

**Department of Resources Recycling and Recovery**  
**Dealer Registration and Dealer Cooperatives**

**FINAL STATEMENT OF REASONS**

**UPDATE TO INITIAL STATEMENT OF REASONS**

The Initial Statement of Reasons (ISOR), released on March 15, 2024, is incorporated by reference herein. The ISOR contained a description of the rationale for the proposed amendments. On March 15, 2024, all Documents Relied Upon identified in the ISOR were made available to the public. The updates to the proposed regulatory action that were made subsequent to the release of the ISOR and the reasons supporting those changes are set forth below.

**Updated 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 Impact Statement (STD 399) form and appendix have been updated to reflect the proposed changes to the regulation text.

**SUMMARY OF PROPOSED REVISIONS**

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-substantial or minor technical revisions made to the proposed regulatory language in the listed format for substantive revisions below. Instead, non-substantial or minor technical revisions made throughout the document have been summarized in this introduction to reduce redundancy in the main summary below. The non-substantial or minor technical revisions made that are summarized in this introduction include changing from title case to lower case in references to the “Department” or to “Sections,” renumbering of subdivisions, paragraphs, subparagraphs, clauses, and subclauses, adding “empty” to “beverage containers,” adding “fully” to “operational,” adding “unserved” to “convenience zones,” changing references to “subsection” to “subdivision” or “section,” adding periods to the end of regulation section titles, and replacing “these regulations” with “this chapter”.

**Replace “Department” with “department”**

The purpose of this amendment is to make the non-substantial, technical change of replacing “Department” with “department”.

This is necessary because “department”, as it is used in the California Beverage Container Recycling and Litter Reduction Act (Act), is styled in lower case. These

changes do not alter the meaning of any provisions in the regulations and ensure consistent use of terminology and grammar between the Act and chapter 5 (commencing with section 2000) of Title 14 of the California Code of Regulations (CCR).

### **Renumber subdivisions**

The purpose of this amendment is renumbering within multiple subdivisions to account for the addition or deletion of various subdivisions, paragraphs, subparagraphs, clauses, and subclauses to correct the numbering system of relevant subsections.

This is necessary to correct the paragraph numbering in the regulations to ensure technical accuracy and consistency, which promote clarity in the effect and understanding of the regulations.

### **Add “empty” before “beverage containers”**

The purpose of this amendment is to add “empty” before “beverage containers”.

This is necessary because “empty beverage containers” possess a specific statutory definition pursuant to Public Resources Code (PRC) section 14512. An “empty beverage container” is an open container without foreign materials that possesses the refund value and message established in PRC sections 14560 and 14561, respectively. Using formally defined terminology ensures technical accuracy and consistency, which promote clarity in the effect and understanding of the regulations.

### **Add “fully” before “operational”**

The purpose of this amendment is to add “fully” before “operational”.

This is necessary because “fully operational” possess a specific regulatory definition pursuant to CCR, title 14, section 2370(e). A “fully operational” stewardship plan means all elements specified in a stewardship plan or required pursuant to the Act or this chapter are operational in accordance with the terms set out in the stewardship plan and in compliance with the Act and this chapter. Using formally defined terminology ensures technical accuracy and consistency, which promote clarity in the effect and understanding of the regulations.

### **Add “unserved” before “convenience zone”**

The purpose of this amendment is to add “unserved” before “convenience zone”.

This is necessary to make specific that the convenience zones being discussed are unserved convenience zones, which are convenience zones where there is no certified recycling center operating within the zone.

### **Replace “subsection” with “subdivision”**

The purpose of this amendment is to make the non-substantial, technical change of replacing “subsection” with “subdivision”.

This is necessary because “subsection” is a colloquial term and the use of “subdivision” in this case is the correct legal terminology. These changes do not alter the meaning of any provisions in the regulations and ensure consistent use of terminology and grammar.

#### **Replace “subsection” with “section”**

The purpose of this amendment is to make the non-substantial, technical change of replacing “subsection” with “section”.

This is necessary because “subsection” is a colloquial term and the use of “section” in this case is the correct legal terminology. These changes do not alter the meaning of any provisions in the regulations and ensure consistent use of terminology and grammar.

