



August 19, 2024

Dealer Registration and Dealer Cooperatives Permanent Regulations

NOTICE OF 15-DAY CHANGES TO PROPOSED RULEMAKING

The Department of Resources Recycling and Recovery (CalRecycle) proposes to revise the regulations relative to dealer registration and dealer cooperatives. The proposed regulations establish and clarify requirements related to dealers and dealer cooperatives under the California Beverage Container Recycling and Litter Reduction Act. CalRecycle intends to adopt the proposed regulations described herein after considering all recommendations, alternatives, comments, and objections regarding the proposed action.

On August 19, 2024, CalRecycle will initiate a 15-day written comment period for the proposed revisions to the proposed dealer registration and dealer cooperative regulations. This 15-day written comment period follows an initial 45-day public comment period that began on March 15, 2024, and ended on April 30, 2024. On April 30, 2024, CalRecycle held a public hearing to receive public comments. After considering the comments received from interested persons, CalRecycle has made revisions to the proposed regulatory language, added an updated Economic and Fiscal Impact Statement (STD 399), and made updates to the Documents Relied Upon.

AVAILABILITY OF UPDATED DOCUMENTS AND TEXT OF PROPOSED REGULATIONS

A copy of the proposed revised regulations is available on the [SB 1013 Dealer Registration and Dealer Cooperatives Permanent Regulations webpage](#) and attached to this notice. A summary of the proposed changes is also included within this notice. Additionally, these documents are available for public inspection during normal business hours at CalRecycle, 1001 "I" Street, 24th Floor, Sacramento, CA 95812. To schedule a time to inspect these documents, please contact Csilla Richmond at regulations@calrecycle.ca.gov or (916) 327-0089.

DOCUMENTS RELIED UPON

A Document Relied Upon has been added that includes an interactive map showing the leading languages spoken by the Limited English Proficient population in California. Attachment 12: Leading Non-English languages Web App, <https://dru-data-portal-cacensus.hub.arcgis.com/apps/edaf9becf66d4a16be9844726c29cf2f/explore>.

The Economic and Fiscal Statement (STD 399), and appendix have been updated to reflect the proposed changes to the regulation text. Please see “Economic and Fiscal Statement (STD 399),” below, for more information and detail.

15-DAY WRITTEN COMMENT PERIOD

The 15-day written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to CalRecycle. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. CalRecycle will only consider written comments sent to CalRecycle and received during the **15-day written comment period which begins on August 19, 2024, and ends on September 3, 2024**. Additionally, CalRecycle requests that written comments reference a section of the proposed action to which the comment or comments are directed. Written comments received by CalRecycle after the close of the public comment period are considered untimely. CalRecycle may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

CalRecycle is only required to respond to comments received during this 15-day public comment period that are related to the newly proposed changes to the regulations.

In the Final Statement of Reasons, CalRecycle will respond to all relevant comments received during the initial 45-day comment period and this new 15-day comment period.

Comments submitted in writing must be addressed to one of the following:

Postal Mail:

Csilla Richmond
SB 1013 Dealer Registration and Dealer Cooperatives Permanent Regulations
Department of Resources Recycling and Recovery, Regulations Unit
1001 “I” St., MS-24B, Sacramento, CA 95814

Electronic Submittal: [SB 1013 Dealer Registration and Dealer Cooperatives Regulations \(15-Day Public Comment Period\)](#)

Please note that under the California Public Records Act (Government Code section 7920.000 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

SUMMARY OF PROPOSED REVISIONS

As stated above, a copy of the proposed revised regulations is available on the [SB 1013 Dealer Registration and Dealer Cooperatives Permanent Regulations webpage](#) and attached to this notice.

The originally proposed regulatory language that was made available during the initial 45-day comment period is shown in plain, clean text because it is not being made available for public comment by this Notice.

The newly revised regulatory language that is being made available via this Notice is shown in ~~strikeout~~ to indicate deletions and underline to indicate additions.

The specific changes to the originally proposed regulatory language are summarized below.

This summary does not contain all the modifications made to correct typographical or grammatical errors, changes in numbering or formatting, nor does it contain all the non-substantive revisions made to the proposed regulatory language. Non-substantive revisions made throughout the document include striking out “these regulations” and replacing with “this chapter,” changing from title case to lower case in references to the “Department” or to “Sections,” and changing references to “subsection” to “subdivision.” These changes do not alter the meaning of any provisions in the regulations and ensure consistent use of terminology and grammar.

TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT OF CONSERVATION
CHAPTER 5. DIVISION OF RECYCLING

SUBCHAPTER 1. DEFINITIONS

SECTION 2000. DEFINITIONS

Subsection (a)(33)

The regulatory language has been changed to modify the definition of “Operator” to change the term “recycling facility” to “recycling center.” The purpose of this amendment is to make non-substantial, technical change of replacing “recycling facility” with “recycling center.”

This amendment is necessary as a conforming change to use consistent and appropriate terminology throughout Chapter 5 to ensure clarity.

Subsection (a)(42)

The regulatory language has been changed to modify the definition of “Scrap Value” to change related terms such as “dealer cooperatives” to “registered dealer cooperatives,” and to specify that dropoff or collection programs and community service programs are “certified.” The purpose of these amendments is to make the non-substantial, technical changes of replacing “dealer cooperatives” with “registered dealer cooperatives,” “dropoff or collection programs” with “certified dropoff or collection programs,” and “community service programs” with “certified community service programs.”

These amendments are necessary to clarify that dealers are in compliance with Public Resources Code (PRC) section 14578 when the dealer cooperative plan is approved by the department and operational. Similarly, dropoff or collection programs and community service programs must be certified pursuant to PRC section 14551.5 to receive quality incentive payment for each type of beverage container material. These amendments are necessary to ensure the use of consistent and appropriate terminology for clarity.

SUBCHAPTER 2. GENERAL REQUIREMENTS

ARTICLE 1. CERTIFICATION APPLICATION PROCEDURES

SECTION 2030. REVIEW OF APPLICATIONS

Subsection (g)(9)

The regulatory language has been changed to clarify that CalRecycle may deny applications from proposed recycling centers that are located within unserved convenience zones where a dealer cooperative is “implementing a fully operational stewardship plan.” This replaces proposed regulatory language that referred to the department judging a dealer cooperative to be in “good standing,” and therefore this proposal reduces ambiguity and discretion in the proposed regulatory language.

The regulatory language has also been changed to include the word “unserved,” to clarify that the convenience zones that dealer cooperatives operate within remain unserved convenience zones. These changes were made in response to public comments that CalRecycle received regarding ambiguity around whether convenience zones with operational dealer cooperatives are served or unserved, and the circumstances under which CalRecycle may deny a recycling center application.

This provision is necessary to enable dealer cooperatives to maintain eligibility to receive payments and fees while implementing a fully operational stewardship plan in an unserved convenience zone where no recycling center operates. A dealer cooperative could be made ineligible to receive payments under PRC section 14578.5(d)(1) at any time a recycling center chooses to locate in the same convenience zone, and allowing this would deter the formation of dealer cooperatives and compromise their investments, contradicting the purpose of the Act.

SUBCHAPTER 4.5. DEALERS AND DEALER COOPERATIVES

ARTICLE 1. DEFINITIONS

SECTION 2370. DEFINITIONS

Subsection (a)

The regulatory language has been changed to add a definition for “Consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” that applies only to this term as its used in subchapter 4.5. The purpose of adding the definition of consumer convenience is to clarify for dealer cooperatives the required operating standards. The definition replaces a consistent set of requirements that were previously included in section 2375.1 regarding stewardship plan contents.

This is necessary to make more specific the requirement in PRC section 14578.5 that dealer cooperative stewardship programs offer comparable consumer convenience to PRC section 14571 and 14571.9. This definition maintains a minimum standard of consumer convenience as it relates to certified recycling centers and pilot projects.

The addition of this subsection also resulted in renumbering of subsections throughout section 2370.

Subsection (c)

This subsection was renumbered to “(c)” from “(b).”

Subsection (c) as originally proposed was deleted. The regulatory language has been changed to remove the definition of the term “dealer cooperative zone.” CalRecycle replaced the term “dealer cooperative zone” with “area covered by a dealer cooperative’s stewardship plan” throughout the regulations, which has a plain meaning that can be easily understood without proposing a formal regulatory definition. The purpose of this amendment is to remove the term that is no longer used in the regulatory language and is therefore unnecessary and irrelevant to define.

