

# PREDATORY PRICING

## **Q: What is predatory pricing?**

A: Predatory pricing is committed when a supermarket site recycling center that receives handling fees pays consumers an amount that exceeds both of the following:

1. The California Refund Value (CRV) for a specific type of container, and
2. The average scrap value paid per pound by certified recycling centers for a three-day period in a designated radius from the supermarket site. Included in the calculation are only those certified recycling centers that have not received handling fees in three or more months of the last 12 months. The designated radius is 5 miles for urban areas and 10 miles for rural areas. The Department of Resources Recycling and Recovery (CalRecycle) uses federal criteria to designate areas as urban or rural. CalRecycle will calculate an actual average price paid for a three-day period, including the day before the complaint date, the complaint date, and the day following the complaint date.

If a recycler is paying the CRV minimum only, the center can never be found to have engaged in predatory pricing.

If the recycler is paying 1 cent more than the average scrap value per pound, it is theoretically possible that the center could be found to have engaged in predatory pricing.

## **Q: To whom does this apply?**

A: The unfair and predatory pricing law is designed to regulate prices paid by supermarket site recycling centers that receive handling fees. It regulates the price above CRV that supermarket site recycling centers pay for used beverage containers.

## **Q: Who may file a complaint of predatory pricing?**

A: Any participant within the recycling program and within the designated radius (5 miles for urban areas and 10 miles for rural areas) may file a predatory pricing complaint within 60 days of the alleged violation. The complaint will only be considered valid if the supermarket site has been the source of a complaint about handling fees within 60 days before the date of the alleged violation.

## **Q: What are my responsibilities as a supermarket site recycling center?**

A: A supermarket site recycling center that receives handling fees must make sure that the scrap value it pays (i.e., the amount above the CRV minimum) is no higher than the average scrap value paid by certified recyclers within the designated radius that do not receive handling fees.

**Q: How do I file a complaint of predatory pricing?**

A: To file a predatory pricing complaint against a supermarket site, contact the Technical Assistance and Review Unit by calling (916) 322-1974, or fill out form [DOR51](#) and fax it to 916-319-7717, e-mail it to <mailto:Turia.Dempsey@CalRecycle.ca.gov>, or mail it to:

CalRecycle  
Division of Recycling  
801 K Street, MS 15-59  
Sacramento, CA 95814

**Q: What happens after someone files a predatory pricing complaint?**

A: Within 60 days of receiving a complaint, the Division of Recycling must do the following:

1. Determine the average per-pound scrap price paid by certified recycling centers that do not receive handling fees and that are within the designated radius of the supermarket site in question for the material type for the three-day period including the day before the complaint was made, the complaint date, and the day after the complaint was made.
2. Set and hold an informal hearing if it is determined that there is probable cause that the supermarket site recycling center engaged in predatory pricing.

If a hearing is deemed necessary, CalRecycle will send a copy of the report to the complainant and respondent within 50 days of the date of complaint to allow the two parties to review the document and prepare for the hearing.

**Q: What is the penalty for predatory pricing?**

A: If a supermarket site recycling center that receives handling fees is found to have violated the Predatory Pricing and Unfair Recycling Competition law (Public Resources Code 14588.1), the center will lose its eligibility to receive handling fees (Public Resources Code 14588.2(e)) for a set time period. The first offense is punishable by a six-month ban on receiving handling fees. The second offense is punishable by a one-year ban on receiving handling fees. A third offense is punishable by a five-year ban on receiving handling fees. This ban affects the site of the violation only; it does not affect any other sites owned by the same operator.

**Q: Where in the California Beverage Container Recycling and Litter Reduction Act can I find information regarding predatory pricing?**

A: Chapter 7.5 of Public Resources Code 14588, 14588.1(a-b), and 14588.2(a-g)

**Q: Where in the California Code of Regulations can I find information regarding predatory pricing?**

A: Chapter 14 Section 2135

**Q: How can I get more information about predatory pricing?**

A: For more information regarding predatory pricing, contact Turia Dempsey at (916) 322-1974, or e-mail questions to <mailto:Turia.Dempsey@CalRecycle.ca.gov>.