#### **Replace “these Regulations” with “this chapter”**

The purpose of this amendment is to make the non-substantial, technical change of replacing “these Regulations” with “this chapter”.

This is necessary because “this chapter” specifies which part of the regulations are directly applicable, which in this case is chapter 5 of title 14. This promotes clarity in the effect and understanding of the regulations.

#### **Replace “Section” with “section”**

The purpose of this amendment is to make the non-substantial, technical change of replacing “Section” with “section”.

This is necessary because the term “section”, as it is used in these regulations, is a common noun, which warrants a lower case, rather than a proper noun, which uses a title case. This change is necessary to standardize the citations to sections throughout the regulations. These changes do not alter the meaning of any provisions in the regulations and ensure consistent use of terminology and grammar.

#### **Add periods to the end of regulation section titles**

The purpose of this amendment is to make the non-substantial, technical change of adding periods to the end of regulation section titles.

This is necessary to conform the regulation section titles of the newly added regulation sections to the existing regulation section titles in chapter 5 of title 14.

#### **UPDATED SPECIFIC PURPOSE AND NECESSITY OF THE PROPOSED REGULATIONS**

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

**SUBCHAPTER 1. DEFINITIONS**

**SECTION 2000. DEFINITIONS**

**Subsection (a)(42)**

The purpose of these amendments is to insert “registered dealer cooperatives” and to insert “certified” before “drop-off or collection programs” and “community service programs”.

This is necessary to clarify which entities within the definition of “Scrap Value” are certified and which are registered. Because the first entity in the list has “certified” before it, “registered” must be added before dealer cooperatives to avoid any confusion about whether the adjective “certified” applies to dealer cooperatives, who are registered and not certified entities. Similarly, since “drop-off or collection programs” and “community service programs” are certified entities, this must be specified so it is clear the adjective “registered” does not apply to them.

**SUBCHAPTER 2. GENERAL REQUIREMENTS**

**ARTICLE 1. CERTIFICATION APPLICATION PROCEDURES**

**SECTION 2030. REVIEW OF APPLICATIONS**

**Subsection (g)(6)**

The purpose of this amendment is to make the non-substantial change of deleting the term “or” to fix a grammatical error.

This is necessary to delete the term “or” after the numerical citation because subdivision (g) presents a list of possible reasons, and this clause is not the second-to-last reason, making the “or” grammatically incorrect and redundant.

**Subsection (g)(7)**

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “department” and to make the non-substantial change of ending this paragraph with a semicolon instead of a period.

The amendment is necessary because Senate Bill 353 (2023-2024 Reg. Sess., Chapter 868 of the Statutes of 2023) (SB 353) amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather

than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. The semicolon is necessary because this subdivision presents a list of possible reasons and a semicolon clearly shows the continuation of the list.

#### **Subsection (g)(8)**

The purpose of this amendment is to make the non-substantial change of adding the term “or” to fix a grammatical error and the replacement of a period with a semicolon before the term “or”.

It is necessary to add the term “or” before the final numerical citation because it clarifies that only one of the nine reasons listed in paragraphs (g)(1) through (9) need be applicable for denial of application for recycling center certification. Additionally, a semicolon maintains consistency within subdivision (g) and the options listed.

#### **Subsection (g)(9)**

The purpose of this amendment is to clarify that CalRecycle may deny applications from proposed recycling centers within unserved convenience zones where “at least one dealer cooperative is implementing a fully operational stewardship plan”.

This provision is necessary to enable dealer cooperatives to maintain eligibility to operate and to receive payments and fees while implementing a fully operational stewardship plan in an unserved convenience zone where no recycling center operates. The phrase “at least” establishes a minimum threshold of the number of dealer cooperatives operating in an unserved convenience zone and serves to acknowledge more than one dealer cooperative may operate in a single unserved convenience zone. A dealer cooperative could be made ineligible to operate and 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 purposes of the Act.

### **SUBCHAPTER 4.5. DEALERS AND DEALER COOPERATIVES**

#### **ARTICLE 1. DEFINITIONS**

#### **SECTION 2370. DEFINITIONS**

##### **Subsection (a)**

The purpose of this amendment is to add a definition of consumer convenience to clarify the required operating standards for dealer cooperatives. Specifically, 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 ending the provision with “either of the following” is to allow the subsequent two paragraphs to be alternative options.