The deletion of this subsection also resulted in renumbering of subsections throughout section 2370.

Subsection (f)

Subsection (f) as originally proposed was deleted. The regulatory language has been changed to remove the definition of the term “GAAP,” which is a term no longer used in the proposed regulations. This change was made in response to public comments received during the 45-day comment period that suggested CalRecycle remove GAAP requirements for recordkeeping and stewardship plan budgets. CalRecycle determined that specifying compliance with GAAP is unnecessary because dealer cooperatives must be a non-profit organization exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code of 1986. As 501(c)(3) non-profit organizations, dealer cooperatives with a gross annual revenue of \$2 million will be required under existing law to prepare financial statements using generally accepted accounting principles audited by an independent certified public accountant, as is referenced as a requirement in section 2380.

The deletion of this subsection also resulted in renumbering of subsections throughout section 2370.

This subsection was renumbered from (g) to (f). The regulatory language has been changed to replace “both” with “any” in reference to the subsections that follow. The purpose of this subdivision is to serve as an introduction to four amended paragraphs to provide a broader definition of “innovative method of redemption.”

This change is necessary to provide clarity on what is required in the regulations when the term is referenced, and in response to public comment received in the 45-day public comment period that suggested CalRecycle expand the definition to accurately describe all current and future types of technology used for innovative methods of redemption. Also, this change is necessary because the regulatory language previously included only subsections (1) and (2) and is now expanded to include subsections (1) through (4).

Subsections (f)(1), (f)(2), (f)(3), and (f)(4)

The regulatory changes in (f)(1) clarify that mobile collection programs must exclusively offer pickup services at consumers' addresses to qualify as an innovative method of

redemption. This definition aims to explicitly include services where redemption and pickup occur at the consumer's location, ensuring clarity on mobile redemption opportunities within dealer cooperatives. Such clarity is crucial as traditional recycling centers lack explicit provisions for this method under current regulations, though CalRecycle holds broad authority to determine acceptable redemption methods under PRC section 14578.5(b)(1).

This revision also separates each innovative method of redemption into distinct paragraphs, such as moving reverse vending machines and other attendant-free methods to their own subsections. This organizational adjustment enhances clarity by delineating that the attendant-free requirement in proposed section 2370(f)(4) does not extend to sections 2370(f)(1)-(3). Additionally, bag drop and reverse vending machine are now included under the expanded definition of innovative collection methods, irrespective of attendant presence, reflecting a broader scope for redemption practices.

The purpose of slightly rewording section 2370(f)(4) from a “method of redemption that does not require an attendant to accept materials” to a “method of redemption at which an attendant is not present to accept materials” is to increase clarity because while it may be unclear what it means for an attendant to be required, it is clear whether or not an attendant is present.

Subsection (h)

The regulatory language has been changed to modify the definition of “redemption location” or “redemption site” to remove methods of redemption that have an attendant present and at a set location. The purpose of this change is to remove unnecessary regulatory language that is already sufficiently defined by innovative methods of redemption.

This amendment is necessary as a conforming change to remove the presence of an attendant and a set location from the definition of a redemption location or redemption site because it is in conflict with the definition of innovative methods of redemption. This definition is necessary to maintain consistency and define a key term used in the proposed regulations.

ARTICLE 2. DEALERS

SECTION 2371. DEALER REGISTRATION

Subsection (a)(1)

The regulatory language has been changed to specify that a dealer located within a convenience zone is required to separately register each of its retail locations. This provides clarification that if a dealer has sites that are not retail locations, that those sites are not required to be registered with CalRecycle under PRC section 14578.5(b)(1).

Subsection (b)

The regulatory language has been changed to clarify that dealers must initiate rather than complete registration on CalRecycle’s website, consistent with PRC section

14578.5(b)(1) that mandates CalRecycle to include a dealer registration process in the regulations. The registration process may require that the dealer provide additional information to corroborate or clarify the registration information initially provided to CalRecycle, and therefore “initiated” is more appropriate than “completed.”

Additionally, the regulatory language was changed to specify that dealers are required to submit specified information to separately register each of their “retail locations,” rather than “sites,” to use consistent and appropriate terminology for clarity.

Subsection (b)(9)

The regulatory language has been changed to clarify the information required for dealers to register each of their retail locations, including a declaration of whether the dealer has a combined sales and storage area of less than 5,000 square feet. The change from “physical location” to “retail location” provides clarification that if a dealer has physical locations that are not retail locations, that those sites are not required to be registered with CalRecycle under PRC section 14578.5(b)(1).

Subsection (b)(10)

The regulatory language has been changed to clarify the information required for dealers to register each of their retail locations, including a declaration of whether the gross annual sales of the dealer at that retail location are less than one million five hundred thousand dollars (\$1,500,000) based on the most recent tax return filed with the federal Internal Revenue Service, excluding any fuel sales. The change from “physical location” to “retail location” provides clarification that if a dealer has physical locations that are not retail locations, that those sites are not required to be registered with CalRecycle under PRC section 14578.5(b)(1).

Subsection (b)(11)

The regulatory language has been changed to clarify the information required for dealers to register each of its retail locations, including the date the dealer began business at that retail location. The change from “physical location” to “retail location” provides clarification that if a dealer has physical locations that are not retail locations, that those sites are not required to be registered with CalRecycle under PRC section 14578.5(b)(1).

Subsection (b)(12)

The regulatory language has been changed to clarify the information required for a dealer to register each of its retail locations, including the beverage types, container material types, and container sizes offered for sale by the dealer at that retail location. The change from “physical location” to “retail location” provides clarification that if a dealer has physical locations that are not retail locations, that those sites are not required to be registered with CalRecycle under PRC section 14578.5(b)(1).

Additional language regarding beverage types, container material types, and container sizes offered for sale by a dealer is necessary because PRC section 14578.5(b)(1) mandates that CalRecycle include a registration process for dealers in the regulations.

CalRecycle needs to know what types of beverages, including container material types and sizes that a dealer sells, if any, because some entities may be mischaracterized as dealers in initial CalRecycle outreach. By providing this information, a retail location may be identified as not being a dealer as defined in PRC section 14510 and there would be no need for the dealer to register that retail location.

Subsection (c)

The regulatory language has been changed to provide certainty that CalRecycle will require specified additional registration information from dealers if necessary and that dealers are required to provide it within 15 working days to complete their registration.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle must require dealers to provide additional information to corroborate or clarify their registration information in the instance that registration information provided by a dealer is unclear or inadequate. The requirement for a dealer to then submit that information within 15 working days is necessary to ensure that CalRecycle can complete a dealer's registration timely if the information submitted by the dealer in the initial registration did not adequately address all of the information required to be submitted under section 2371(b).

Subsection (c)(1) and (c)(2)

The regulatory language has been changed to specify the instances dealers are required to submit additional information to CalRecycle, including documentation to support a current lease agreement or floor plan, and cumulative gross annual sales.

These changes from "may" to "shall" in (c)(1) and (c)(2) remove CalRecycle's discretion to request additional documentation. The changes make clear that CalRecycle is required to ask for additional documentation if needed in order to determine whether the dealer qualifies for the exemption set forth in PRC section 14578(b)(1).

Subsection (d)

The regulatory language has been changed to establish that when dealer registration has been determined to be complete, CalRecycle will provide the dealer with a registration number for that retail location within 45 working days of receipt of the completed application, which acts as confirmation that registration has been successful.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. The additional language "for that retail location" is necessary to provide clarity that CalRecycle will provide a separate dealer registration number for each retail location successfully registered.

SECTION 2372. DEALER NOTIFICATION REQUIREMENTS AND NEW REGISTRATION REQUIRED

Subsections (a)(1) and (a)(2)

The regulatory language has been changed to omit requirements that a registered dealer notify CalRecycle electronically in writing 30 days before a change to the dealer's

mailing address, phone number, email address, or internet website address. Instead, these subsections only require advanced notification due to changes in the dealer's federal tax identification number or physical business address. The purpose of this change is to clarify which criteria would impact a dealer's critical registration information in a manner that requires advance notice to CalRecycle. A change to federal tax identification number or physical business address needs to be submitted in advance of the change occurring because CalRecycle needs time to analyze the effects of the change, such as the dealer no longer being located within the same convenience zone. This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed.

Subsection (c)(4)

The regulatory language has been changed to require a dealer to notify CalRecycle electronically in writing within 30 days *after* a change in the dealer's mailing address, phone number, email address, or internet website address, instead of requiring dealers to notify CalRecycle of changes to that information 30 days *before* a change.

