location makes redemption illusory given the long distances between many redemption locations and considering the large number of convenience zone exemption.

Together, these changes will cause consumer confusion and hardship, as cooperatives can refuse to redeem some of the consumer's containers. Worse yet, it will also leave consumers with no real redemption option for rejected containers, as the Draft Regulation's Section 2030(g)(9) prohibits CalRecycle's approval of any competing recycling centers if a dealer cooperative is operating in the convenience zone. Consumers probably will not even have the opportunity to take that rejected CRV container to another location for redemption if it is included in a bag drop program, as the Draft Regulations appear to encourage. In this case, the cooperative will get to keep the rejected containers and receive at least their scrap value without paying the consumer at all.

These provisions in the Draft Regulations establish different operating requirements and standards of convenience than currently apply to existing recycling

centers that must accept all CRV containers. They also chill competition by prohibiting the approval of new recycling centers in those zones already served by a dealer cooperative. This is despite the fact that the cooperative can refuse to redeem all CRV containers brought for redemption. While CalRecycle is prohibited from paying the handling fee to more than one recycling center in a convenience zone, it does not preclude the certification of more than one recycler in a convenience zone. A bar on certification as contemplated in the Draft Regulations is protectionist, inhibits competition, and (paired with the provisions discussed above) leaves consumers with substandard redemption opportunities.

Suggested Modifications to the Regulatory Text

To protect consumers and avoid inconsistency with other statutes, we suggest the following modifications to the Draft Regulations:

Proposed 14 CCR Section 2575.1(b)(8):

(8) (A) How the dealer cooperative will have the capacity and capability to provide convenient redemption of all the beverage containers and all material types ~~sold by dealer members into convenience zones in which any of the dealer members operate.~~

...

~~(E) Not all locations are required to redeem all beverage container material types.~~

Proposed 14 CCR Section 2030(g):

~~(9) The proposed recycling center is located within a convenience zone where a dealer cooperative is operating a stewardship plan approved by the Department pursuant to subchapter 4.5 of these Regulations. The Department shall not approve a recycling center application if the dealer cooperative located in the convenience zone is in good standing, demonstrated by the dealer cooperative's compliance with the applicable provisions of the Act and these Regulations.~~

CalRecycle Should Incorporate Sufficient Flexibility to Accommodate Dealer Cooperatives Expanding Take-Back Opportunities

Finally, RCRC suggests that CalRecycle approach this dealer cooperative framework with an open mind that enables cooperatives to serve as a kind of “recycling depot” in the future. While we do not suggest imposing additional mandates on dealer cooperatives, we recognize the growing need for convenient consumer access to recycling opportunities outside of the beverage container context. For example, Senate Bill 54 of 2022 (Plastic Pollution Prevention and Packaging Producer Responsibility Act) is intended to build upon the existing solid waste management framework, but there may be certain types of packaging that can be more easily collected and managed through drop off at redemption centers. Some redemption centers in Canada also accept electronic waste (e-waste) for proper management and disposal. Indeed, acceptance of other commodities could create revenue streams that supplement the income of dealer cooperatives. While nothing in existing law currently precludes beverage container

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recyclers or dealer cooperatives from providing similar services, we encourage CalRecycle to integrate flexibility in this model to nurture its adaptability to meet emerging needs.

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,

A handwritten signature in blue ink that reads "John Kennedy". The signature is written in a cursive style with a large, looping "J" and "K".

JOHN KENNEDY
Senior Policy Advocate