This is necessary to make more specific the requirement in PRC section 14578.5(c)(1) that dealer cooperative stewardship programs offer comparable consumer convenience to PRC sections 14571 and 14571.9. This definition is necessary to maintain a minimum standard of consumer convenience for dealer cooperatives that is comparable to the standards for certified recycling centers and pilot projects. It is necessary for the subsequent two paragraphs to be alternative options to give the dealer cooperative flexibility to comply with either of the statutory standards in PRC section 14571 for recycling centers or the statutory standards in PRC section 14571.9 for pilot projects.

#### **Subsection (a)(1)**

The purpose of the addition of this provision is to clarify the definition of comparable consumer convenience. The paragraph added describes the minimum hours of operation for a traditional schedule of 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m.

This is necessary to make more specific the requirement in PRC section 14578.5(c)(1) that dealer cooperative stewardship programs offer comparable consumer convenience to PRC section 14571. This definition is necessary to maintain a minimum standard of consumer convenience for dealer cooperatives that is comparable to the standards for certified recycling centers, specifically because it incorporates the hourly requirements established in PRC section 14571(a) for recycling centers.

#### **Subsections (a)(2), and (a)(2)(A) through (C)**

The purpose of the addition of these provisions is to clarify the definition of comparable consumer convenience. The paragraph and subparagraphs added describe the minimum hours of operation for an alternative schedule less than 30 hours per week, but with additional hours on the weekends and hours outside of 9am to 5pm Monday through Friday.

This is necessary to make more specific the requirement in PRC section 14578.5(c)(1) that dealer cooperative stewardship programs offer comparable consumer convenience to PRC section 14571.9. This definition is necessary to maintain a minimum standard of consumer convenience for dealer cooperatives that is comparable to the standards for pilot projects, specifically because it incorporates the hourly requirements established in PRC section 14571.9(c)(5) for pilot projects.

#### **Subsection (b)**

The purpose of this subdivision is to define the term "days". This subdivision clarifies that "days" refers to all calendar days unless provided otherwise.

This definition is necessary to establish a uniform understanding of time periods referenced throughout the regulations. By defining "days" as all calendar days by default, the subdivision ensures clarity and consistency in the interpretation of time-related provisions within these regulations.

### **Subsection (c)**

The purpose of this subsection is to define dealer cooperative stewardship fee.

This is necessary to ensure that there is a defined term for the fee charged to dealer members by a dealer cooperative.

### **Subsection (f)**

The purpose of the amendments to this subdivision is to provide a definition of "innovative method of redemption".

This is necessary to provide clarity that the use of any one of the redemption methods specified in any of the four subsequent subsections qualifies as an innovation method of redemption, and that not all four of the redemption methods specified in the subsequent four subsections are necessary to qualify as an innovative method of redemption. This list does not prohibit a dealer cooperative from utilizing other (non-innovative) redemption methods, such as other forms of mobile collection. It is necessary to define a subset of redemption methods as innovative method of redemption, to provide clarity as to which redemption methods can qualify for delayed payment and inspection for consumers as set forth in section 2382(n)(1)(B).

### **Subsection (f)(1)**

The purpose of this subsection is to itemize "Pickup service..." as an innovative method of redemption.

This is necessary to clarify that at-home consumer pickup qualifies as an innovative method of redemption. The revision makes this definition more consistent with an existing regulatory definition of "pick up service" in 14 CCR section 2750(a)(6) and is necessary to clarify that at-home pick up service has three working days to pay the refund value under section 2382(n)(1)(B).

### **Subsections (f)(2) through (4)**

The purpose of this subsection is to itemize bag drop, reverse vending machine, and method of redemption at which an attendant is not present" as innovative methods of redemption. This is necessary to define a subset of redemption methods as innovative method of redemption, so CalRecycle can specify which redemption methods can qualify for delayed payment and inspection for consumers as set forth in section 2382(n)(1)(B).

### **Subsection (g)**

The purpose of this subdivision is to define “redemption contractor” and to clarify PRC section 14578.5(c)(3)(B), which permits a dealer cooperative to contract to provide redemption opportunities.