The purpose of this amendment is to lessen the administrative burden on dealers when they are making changes to their mailing address, phone number, email address, or internet website address. It is foreseeable that a dealer might not know what their new mailing address, phone number, email address, or internet website address will be 30 days in advance of the change. By making this change to the regulations, dealers have ample time to submit changes to contact information after such changes occur.

Subsection (e)

The regulatory language has been changed to remove the subjective term "satisfaction" from this provision. This removal provides clarity that if the dealer is able to demonstrate it is unable to submit the updated registration information electronically in writing and CalRecycle provides prior written approval, the dealer may submit via certified postal mail instead of electronically in writing.

The purpose of this amendment is to remove ambiguity regarding how to satisfy the department and clarify that the dealer must demonstrate it is unable to submit information electronically in writing and receive CalRecycle approval.

SECTION 2373. DEALER REDEMPTION REQUIREMENTS

Subsection (a)

The regulatory language has been changed to clarify that dealers located in an unserved convenience zone are obligated to redeem empty beverage containers on the dealer's premises if they are not a member of a dealer cooperative with a fully operational stewardship plan approved by CalRecycle.

The purpose of these amendments is to specify that if the dealer is not a member of a dealer cooperative with a stewardship plan approved by CalRecycle that is fully operational, it must redeem all empty beverage container types at all open cash

registers or one designated location on the dealer's premises, during all hours that the dealer is open for business pursuant to PRC section 14578(a)(1)(A).

Subsection (b)

The regulatory language has been changed to include the relevant portion of PRC section 14578(a)(1) that specifies dealers must continue to redeem empty beverage containers on the dealer's premises until the dealer cooperative's approved stewardship plan is fully operational.

The purpose of this amendment is to ensure clarity and readability and avoid ambiguity regarding what the dealer is required to do to comply with PRC section 14578(a)(1) before a dealer cooperative plan is approved.

Subsection (c)

The regulatory language has changed to clarify that a dealer is not required to redeem beverage containers on the dealer's premises if it is a member of a dealer cooperative with a fully operational stewardship plan approved by CalRecycle.

The purpose of this amendment is to specify that the dealer's obligation changes only when its dealer cooperative's stewardship plan is fully operational.

Subsection (d)

The regulatory language has changed to specify that a dealer in an unserved convenience zone with a fully operational dealer cooperative is still required to comply with PRC section 14578(a) unless it is a member of the fully operational dealer cooperative.

The purpose of this amendment is to specify that the dealer's obligation changes only when the dealer is a member of a dealer cooperative with an approved stewardship plan that is fully operational.

SECTION 2374. IMPLEMENTATION PERIOD FOR STEWARDSHIP PLAN SUBMISSION AND DEALER REDEMPTION REQUIREMENTS, DELETION

The regulatory language has been changed to delete section 2374 regarding the implementation period for stewardship plan submission and dealer redemption requirements. CalRecycle determined that the regulations cannot allow dealer members of a dealer cooperative to be absolved of the requirements of PRC section 14578(a) until the dealer cooperative has a stewardship plan approved by CalRecycle that is fully operational.

The purpose of this amendment is to ensure that consumers are not deprived of redemption opportunities provided by dealers redeeming in store while stewardship plans are under review by CalRecycle until the time that a dealer cooperative is fully operational.

ARTICLE 3. STEWARDSHIP PLAN

SECTION 2375. STEWARDSHIP PLAN SUBMISSION

Subsection (a)(1)

The regulatory language has been changed to remove the reference to section 2375.1, which was renumbered to 2375.2, and add references to sections 2375.2, 2375.4, 2375.6, and 2375.8, which were added to the regulations when the stewardship plan contents section was split into multiple sections.

The purpose of this amendment is to update the regulatory language to include the updated regulatory references.

Subsection (b)

The regulatory language has been changed by deleting previously proposed subsection (b)(2), which specified dealer member legal liability for dealer cooperative's approved stewardship plans.

The purpose of this amendment is that the framework for liability for violations of the Act and regulations is governed by PRC section 14591.2(a) and the surrounding sections. Therefore, this subsection relating to liability is unnecessary. Because (b)(2) was deleted, it was no longer necessary to break out the components into two parts because only one part remained, thus necessitating renumbering of preexisting (b)(1) into a continuation of the sentence in (b).

SECTION 2375.2. STEWARDSHIP PLAN INFORMATIONAL CONTENTS

The regulatory language has been changed to modify the numbering and name of section from "Section 2375.1. Stewardship Plan Contents" to "Section 2375.2. Stewardship Plan Informational Contents."

The purpose of this amendment is to introduce a stewardship plan section that is based on topic. Now that the stewardship plan informational contents section is separated, rather than being nested under a larger section, it needs its own title, introduction, and numbering. This change is necessary for clarity. This section largely contains subsection 2375.1(a) from the proposed regulatory language for the 45-day comment period. Changes, additions, and deletions are discussed in more detail below.

Subsection (h)

The regulatory language has been changed to specify that stewardship plans include the certification numbers of the processors and recycling centers, to which the dealer cooperative will ship beverage containers.

The purpose of this amendment is to provide CalRecycle with sufficient details to ensure effective regulation, oversight, and direct communication with each processor and recycling center, thereby facilitating the proper functioning and compliance of the stewardship plan.

SECTION 2375.4. STEWARDSHIP PLAN SUBSTANTIVE CONTENTS

The regulatory language has been changed to introduce section 2375.4 regarding stewardship plan substantive contents. The purpose of this amendment is to introduce a stewardship plan section that is based on topic. Now that the stewardship plan substantive contents section is separated, rather than being nested under a larger section, it needs its own title, introduction, and numbering. This change is necessary for clarity. This section largely contains subsections 2375.1(b) and (1)-(7) from the proposed regulatory language for the 45-day comment period. Changes, additions, and deletions are discussed in more detail below.

2375.1(b)(1) was deleted because the requirement that stewardship plans include a description of how each beverage container material type will be redeemed under the stewardship plan was moved to subsection (f)(1), see below.

2375.1(b)(6) was deleted entirely to remove the requirement that dealer cooperatives provide at least one innovative method of redemption per convenience zone, which may include a corresponding daily redemption limit for the innovative method of redemption. CalRecycle removed this requirement in response to public comments received during the 45-day comment period expressing that the requirement created consumer convenience that was in excess of instead of comparable to the requirements of PRC section 14571.

2375.1(b)(7)(B)(i)-(iii) was deleted as a conforming change to the amendments in subsection (f)(3), see below. Because “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” is now being defined in proposed section 2370, the former definition that was established in subsections (b)(7)(B)(i)-(iii) must be deleted. These amendments clarify the standard for assessing comparable consumer convenience.

2375.1(b)(7)(D) was deleted to remove the requirement that dealer cooperatives accomplish convenient redemption using specified methods, because it was redundant of subsection (a), see below, that requires the stewardship plan to describe each method of redemption offered by the dealer cooperative, and subsection (f)(3), see below, which requires a description of how the dealer cooperative will provide convenience comparable to the requirements of section 14571 and section 14571.9 of the Act. CalRecycle determined that it was unnecessary to specify the methods in regulations, as they are sufficiently clear under the Act, and will be explained by dealer cooperative in their stewardship plans.

Subsection (a)

The regulatory language has been renumbered from 2375.1(b)(2) to subsection 2375.4(a) to begin the list of what descriptions must be included in a stewardship plan. This renumbering caused subsequent renumbering below.

Subsection (b)

The regulatory language has been renumbered from 2375.1(b)(3) to subsection 2375.4(b) to better organize and set out a list of the requirements for an education and outreach program. This renumbering caused subsequent renumbering below.

Subsection (b)(1)

The regulatory language has been changed to remove the term “dealer cooperative zone,” that is no longer defined in the proposed regulations, and replace it with “area covered by a dealer cooperative’s stewardship plan” which has a plain meaning that can be easily understood.

The purpose of this amendment is to provide increased clarity and remove ambiguity.

Subsection (b)(2)

The regulatory language has been changed to remove the term “dealer cooperative zone,” that is no longer defined in the proposed regulations, and replace it with “area covered by a dealer cooperative’s stewardship plan” which has a plain meaning that can be easily understood.