This definition is necessary because the term “contract” in PRC section 14578.5(c)(3)(B) is ambiguous, and clarification is required for a dealer cooperative to utilize contracting to accomplish the requirements outlined in PRC section 14578.5(c). Additionally, this subdivision is necessary to define a key term used in the proposed regulations and to maintain consistency in CalRecycle’s proposed regulations.

#### **Subsection (h)**

The purpose of this subdivision is to define “redemption location” and “redemption site”. The definition establishes that, unlike a traditional recycling center, a redemption location or redemption site is not required to obtain a certification or registration number from CalRecycle in order to operate as part of a stewardship program. Additionally, the definition establishes that a redemption location or redemption site may accept materials with an attendant present at a set location or through an innovative method of redemption that does not require an attendant to accept materials.

This definition is necessary to define a key term used in the proposed regulations and to maintain consistency in CalRecycle’s proposed regulations. The provision is necessary to illustrate how a redemption location or redemption site differs from a “recycling location” as defined by PRC section 14520.5. This subdivision also clarifies that a redemption location or redemption site operating as part of a dealer cooperative is not required to receive its own certification or registration number because it is operating under the registration number of the dealer cooperative as part of the dealer cooperative’s stewardship plan. A dealer cooperative is issued a registration number by CalRecycle when its stewardship plan is approved, and it is this dealer cooperative registration number that the redemption site or redemption location operates under rather than being issued its own registration or certification number.

#### **Subsection (i)**

The purpose of this subdivision is to define “sales and storage area”. The definition makes the phrase “5,000 square feet” in PRC section 14578(b)(1) more specific in how the small dealer exemption is applied under the proposed regulations.

This subdivision is necessary to define a key term used in the proposed regulations. Specifically, the subdivision is necessary to add specificity to the provision “5,000 square feet” as it is used in PRC section 14578(b)(1) to exempt dealers that are less than 5,000 square feet from the provisions of PRC section 14578. Since “5,000 square feet” is vague and susceptible to more than one interpretation, paragraphs (1) through (4) of this subdivision establish that the small dealer exemption applies to dealers that have a sales and storage area of less than 5,000 square feet. This is necessary to clarify the meaning of “5,000 square feet” as used in PRC section 14578(b)(1).



CalRecycle proposed this definition in a workshop on August 31, 2023, and received no negative feedback.

#### **Subsection (i)(1)**

The purpose of this paragraph is to include in the definition of “sales and storage area” the sales areas accessible to customers, including, but not limited to, aisles, foyers, sitting areas, and restrooms.

This paragraph is necessary to explicitly include sales areas accessible to customers in the 5,000 square feet threshold that determines whether a dealer is exempt from either redeeming in store or joining a dealer cooperative. The non-exhaustive examples of aisles, foyers, sitting areas, and restrooms are necessary to ensure a dealer understands what kind of sales areas are included. It is necessary not to make the list of sales area types exhaustive because there may be other sales areas accessible to customers that should be included for a particular dealer.

#### **Subsection (i)(2)**

The purpose of this paragraph is to include in the definition of “sales and storage area” employee areas, including, but not limited to, sales counters, preparation areas, offices, restrooms, and breakrooms.

This paragraph is necessary to explicitly include employee areas in the 5,000 square feet threshold that determines whether a dealer is exempt from either redeeming in store or joining a dealer cooperative. The non-exhaustive examples of sales counters, preparation areas, offices, restrooms, and breakrooms are necessary to ensure a dealer understands what kind of employee areas are included. It is necessary not to make the list of employee area types exhaustive because there may be other employee areas that should be included for a particular dealer.

#### **Subsection (i)(3)**

The purpose of this paragraph is to include in the definition of “sales and storage area” enclosed attached storage areas.

This paragraph is necessary to explicitly include enclosed attached storage areas in the 5,000 square feet threshold that determines whether a dealer is exempt from either redeeming in store or joining a dealer cooperative. Enclosed attached storage areas are necessary to include to ensure a dealer understands that a storage area is included if it is attached and enclosed. This inclusion guarantees that a dealer’s external storage unit that may be many miles away from the dealer’s primary business address is not unfairly included in the size determination of the dealer.