Additionally, the regulatory language has been changed to specify that materials need to be translated into the languages that 5 percent or more of the non-English speaking people speak in each census tract in which the unserved convenience zone is located. This change was made in response to public comments received during the 45-day public comment period requesting CalRecycle’s guidance on how to determine which languages education and outreach materials need to be translated into. The purpose of this amendment is to ensure that education and outreach materials are available to the majority of the community, regardless of their primary language. Promoting awareness of the stewardship program in languages that are spoken within the dealer cooperative zone(s) is necessary because the redemption opportunities for consumers cannot be convenient as required by the Act if consumers are not able to understand the materials that make them aware of the program.

Subsection (b)(2)(A)

The regulatory language has been changed to specify that signage posted at the front of each dealer member’s retail location shall include either days and hours of operation of the nearest redemption site or the internet website specified in subparagraph (B), which includes information about the dealer cooperative’s redemption sites such as locations and hours. This is necessary because dealer cooperatives could potentially have multiple nearby redemption sites with different operating hours and redemption methods. Therefore, dealer members need the option to include either the days and hours of operation of the nearest redemption site or the internet website with redemption site locations and hours.

Subsection (e)

The regulatory language has been changed to move the requirement that stewardship plans include a description of how the dealer cooperative will address factors that affect consumer convenience, such as safety and cleanliness of the redemption location, parking availability, and accessibility via public transportation and walking. This requirement was formerly subsection 2375.1(b)(7)(C).

Subsection (f)(1)

The regulatory language has been changed to specify that stewardship plans include a description of how the dealer cooperative will redeem all beverage container material types, instead of a description of how they will have the capability to provide convenient redemption of all material types.

The amendments are necessary to ensure that CalRecycle has information in the stewardship plan to verify that a dealer cooperative will redeem all beverage container material types, consistent with PRC section 14578.5(c)(3), not just that they are capable of redeeming all material types.

Additionally, the regulatory language has been changed to separate this subsection into two distinct subsections to ensure clarity. Subsection (f)(2) contains the information that was previously consolidated within this subsection.

Subsection (f)(2)

The regulatory language has been changed to specify that stewardship plans include a description of how the dealer cooperative will have the capacity to redeem an amount of beverage containers equal to 100 percent of the beverage containers sold by dealer members into the unserved convenience zones in which any of the dealer members operate. The purpose of this change is to clarify that 100 percent of the particular beverage containers that the dealer members sell does not need to be redeemed, rather that the dealer cooperative needs to have the capacity to redeem an amount equal to 100 percent of the number of beverage containers that the dealer members sell. This provides clarity that the capacity can incorporate beverage containers sold by dealers that are not members of the dealer cooperative. The amendment addresses confusion expressed in public comments regarding whether a dealer cooperative must redeem beverage containers and beverage container types sold by non-member dealers, to which the answer is yes.

Additionally, the regulatory language has been changed to remove the requirement that a dealer cooperative shall not refuse to redeem beverage containers if the beverage container materials or beverage type is not sold by a dealer member of the dealer cooperative. The purpose of the deletion is that now subsection (f)(1) specifies that dealer cooperatives describe how they will redeem all beverage container material types and subsection (f)(4) specifies that at least one redemption location in each unserved convenience zone covered by the stewardship plan shall redeem all beverage container material types.

Additionally, the regulatory language has been changed to separate this subsection into two distinct subsections to ensure clarity. Subsection (f)(2) contains information that was previously consolidated with subsection (f)(1).

Subsection (f)(3)

The regulatory language has been changed to require that stewardship plans include a description of how the dealer cooperative will provide “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act,” and to reference section 2370 where a definition of this term has been added. The regulatory language that previously described this term was removed because it is

unnecessary now that the term is clearly defined. These amendments clarify the standard for assessing comparable consumer convenience.

Subsection (f)(4)

The regulatory language has been changed to clarify that at least one redemption location in each unserved convenience zone covered by the stewardship plan shall redeem all beverage container material types with immediate payment of the refund value a minimum of 10 hours per week, with no less than five of those hours on a Saturday or Sunday between the hours of 9 a.m. to 5 p.m. This amendment allows dealer cooperatives operational flexibility, while adhering to PRC section 14578.5(c)(3) that requires dealer cooperatives to redeem all material types. This change is responsive to public comments received asking for a clearer standard of consumer convenience for consumers seeking to redeem beverage container material types that may not be accepted by all innovative methods of redemption.

Subsection (f)(5)

The regulatory language has been changed to clarify that the convenience zones that dealer cooperatives operate within remain unserved convenience zones. The purpose for this change is to provide clarity in response to public comments the department received questioning whether a fully operational dealer cooperative's presence in a convenience zone made the convenience zone served. It is necessary to clarify that a fully operational dealer cooperative does not make a convenience zone served.

Subsection (f)(6)

This regulatory provision has been added to specify that a stewardship plan is allowed to establish a redemption limit per customer per day per redemption method, as long as at least one redemption location in each unserved convenience zone covered by the stewardship plan redeems all beverage container material types with immediate payment of the refund value up to the daily load limit established for recycling centers during specified hours.

This amendment is necessary to balance dealer cooperative operational flexibility while ensuring convenience for consumers comparable to PRC section 14571(a).

SECTION 2375.6. STEWARDSHIP PLAN PERFORMANCE STANDARDS

The regulatory language has been changed to introduce section 2375.6 regarding stewardship plan performance standards. The purpose of this amendment is to introduce a stewardship plan section that is based on topic. Now that the stewardship plan performance standards section is separated, rather than being nested under a larger section, it needs its own title, introduction, and numbering. This change is necessary for clarity. This section largely contains subsection 2375.1(b)(8) from the proposed regulatory language for the 45-day comment period. Changes, additions, and deletions are discussed in more detail below.

2375.1(b)(8)(B) was entirely deleted because it no longer fits in the reorganized sections, and a similar subsection was added to replace it under section 2375.4 regarding stewardship plan substantive contents. The reason for this change is that the

stewardship plan section was broken down into multiple smaller sections based on the topic. Establishing redemption limits is not a performance standard, so the language regarding how the stewardship plan may establish redemption limits needed to be moved to stewardship plan substantive contents instead.

Subsection (a)

The regulatory language has been changed to clarify that the convenience zones that dealer cooperatives operate within remain unserved convenience zones. This is necessary to enable dealer cooperatives to maintain eligibility to receive payments and fees while implementing a fully operational stewardship plan in an unserved convenience zone.

Subsection (b)

The regulatory language has been changed to clarify that the convenience zones that dealer cooperatives operate within remain unserved convenience zones. This is necessary to enable dealer cooperatives to maintain eligibility to receive payments and fees while implementing a fully operational stewardship plan in an unserved convenience zone.

Additionally, the regulatory language has been changed to clarify that dealer cooperatives must have capacity to redeem an amount of beverage containers equal to 100 percent of the beverage containers sold by dealer members into underserved convenience zones in which they operate. This amendment clarifies that dealer cooperatives are not required to redeem 100 percent of the actual beverage containers sold in the unserved convenience zone, but instead have the capacity to redeem an amount equal to 100 percent of the number of beverage containers that the dealer members sell. Finally, the regulatory language has been changed to update references to two subsections that were renumbered due to revisions to the regulatory language. This is necessary to ensure readers are directed to refer to the appropriate subsections.

Subsection (c)

The regulatory language has been changed to clarify that the convenience zones that dealer cooperatives operate within remain unserved convenience zones. This is necessary to enable dealer cooperatives to maintain eligibility to receive payments and fees while implementing a fully operational stewardship plan in an unserved convenience zone.

Subsection (d)(1)

The regulatory language has been changed to replace the term “dealer cooperative zone” with “area covered by a dealer cooperative’s stewardship plan” throughout the regulations, which has a plain meaning that can be easily understood without further definition. The purpose of this amendment is for readability and clarity.

Subsection (d)(2)

The regulatory language has been changed to clarify the stewardship plan performance standards relevant to average wait time for consumers to redeem beverage containers.

Specifically, instead of referring to optional factors used to calculate wait time, the regulatory language was changed to refer to the optional factors as examples, which therefore necessitated the deletion of “and any other factor relevant to the calculation.” Additionally, the regulatory language separated total hours of operation and number of operating hours other than Monday to Friday from 9 a.m. to 5 p.m., because they are two distinct examples of factors that may be used to calculate wait time.

The purpose of these amendments is to enhance clarity.

SECTION 2375.8 STEWARDSHIP PLAN BUDGET

The regulatory language has been changed to introduce section 2375.8 regarding stewardship plan budgets. The purpose of this amendment is to introduce a stewardship plan section that is based on topic. Now that the stewardship plan budget section is separated, rather than being nested under a larger section, it needs its own title, introduction, and numbering. This change is necessary for clarity. This section largely contains subsection 2375.1(b)(9) from the proposed regulatory language for the 45-day comment period. Changes, additions, and deletions are discussed in more detail below.

Subsection (a)

The regulatory language has been changed to remove reference to itemized budgets being prepared in accordance with GAAP. This change was made in response to public comments received during the 45-day comment period that suggested CalRecycle remove GAAP requirements for stewardship plan budgets. Additionally, CalRecycle added a reference to new regulatory language in section 2381(c)(6) which specifies budget categories that identify required information that dealer cooperatives must include in quarterly reports. These revised requirements provide CalRecycle with sufficient information to assess stewardship program budgets and expenditures.

Subsection (b)

The regulatory language has been changed to clarify that the subsection is referencing the dealer cooperative's monetary reserves as opposed to other entities' reserves. This amendment is necessary to enhance clarity.

SECTION 2376. STEWARDSHIP PLAN REVIEW AND APPROVAL OR DISAPPROVAL; OPERATIONAL NOTICE

Subsection (a)

The regulatory language has been changed to specify that CalRecycle shall require additional stewardship plan information if necessary and identifies a 10-day deadline for dealer cooperative to provide the additional information.

The purpose of these amendments is to remove ambiguity around whether CalRecycle will require additional information and the duration of time dealer cooperatives are permitted to comply with the requirement.

Subsection (c)

The regulatory language has been changed to remove the reference to CalRecycle approving stewardship plans in its sole discretion.

This amendment is necessary to remove the potential for CalRecycle to use its discretion to deny a stewardship plan that complies with all requirements, which ensures clarity for dealer cooperatives and other regulated entities.

Subsection (e)(1)

The regulatory language has been changed to clarify that dealers redeem beverage containers that are empty.

This amendment is necessary to enhance clarity and for consistency with the requirements of the Act.

Subsection (e)(2)

The regulatory language has been changed to specify that dealer cooperative's operational notices must include the certification numbers of processors and recycling centers to which the dealer cooperative will ship beverage containers.

The purpose of this amendment is to provide CalRecycle with sufficient details to ensure effective regulation, oversight, and direct communication with each processor and recycling center, thereby facilitating the proper functioning and compliance of the stewardship plan.

Subsection (f), moved

The regulatory language has been changed to remove the requirement that dealer cooperatives notify CalRecycle 30 days prior to a new redemption contractor or redemption site becoming operational or ceasing operating from section 2376 because the provision has moved to section 2378.

The purpose of this amendment is to consolidate all notifications regarding stewardship plan changes into one section for readability, convenience, and clarity.

SECTION 2377. STEWARDSHIP PLAN FIVE-YEAR UPDATES

The title of this section has been updated to include the words "five-year," in reference to the frequency of the required updates.

The purpose of this amendment is to enhance clarity.

SECTION 2378. STEWARDSHIP PLAN CHANGES AND NOTIFICATION

The regulatory language has been changed to remove requirements regarding dealer cooperative stewardship plan change and notification processes and replace them with stewardship plan change and notification processes that are more specific and clearer. Changes, additions, and deletions are discussed in more detail below.

Subsection (a), (a)(1), (a)(2), and (a)(3)

The regulatory language has been changed to specify the types of stewardship plan changes that require a dealer cooperative to notify CalRecycle electronically in writing 30 days before implementation. While the prior language required dealer cooperatives to notify CalRecycle in advance of any stewardship plan change, these modifications clarify that advanced notification is required upon changes to any stewardship plan informational contents specified in sections 2375.2(a), 2375.2(d), 2375.2(e), 2375.2(f), 2375.2(g), 2375.2(i), or 2375.2(j), and before a new redemption contractor or redemption site becomes operational or ceases operation.

These amendments are necessary to enhance clarity and remove ambiguity regarding the circumstances that require advanced notice to CalRecycle before dealer cooperatives can implement plan changes.

Subsection (b)

The regulatory language has been changed to specify the types of stewardship plan changes that require a dealer cooperative to notify CalRecycle electronically in writing within 30 days after the change. While the prior language required dealer cooperatives to notify CalRecycle in advance of any stewardship plan change, these modifications clarify that dealer cooperatives must notify CalRecycle within 30 days after changes to any stewardship plan informational contents specified in sections 2375.2(b), 2375.2(c), 2375.2(h), or stewardship plan budgets specified in 2375.8.

These amendments are necessary because it is foreseeable that a dealer cooperative may not know the information in these sections 30 days prior to the change occurring and the dealer cooperative and its members should not be liable for failure to provide information which is not known. These changes enhance clarity and remove ambiguity regarding the circumstances that require notice to CalRecycle and give dealer cooperatives ample time to notify CalRecycle of the referenced changes.

Subsection (c)(1)

The regulatory language has been changed to specify the types of stewardship plan changes that require a dealer cooperative to notify CalRecycle electronically in writing before implementation. While the prior language (in subsection (a)(1)) required dealer cooperatives to notify CalRecycle in advance of any stewardship plan change, these modifications clarify that dealer cooperatives must obtain CalRecycle approval prior to implementation of any changes to information specified in sections 2375.4 regarding stewardship plan substantive contents or section 2375.6 regarding stewardship plan performance standards.

These amendments are necessary to enhance clarity and remove ambiguity regarding the circumstances that require CalRecycle approval prior to dealer cooperatives implementing plan changes.

Subsection (c)(2)

The regulatory language has been changed to specify that within 30 days of receipt CalRecycle will review and approve or disapprove any stewardship plan changes to the

information specified in sections 2375.4 regarding stewardship plan substantive contents or section 2375.6 regarding stewardship plan performance standards.

Allowing CalRecycle 30 days to review these proposed changes is necessary because CalRecycle is not able to analyze information immediately and requires adequate time to thoroughly consider the proposed changes. More than 30 days may create a difficulty for dealer cooperatives to efficiently implement necessary substantive plan changes or modifications to performance standards.

ARTICLE 4. RECORDKEEPING, REPORTING, AND OPERATION

SECTION 2380. RECORDKEEPING

Subsection (a)(1)

The regulatory language has been changed to remove the requirement that dealer cooperatives prepare and retain records according to GAAP. This change was made in response to public comments received during the 45-day comment period that suggested CalRecycle remove GAAP requirements for recordkeeping. CalRecycle determined that specifying compliance with GAAP is unnecessary because dealer cooperatives must be exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code of 1986. As 501(c)(3) non-profit organizations, dealer cooperatives will be required under existing law to prepare financial statements using generally accepted accounting principles audited by an independent certified public accountant, if they have two million dollars in gross annual revenue. This requirement is made clear under the revised subsection (a)(1).

The regulatory language has been changed to specify that dealer cooperatives are required to electronically submit to CalRecycle annual audited financial statements that they must already prepare pursuant to Government Code section 12586(e), if they have two million dollars in gross annual revenue. This amendment ensures clarity on what dealer cooperatives are obligated to provide to CalRecycle to ensure financial transparency and accountability. Providing the information electronically is necessary to ensure that all the information is submitted through a standardized and efficient method.

Subsection (a)(2)

The regulatory language has been changed to relocate the requirement that dealer cooperatives retain all documentation related to customer transactions or required under section 2380 for a period of five years to new subsection (g), see below. This amendment is necessary because a five-year record retention policy is already imposed for all records required under the existing regulations pursuant to section 2085(b).

The regulatory language was changed to add a requirement that dealer cooperatives prepare their financial records in a prudent and responsible manner.

This amendment ensures the trustworthiness and auditability of the figures reported in the dealer cooperative's financial statements.

Subsection (d)

The regulatory language has been changed to specify that dealer cooperatives must maintain records of how dealer cooperative stewardship fees are utilized.

This amendment ensures that dealer cooperatives will retain the necessary financial records to enable them to accurately report on stewardship program expenditures in quarterly reports.

Subsection (g)

This regulatory language has been added to clarify that a dealer cooperative is subject to the five-year record retention period required pursuant to section 2085(b).

This addition ensures that dealer cooperatives are aware how long they are legally required to retain records that they have created pursuant to the Act and regulations.

SECTION 2381. REPORTING

Subsection (b)(1)(D)

The regulatory language has been changed to delete the “but not limited to” in regards to reporting data of the stewardship program’s implemented collection methods. The removal of this language promotes clarity because it makes the following list defined and complete for purposes of compliance.