#### **Subsection (i)(4)**

The purpose of this paragraph is to include in the definition of “sales and storage area” outdoor sales areas accessible to customers, including, but not limited to, tents, lean-tos, gazebos, patios, and porches.

This paragraph is necessary to explicitly include outdoor sales areas in the 5,000 square feet threshold that determines whether a dealer is exempt from either redeeming in store or joining a dealer cooperative. The non-exhaustive examples of tents, lean-tos, gazebos, patios, and porches are necessary to ensure a dealer understands what kind of outdoor sales areas are included. It is necessary not to make the list of outdoor sales area types exhaustive because there may be other outdoor sales areas accessible to customers that should be included for a particular dealer. This inclusion guarantees that a dealer with outdoor sales areas is not able to circumvent the size determination merely on the basis that its sales area happens to be outdoors rather than indoors.

#### **Subsection (j)**

The purpose of this subdivision is to define “stewardship plan”. This section defines “stewardship plan” by referencing the definition of a redemption plan as described in PRC section 14578.5(c)(1). “Redemption plan” is also referenced under the definition of “dealer cooperative” in PRC section 14510.2. Making the references to “redemption plan” in the Act more specific by defining the term “stewardship plan” harmonizes the term with the requirement in PRC section 14510.2 that a dealer cooperative be a stewardship organization.

This is necessary to clarify the environmental stewardship nature of the dealer cooperative plans for beverage container redemption in unserved convenience zones. The definition is also necessary to define a key term used in the proposed regulations and to maintain consistency in CalRecycle’s proposed regulations.

#### **Subsection (k)**

The purpose of this subdivision is to define “stewardship program”. This subdivision defines “stewardship program” by referencing a redemption program implemented by a dealer cooperative pursuant to its stewardship plan approved by CalRecycle. Making the references to “redemption program” in PRC sections 14578(a) and 14578.5(c)(1) more specific by defining the term “stewardship program” harmonizes the term with the requirement in PRC section 14510.2 that a dealer cooperative be a stewardship organization.

This is necessary to define a key term used in the proposed regulations and to maintain consistency in CalRecycle’s proposed regulations. The definition helps to illustrate the scope of the regulation’s requirements applicable to a stewardship plan, which entails the stewardship program that is implemented by the dealer cooperative. It also is necessary to clarify the environmental stewardship nature of the dealer cooperative program for beverage container redemption in unserved convenience zones.

## **ARTICLE 2. DEALERS**

### **SECTION 2371. DEALER REGISTRATION**

#### **Subsection (a)(1)**

The purpose of the change in regulatory language from “sites” to “retail locations” is to specify that a dealer located within a convenience zone is required to separately register each of its retail locations.

This is necessary to provide clarification that if a dealer has sites that are not retail locations, then those sites are not required to be registered separately with CalRecycle under the proposed regulations.

#### **Subsection (b)**

The purpose of the change in regulatory language from “initiated” to “completed” is to clarify that dealers must initiate rather than complete registration on CalRecycle’s website.

Additionally, the purpose of the change in regulatory language from “sites” to “retail locations” is to specify that dealers are required to submit specified information to separately register each of their “retail locations,” rather than “sites”.

This is necessary because 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”. It is CalRecycle that “completes” the registration, as specified in section 2371(d).

This is necessary to provide clarification that if a dealer has sites that are not retail locations, then the specified information is not required to be submitted for each site under the proposed regulations, only for each retail location.

#### **Subsection (b)(9)**

The purpose of the change in regulatory language from “physical” to “retail” location is 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 at that retail location.

This is necessary to provide clarification that if a dealer has physical locations that are not retail locations, then those physical locations are not required to be registered separately with CalRecycle under the proposed regulations and not required to have separate declarations regarding whether the physical location has a combined sales and storage area of less than 5,000 square feet.

#### **Subsection (b)(10)**

The purpose of the change in regulatory language from “physical” to “retail” location is 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.

This is necessary to provide clarification that if a dealer has physical locations that are not retail locations, then those physical locations are not required to be registered separately with CalRecycle under the proposed regulations and not required to have separate declarations regarding gross annual sales.

#### **Subsection (b)(11)**

The purpose of the change in regulatory language from “physical” to “retail” location is to clarify the information required for dealers to register each of their retail locations, including the date the dealer began business at each retail location.

The amendment is necessary to provide clarification that if a dealer has physical locations that are not retail locations, then those physical locations are not required to be registered separately with CalRecycle under the proposed regulations and it is not required to be separately identified in the application when business began at those physical locations.

#### **Subsection (b)(12)**

The purpose of the change from “physical” to “retail” location is 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.

This is necessary to provide 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 the proposed regulations or to separately identify the beverages sold.

This is necessary because CalRecycle needs to know what types of beverages, including container material types and sizes, that a dealer sells at each location, if any, to avoid mischaracterizing some entities as dealers. 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. It is necessary to delete the previous language referencing water, soda, wine, or distilled spirits because that language was unnecessary due to already being included in the definition of beverage in PRC section 14504.

#### **Subsection (c)**

The purpose of the changes in regulatory language is 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 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 submit that information within 15 working days is necessary to ensure that CalRecycle can complete a dealer's registration in a timely manner 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). Changing the "may" to a "shall" is necessary to provide certainty to registering dealers when that additional information will be required.

#### **Subsection (c)(1)**

The purpose of the change in regulatory language is to specify the instances dealers are required to submit additional registration information to CalRecycle, including documentation to support a current lease agreement or floor plan.

This is necessary to 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 (c)(2)**

The purpose of the change in regulatory language is to specify the instances dealers are required to submit additional registration information to CalRecycle, including documentation to verify cumulative gross annual sales.

These changes are necessary to 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 purpose of the change in regulatory language is 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.

The amendment is necessary to provide clarity that CalRecycle will provide a separate dealer registration number for each retail location successfully registered and that the registration number is confirmation that registration has been successful. This provides surety to dealers when their registration is completed and their legal obligation to register has been fulfilled.

## **SECTION 2372. DEALER NOTIFICATION REQUIREMENTS AND NEW REGISTRATION REQUIRED**

### **Subsection (a)**

The purpose of this amendment is to make the non-substantial, technical change of removing the word “situations”.

This is necessary to remove imprecise and unclear language describing the following paragraphs listed.

### **Subsection (a)(1)**

The purpose of the changes in regulatory language is to remove 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. Additionally, the purpose of the change in regulatory language is to remove the federal tax identification number requirement from subsection (a)(2) and add it to subsection (a)(1).

These amendments are necessary 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 needs to be submitted in advance of the change occurring because CalRecycle needs time to analyze the effects of the change, such as whether the dealer still qualifies as a dealer. Alternatively, a change to the contact information of a dealer is less critical and can be submitted with 30 days after the change occurs.

### **Subsection (a)(2)**

The purpose of the change in regulatory is to remove the federal tax identification number requirement from subsection (a)(2) and add it to subsection (a)(1), and now the purpose of this subsection is only to refer to a change in the physical business address.

This is necessary to clarify which criteria would impact a dealer’s critical registration information in a manner that requires advance notice to CalRecycle. A change to a 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 whether the dealer still qualifies as a dealer.

### **Subsection (c)(4)**

The purpose of the addition of regulatory language is 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.

This is necessary 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. This provision will give dealers enough time to submit changes to contact information after such changes occur.

#### **Subsection (e)**

The purpose of the change in regulatory language is 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.

This is necessary to remove ambiguity and discretionary language regarding how to satisfy CalRecycle. It provides clarity to a dealer that the dealer must demonstrate it is unable to submit information electronically in writing and receive CalRecycle’s approval in order to submit the specified information via certified postal mail instead of electronically in writing.

### **SECTION 2373. DEALER REDEMPTION REQUIREMENTS**

#### **Subsection (b)**

The purpose of the change in regulatory language is to include the text of 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.

This is necessary 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 and fully operational.

#### **Subsection (d)**

The purpose of the amendment is to broaden the citation to the PRC from 14578(a)(1) to 14578(a).

This is necessary to clarify how dealers are to comply with their legal obligation to do one of the two options presented by PRC section 14578(a) when a dealer cooperative of which they are not a member is fully operational in their unserved convenience zone. This revision is necessary to provide notice to dealers that they are not relieved of their legal obligation under PRC section 14578(a) to either redeem in-store or join a dealer cooperative just because a dealer cooperative of which they are not a member is fully operational in their unserved convenience zone.