Subsection (b)(1)(D)(i)

The regulatory language has been changed to specify quarterly reporting of operating time and downtime is required in quarterly dealer cooperative stewardship program reports specifically for any reverse vending machine or bag drop, instead of the previous reporting requirement applicable to “any innovative method of redemption.” This change was necessary because the definition of “innovative method of redemption” includes pickup service and other non-attended methods of redemption where operating time and downtime may not be feasible to report. This amendment enhances clarity for dealer cooperatives on what information needs to be tracked and reported in quarterly reports.

Subsection (b)(1)(D)(i)(I)

The regulatory language has been changed to clarify the definition of “downtime” for the purposes of subsection (b)(1)(D)(i). The amendment specifies that downtime reporting applies specifically to any reverse vending machine or bag drop, instead of all innovative methods of redemption. This change is necessary because the definition of “innovative method of redemption” includes pickup service and other non-attended methods of redemption where downtime may not be feasible to report. This amendment enhances clarity for dealer cooperatives on what information needs to be tracked and reported in quarterly reports.

Subsection (b)(1)(D)(i)(II)

The regulatory language has been changed to clarify the definition of “operating time” for the purposes of subsection (b)(1)(D)(i). The amendment specifies that operating time

reporting applies specifically to any reverse vending machine or bag drop, instead of all innovative methods of redemption. This change is necessary because the definition of “innovative method of redemption” includes pickup service and other non-attended methods of redemption where operating time may not be feasible to report. This amendment enhances clarity for dealer cooperatives on what information needs to be tracked and reported in quarterly reports.

Subsection (b)(1)(D)(ii)

The regulatory language has been changed to specify that dealer cooperatives must quantify in quarterly dealer cooperative stewardship program reports the number of transactions that occurred using an alternative redemption method during each downtime period for any reverse vending machine or bag drop, instead of applying this requirement to all innovative methods of redemption. This change is necessary because the definition of “innovative method of redemption” includes pickup service and other non-attended methods of redemption where operating time may not be feasible to report. Additionally, dealer cooperatives could choose to use an alternative redemption method to collect and redeem empty beverage containers during reverse vending machine and bag drop downtime that is not an innovative method of redemption. This amendment enhances clarity for dealer cooperatives on what information needs to be tracked and reported in quarterly reports.

Subsection (b)(1)(D)(iii)

The regulatory language has been changed to specify that dealer cooperatives must provide an explanation in quarterly dealer cooperative stewardship program reports if no containers were redeemed during downtime by an alternative redemption method. This replaces the previous language that applied this requirement when any innovative method of redemption experienced downtime. This change narrowing the requirement from “innovative method of redemption” to “alternative method of redemption” is necessary because the definition of “innovative method of redemption” includes pickup service and other non-attended methods of redemption where downtime may not be feasible to report. Additionally, dealer cooperatives could choose to use an alternative redemption method to collect and redeem empty beverage containers during reverse vending machine and bag drop downtime that is not an innovative method of redemption. This amendment enhances clarity for dealer cooperatives on what information needs to be tracked and reported in quarterly reports.

Subsection (c)(3)

The regulatory language has been changed to clarify that the convenience zones that dealer cooperatives operate within remain unserved convenience zones. The purpose for this change is to provide clarity in response to public comments the department received questioning whether a fully operational dealer cooperative’s presence in a convenience zone made the convenience zone served. It is necessary to clarify that a fully operational dealer cooperative does not make a convenience zone served.

Subsection (c)(5)

The regulatory language has been changed to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports the amount of dealer cooperative stewardship fees received and how the fees were utilized. This is necessary to ensure transparency and accountability regarding how much money the dealer cooperative is collecting from dealer members and that they appropriately use the funds to implement the stewardship program. This amendment ensures CalRecycle has a mechanism to verify dealer cooperatives are collecting and utilizing stewardship fees as required by the Act and consistent with the dealer cooperatives' budget.

Subsections (c)(6)(A)-(I)

The regulatory language has been changed to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports their gross revenue and itemized expenditures in specified categories.

These amendments remove ambiguity regarding the type of revenue that must be reported and ensure that dealer cooperatives track and report expenditures in consistent categories. Consistency in expenditure categories enables uniformity amongst dealer cooperatives, ensures financial records are maintained in a prudent and responsible manner, and facilitates CalRecycle's verification that dealer cooperatives are appropriately and effectively using program funds.

SECTION 2382. DEALER COOPERATIVE OPERATION

Subsection (a)

The regulatory language has been changed to modify the provision for how a dealer cooperative will operate by replacing "according to its approved stewardship plan and in accordance with all applicable requirements of the Act and these Regulations" with "in accordance with the information specified in the dealer cooperative's approved stewardship plan pursuant to sections 2375.4 and 2375.6 and a failure to do so is a violation of this section." The purpose of this non-substantial technical change is to provide clarity and transparency concerning what provisions are considered standards of compliance.

This is necessary because PRC section 14578.5(c)(4) mandates that dealer cooperatives be operational and fully implement the approved stewardship plan. The amendment allows dealer cooperatives to retain flexibility to adjust, as needed, some stewardship plan contents, while unapproved adjustments to approved plan contents pursuant to section 2375.4 and 2375.6 would be considered a failure to operate and fully implement the approved plan and become a basis for a violation.

Subsection (d)

The regulatory language has been changed to include the word "ever." The inclusion of this word better describes the intent of this language by CalRecycle by making it clear that anyone who has been found to have violated PRC section 14597 at any time in the program's history is ineligible to operate as redemption contractor or dealer cooperative.

This is necessary because there could be confusion as to whether “the past five years” limitation applies also to a violation of PRC section 14597 without the inclusion of the word “ever.”

Subsection (g)(1)

The regulatory language has been changed to add a reference to PRC section 14571(a) that specifies that dealer cooperatives’ redemption locations do not make an unserved convenience zone served. The purpose of this change is to provide clarity in response to public comments received about whether redemption locations operating as part of a dealer cooperative’s stewardship program make an unserved convenience zone served.

This amendment is necessary for clarity and consistency with the Act.

Subsection (g)(2)

The regulatory language has been added to specify that the operation of a dealer cooperative in an unserved convenience zone does not relieve dealers within that unserved convenience zone from complying with PRC section 14578(a)(1) or 14578(a)(2). This change is in response to public comments the department received regarding whether a dealer located in a convenience zone that is not a member of a dealer cooperative must continue to redeem empty beverage containers when a dealer cooperative is operating in that zone.

This amendment is necessary to enhance clarity that dealers in an unserved convenience zone are not exempt from complying with the Act due to the operation of a dealer cooperative if they are not a member of the dealer cooperative operating in the unserved zone where the dealer is located.

Subsection (i)

The regulatory language has been changed to modify the minimum amount of time required of a dealer cooperative to notify CalRecycle when the dealer cooperative dissolves or ceases operation by adding “at least.” The purpose of the non-substantial technical change is to clarify that six months is the minimum amount of time required to notify CalRecycle instead of exactly six months before, the dealer cooperative dissolves or ceases operation.

This amendment is necessary to establish a minimum notification timeline but allow a dealer cooperative to provide notice more than six months prior to dissolution or ceasing operations if it chooses.

Subsection (k)

The regulatory language has been changed to remove the provision specifying that a dealer cooperative may ship beverage container material and receive payment from a processor pursuant to sections 2425 and 2430. The purpose of the non-substantial technical change is to remove unnecessary regulatory language because PRC section 14578.5(d)(1) provides sufficient clarity that dealer cooperatives are entitled to reimbursement of CRV funds paid to consumers, processing payments, and

administrative fees that are paid to the dealer cooperative by a processor or recycling center.

The regulatory language has been changed to add a new paragraph to prohibit dealer cooperatives from refusing to redeem beverage container material types or beverage types sold by a dealer that is not a member of the cooperative.

The purpose of this change is to ensure consistency with PRC section 14578.5(c)(3), which requires dealer cooperatives to redeem all beverage container material types.

Subsection (l)

The regulatory language has been added to specify that dealer cooperatives must not accept empty beverage containers from a dropoff or collection program, community service program, or curbside program. Beverage containers received by these program categories must go to a recycling center or processor.

This addition ensures that a dealer cooperative only receives empty beverage container material from consumers. This is necessary to maintain consistency with the Act that authorized the formation of dealer cooperatives for the purpose of providing redemption for consumers.

Subsection (m)(1)

The regulatory language specifies that dealer cooperatives are obligated to inspect each container load to determine eligibility for refund value. CalRecycle previously drafted similar requirements as a proposed regulatory change in section 2501 which identifies recycling center requirements, but has now moved and restated these requirements into section 2382 with other substantive dealer cooperative operation requirements.

The purpose of this amendment is to remove substantive dealer cooperative requirements from section 2501 to keep it specific to recycling center requirements, and to consolidate substantive dealer cooperative operation requirements into one section. These changes enhance the clarity and organization of the proposed regulations.

Subsection (m)(2)

The regulatory language specifies that dealer cooperatives are obligated to inspect containers received through innovative methods of redemption prior to paying the refund value to consumers. CalRecycle previously drafted similar requirements as a proposed regulatory change in section 2501 which identifies recycling center requirements, but has now moved and restated these requirements into section 2382 with other substantive dealer cooperative operation requirements.

The purpose of this amendment is to remove substantive dealer cooperative requirements from section 2501 to keep it specific to recycling center requirements, and to consolidate substantive dealer cooperative operation requirements into one section. These changes enhance the clarity and organization of the proposed regulations.

Subsection (m)(3)

The regulatory language specifies that dealer cooperatives are subject to the load inspection requirements specified in section 2501 subsections (b) through (g). CalRecycle previously drafted similar requirements as a proposed regulatory change in section 2501 which identifies recycling center requirements, but has now moved and restated these requirements into section 2382 with other substantive dealer cooperative operation requirements

The purpose of this amendment is to remove substantive dealer cooperative requirements from section 2501 to keep it specific to recycling center requirements, and to consolidate substantive dealer cooperative operation requirements into one section. These changes enhance the clarity and organization of the proposed regulations.

Subsection (n)(1)(A)

The regulatory language specifies that dealer cooperatives must pay the refund value to consumers upon delivery, unless the dealer cooperative redemption site is an innovative method of redemption. CalRecycle previously drafted similar requirements as a proposed regulatory change in section 2535 which identifies recycling center requirements, but has now moved and restated these requirements into section 2382 with other substantive dealer cooperative operation requirements. The term “eligible” is added to clarify that redemption shall only be paid on eligible empty container types.

The purpose of this amendment is to remove substantive dealer cooperative requirements from section 2535 to keep it specific to recycling center requirements, and to consolidate substantive dealer cooperative operation requirements into one section. These changes enhance the clarity and organization of the proposed regulations.

Subsection (n)(1)(B)

The regulatory language specifies that dealer cooperatives redemption sites that use innovative methods of redemption shall pay refund value within three working days of delivery. CalRecycle previously drafted similar requirements as a proposed regulatory change in section 2535 which identifies recycling center requirements, but has now moved and restated these requirements into section 2382 with other substantive dealer cooperative operation requirements. The term “eligible” is added to clarify that redemption shall only be paid on eligible empty container types.

The purpose of this amendment is to remove substantive dealer cooperative requirements from section 2535 to keep it specific to recycling center requirements, and to consolidate substantive dealer cooperative operation requirements into one section. These changes enhance the clarity and organization of the proposed regulations.

Subsection (n)(2)

The regulatory language specifies that dealer cooperatives are subject to sections 2535(c) though (e). CalRecycle previously drafted similar requirements as a proposed regulatory change in section 2535 which identifies recycling center requirements, but has now moved and restated these requirements into section 2382 with other substantive dealer cooperative operation requirements.

The purpose of this amendment is to remove substantive dealer cooperative requirements from section 2535 to keep it specific to recycling center requirements, and to consolidate substantive dealer cooperative operation requirements into one section. These changes enhance the clarity and organization of the proposed regulations.

Subsection (o)

The regulatory language has been changed to renumber as a result of the additions of (l)-(n), see above, and specify that dealer cooperatives with a fully operational stewardship plan must submit a Handling Fee Application Form to be eligible for handling fees.

The purpose of this amendment is to enable CalRecycle to determine handling fee payments for dealer cooperatives based on data contained in the Handling Fee Application Form.

ARTICLE 5. ENFORCEMENT

SECTION 2385. STEWARDSHIP PLAN REVOCATION; ENFORCEMENT MECHANISMS

Subsection (a)(1)(A)(i)

The regulatory language has been changed to remove the option for CalRecycle to determine in its sole discretion that more than 30 days is warranted for a dealer cooperative to resubmit all or parts of a previously approved stewardship plan as part of a corrective action. The purpose is to remove language that could be considered arbitrary from the proposed regulations.

This change is necessary to remove ambiguity around the deadline for resubmittal and enhance clarity for dealer cooperatives.

Subsection (a)(1)(A)(ii)

The regulatory language has been changed to specify that CalRecycle will review resubmitted stewardship plan or plan parts using the same process specified for stewardship plan review and approval or disapproval outlined in section 2376. This provision was previously numbered (a)(1)(B)(ii) and was moved to immediately follow the requirement regarding timing for resubmittal of part or all of a previously approved plan.

This amendment is necessary to enhance clarity and to appropriately group related requirements.

Subsection (b)

The regulatory language has been changed to specify the circumstances that may result in CalRecycle revoking all or part of a previously approved stewardship plan. CalRecycle may revoke a stewardship plan for failure to comply with a corrective action plan or failure to implement the stewardship plan substantive contents consistent with

section 2375.4 or failure to achieve performance standards identified in the stewardship plan pursuant to section 2375.6.

These amendments are necessary to ensure transparency and enhance specificity regarding what type of dealer cooperative implementation issues may necessitate revocation.

The regulatory language has been changed to delete previously proposed subsections (b)(1) and (b)(2) that specified examples of reasons that may cause CalRecycle to revoke all or part of a stewardship plan, because the relevant portions were updated and incorporated within subsection (b).

Subsection (d)

The regulatory language has been changed to specify that CalRecycle will proceed with the actions specified in its written notice when a dealer cooperative fails to submit a timely hearing request.

This change is necessary in order to provide certainty regarding the procedural steps associated with enforcement.

SECTION 2386. PENALTIES AND INTEREST CHARGES

Subsection (a)(3)

The regulatory language has been changed to specify that if a dealer cooperative fails to respond within 30 days of receipt of a Notice of Violation, CalRecycle will assess any civil penalty specified in the Notice of Violation.

This amendment is necessary to authorize CalRecycle to assess any civil penalties identified in the Notice of Violation without a hearing when no hearing is requested in order to incentivize dealer cooperatives to submit a timely request for hearing. Pursuant to PRC section 14591.1(e), the civil penalty identified in the Notice of Violation should be warranted based on the circumstances of the violation, not the maximum civil penalty authorized by law. Therefore, it is necessary to amend the language to enable CalRecycle to identify an appropriate alternative penalty amount in a Notice of Violation.

Subsection (b)

The regulatory language has been changed to remove the exemption from the process for serving dealers Notices of Violation through certified mail for dealers that are members of dealer cooperatives.

The purpose of this amendment is to establish the application of a consistent process to serve all dealers with Notices of Violation regardless of their participation as members in a dealer cooperative.

Subsection (c)

The regulatory language has been changed to remove the reference to the department's authority to assess an administrative civil penalty consistent with PRC section 14591.1(a)(2) with the issuance of a Notice of Violation.

The purpose of this deletion is because it is unnecessary and duplicative to enact regulations regarding penalty authority that is already afforded to the department pursuant to the Act.

This deletion caused conforming renumbering for subsequent subsections of section 2386 and caused previously proposed "(d)" to change to "(c)."

Subsection (d)

The regulatory language has been changed to specify that interest on penalties accrues from the date that CalRecycle's decision regarding the payment becomes final.

The purpose of this amendment is to ensure that interest on a penalty does not accrue prematurely while a violation is being contested. This change incentivizes timely payment of penalties and compensates the California Beverage Container Recycling Fund for the interest lost due to delayed payments, while ensuring fairness for regulated entities to retain their right to due process.

SUBCHAPTER 5. PROCESSORS

ARTICLE 1. REQUIREMENTS FOR PROCESSORS

SECTION 2400. OPERATION STANDARDS

Subsection (a)(3)

The regulatory language has been changed to remove an unnecessary reference to operators of curbside programs, because "certified or registered operators" stated at the beginning of the subsection applies to all of the listed program types.

The purpose of this amendment is to enhance clarity and correct a drafting error.

ARTICLE 3. ACCOUNTING AND REPORTING REQUIREMENTS

SECTION 2425. REPORTING

Subsection (f)(3)

The regulatory language has been changed to specify that in Scrap Value Purchases Survey Forms, information provided on containers purchased from nonaffiliated sellers pertains only to purchases made from dealer cooperatives that are "registered," and dropoff or collection programs, community service programs, and processors that are "certified."

The purpose of these amendments is to use consistent and appropriate terminology to enhance clarity.

SECTION 2430. PAYMENTS

Subsection (a)(1)

The regulatory language has been changed to clarify that substantiation of payment requirements differ for recycling centers and dealer cooperatives, and to specify that the identified processor requirements also apply to material received from dealer cooperatives.

The amendments ensure equitable application of payments to both recycling centers and dealer cooperatives and account for operational differences.

Subsection (a)(1)(A)

The regulatory language has been changed to specify that the requirement for processors to verify all calculations are accurate and all required information is filled in the shipping report applies only to recycling centers and not to dealer cooperatives.

The purpose of this amendment is to clarify that processors only have to conduct this verification process for materials received from recycling centers. This is necessary because pursuant to section 2530, shipping reports for each delivery are required between the recycling center and the processor but are not required between the dealer cooperative and the processor.

Subsection (a)(1)(B)

The regulatory language has been changed to specify that processors are required to weigh and record material received from a dealer cooperative and include the weight on the shipping report.

This amendment is necessary to ensure clarity for regulated entities that this requirement applies to material received from both dealer cooperatives and recycling centers.

Subsection (a)(1)(D)

The regulatory language has been changed to specify that processors shall reimburse dealer cooperatives the refund value claimed if the redemption weight does not exceed the received weight by more than 2.5 percent, and if it does exceed that value, the processor shall calculate the refund value using the same method that already applies to recycling centers.

The amendments ensure equitable application of payments to both recycling centers and dealer cooperatives.

SUBCHAPTER 6. RECYCLING CENTERS

ARTICLE 1. REQUIREMENTS FOR RECYCLING CENTERS

SECTION 2501. LOAD INSPECTION REQUIREMENTS

Subsection (a), (a)(1), (a)(2), and (f)

The regulatory language has been changed to omit references to dealer cooperatives throughout these subsections.

The purpose of these amendments is to make non-substantial technical changes to consolidate all relevant load inspection requirements that apply to dealer cooperatives to section 2382 regarding dealer cooperative operational requirements. Organizing all dealer cooperative operational requirements within the same section enhances clarity for regulated entities.

Subsection (a)(3), deleted

The regulatory language that specifies that dealer cooperatives are obligated to inspect containers received through innovative methods of redemption prior to paying the refund value to consumers has been moved to 2382(m)(2) with other substantive dealer cooperative operation requirements.

The purpose of this amendment is to make a non-substantial technical change to consolidate all relevant load inspection requirements that apply to dealer cooperatives to section 2382 regarding dealer cooperative operational requirements. Organizing all dealer cooperative operational requirements within the same section enhances clarity for regulated entities.

ARTICLE 2. HANDLING FEES

SECTION 2516. ELIGIBILITY CRITERIA

Subsection (g)

The regulatory language has been changed to modify the operational status of the dealer cooperative that is eligible for a single handling fee payment by adding “fully” to operational stewardship plan and specify that more than one dealer cooperative with a fully operational stewardship plan is eligible to receive handling fees within an unserved convenience zone.

The first amendment is a non-substantial technical change to ensure consistent use of the term “fully operational” as identified in the Act. The second amendment is necessary to clarify that the limit of one handling fee-eligible recycling center per convenience zone specified in PRC section 14575(c) does not apply to dealer cooperatives.

ARTICLE 3. ACCOUNTING AND REPORTING REQUIREMENTS

SECTION 2530. REPORTING

Subsection (a)(3)

The regulatory language has been changed to add a dealer cooperative as an entity for which recycling centers will prepare a shipping report when a delivery is made between a recycling center and a dealer cooperative. The purpose of the amendment is to clarify the need for dealer cooperatives to be included in the reports of recycling centers with which they do business.

This ensures that proper program payments are made to the recycling center for containers received from any source, including dealer cooperatives.

SECTION 2535. PAYMENTS TO CONSUMERS, CURBSIDE PROGRAMS, COMMUNITY SERVICE PROGRAMS AND DROPOFF OR COLLECTION PROGRAMS, DELETION

The regulation language has been changed to remove dealer cooperative related provisions in section 2535 regarding payments to consumers, curbside programs, community service programs and dropoff or collection programs because the substantive requirements of the section were moved to section 2382 regarding dealer cooperative operation. This will result in this section not being modified, altered, or changed in this rulemaking.

The reversion back to unaltered, already published and filed regulatory text is necessary because consolidating all regulation language relevant to dealer cooperative operation improves readability and clarity.

ECONOMIC AND FISCAL IMPACT STATEMENT (STD 399)

NEW CHANGES

The Economic and Fiscal Impact Statement (STD 399) has been updated to revise the estimated costs of the proposed regulations in response to the amendments that are being noticed via this 15-day public notice. The economic cost estimates changed because of the inclusion of a requirement for dealer cooperatives to have one redemption location to be attended for a minimum of 10 hours per week, accept all beverage container types, have equivalent redemption limits to recycling centers, and offer immediate payment. This replaces and removes the requirement for dealer cooperatives to have one innovative method of redemption per convenience zone, which was the previously proposed regulation and is now Alternative 1 in the revised economic cost estimates. This replacement increases the number of jobs created, increases estimated costs to the private sector, increases the total cost, and changes the cost-effectiveness ratio for the regulation and Alternative 2.

The total economic cost of the regulations as currently proposed in these proposed regulations is more than the initially proposed regulations. However, CalRecycle selected the current proposal as the best approach because it offers clear standards for consumer convenience and is responsive to input from the public in the formal 45-day public comment period.

ECONOMIC IMPACT STATEMENT

A. Estimated Private Sector Cost Impacts

6. The number of jobs has changed from 103 to 211.

B. Estimated Cost

1. This amount has changed from \$75 million to \$118 million.

b. Individual business costs changed as described in "New Changes," above.

C. Estimated Benefits

2. The explanation of benefits as a result of specific statutory requirements has changed from “See 399 appendix” to “PRC 14578.5(d)(1) makes dealer cooperatives eligible to receive CRV reimbursement and program payments.”

D. Alternatives to the Regulation

1. The list of alternatives has changed from “Alternative 1: Do not require innovative method of redemption” to “Alternative 1: Remove staffed redemption location requirement and instead require an innovative method of redemption per convenience zone.” Alternative 2 remains unchanged.

2. The one-year cost of the proposed regulations has changed from \$26.4 million to \$30.8 million. The one-year cost of Alternative 1 has remained unchanged, at \$26.7 million. The one-year cost of Alternative 2 has changed from \$25.9 million to \$30.4 million.

4. The explanation for considered performance standard alternatives changed from “As part of Alternative 1, CalRecycle considered only imposing the performance standard of redeeming 80% of containers sold by a dealer cooperative. This performance standard did not lower compliance costs and failed to achieve the goals of the Act” to “CalRecycle considered simply imposing the performance standard of redeeming 80% of containers sold by a dealer cooperative. However, this did not lower compliance costs and would likely fail to achieve the goals of the Act.”

E. Major Regulations

2. Alternative 1 was changed as further detailed in “New Changes,” above.

3. The total cost and cost-effectiveness ratio for the regulation changed from \$75 million and \$0.043/container to \$118 million and \$0.068/container. Alternative 1 remains unchanged. The total cost and cost-effectiveness ratio for Alternative 2 changed from \$70.9 million and \$0.055/container to \$114 million and \$0.088/container.

CHANGE TO INCORPORATION BY REFERENCE

With the changes to regulatory text accompanying this Notice of 15-Day Changes to Proposed Rulemaking, CalRecycle removed the incorporation by reference of GAAP - generally accepted accounting principles adopted by the Federal Accounting Standards Advisory Board as published in the handbook entitled “FASAB Handbook of Federal Accounting Standards and Other Pronouncements, as Amended” dated December 15, 2023, which can be accessed here:

https://files.fasab.gov/pdf/2023_FASAB_Handbook.pdf (accessed January 25, 2024).

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Csilla Richmond
1001 I Street, MS-24B
Sacramento, CA 95814

E-Mail: Regulations@calrecycle.ca.gov

Telephone: (916) 327-0089

The backup contact person is:

Craig Castleton

1001 I Street, MS-24B

Sacramento, CA 95814

E-Mail: Regulations@calrecycle.ca.gov

Telephone: (916) 327-0089