### **SECTION 2374. IMPLEMENTATION PERIOD FOR STEWARDSHIP PLAN SUBMISSIONS AND DEALER REDEMPTION REQUIREMENTS**

## **Section 2374**

The purpose of the change in regulatory language is to remove section 2374 regarding the implementation period for stewardship plan submission and dealer redemption requirements.

The deletion of this section is necessary 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. 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 because this would deprive consumers of the ability to redeem their containers in violation of Senate Bill 1013 (2021-2022 Reg. Session, Chapter 610 of the Statutes of 2022) (SB 1013).

## **ARTICLE 3. STEWARDSHIP PLAN**

### **SECTION 2375. STEWARDSHIP PLAN SUBMISSION**

#### **Subsection (a)(1)**

The purpose of this amendment is to remove the reference to section 2375.1, which was renumbered to sections 2375.2, 2375.4, 2375.6, and 2375.8.

This provision is necessary to update the regulatory language to include the updated regulatory cross-references due to the stewardship plan contents section (section 2375.1) being split into multiple sections (sections 2375.2, 2375.4, 2375.6, and 2375.8).

#### **Subsection (a)(4)(A)**

The regulatory language has been changed to add the website address for the Web Content Accessibility Guidelines (WCAG) 2.0, published in 2008.

This is a non-substantial change to the regulations without any change in regulatory effect.

#### **Subsection (b)**

The purpose of this subdivision is to establish the compliance declaration associated with the submission of a stewardship plan. Stewardship plan submission necessitates a declaration from the dealer cooperative and its members regarding their adherence to all applicable requirements of the Act and proposed regulations.

This is necessary to establish a formal acknowledgement of compliance, reinforcing the accountability of the dealer cooperative and its members in the implementation of the stewardship plan.



## **SECTION 2375.2. STEWARDSHIP PLAN INFORMATIONAL CONTENTS**

### **Section 2375.2**

The purpose of the change in regulatory language is to introduce section 2375.2 entitled “Stewardship Plan Informational Contents”.

This is necessary to introduce a stewardship plan section that is based on a single specific topic related to informational stewardship plan contents.

#### **Introductory Clause**

The purpose of this subdivision is to establish specific guidelines for the informational content requirements of a stewardship plan to be submitted by dealer cooperatives.

This is necessary to ensure that all relevant informational content is provided for effective oversight and management of the stewardship program, facilitating transparency and accountability in the beverage container redemption process.

#### **Subsection (a)**

The purpose of this subdivision is to establish comprehensive and specific guidelines for the content of a stewardship plan to be submitted by dealer cooperatives.

This is necessary to ensure that all relevant information is provided for effective oversight and management of the stewardship program, facilitating transparency and accountability in the beverage container redemption process.

#### **Subsection (a)(1)**

The purpose of this subparagraph is to require dealer cooperatives to provide their federal tax identification number, also known as an employer identification number (EIN), in their stewardship plan.

This is necessary for the identification and verification of the dealer cooperative as a legitimate and recognized entity for tax and regulatory purposes. The alternative reference to EIN is necessary because some dealer cooperatives may know the federal tax identification number as an “employer identification number” or “EIN” and CalRecycle needs to ensure it receives the correct information.

#### **Subsection (a)(2)**

The purpose of this subparagraph is to allow dealer cooperatives the option to redact their EIN when posting their stewardship plan online, balancing the need for public transparency concerning the contents of the stewardship plan with the protection of sensitive financial information.

This is necessary to prevent potential misuse or fraudulent activities related to the dealer cooperative’s tax identification number. While the dealer cooperative is required to submit its EIN to CalRecycle for regulatory purposes, posting the EIN online would unnecessarily impede the dealer cooperative’s right to privacy.

### **Subsections (b), and (b)(1) through (6)**

The purpose of these subparagraphs is to mandate the inclusion of contact information for responsible individuals submitting and overseeing the stewardship plan, including, at a minimum, contact name, title, name of dealer cooperative, mailing address, phone number, and e-mail address. The purpose of this revision is also to make the technical, non-substantial change of adding a period after “address”.

This is necessary to ensure clear lines of communication and accountability, allowing for efficient management and oversight of the stewardship program. CalRecycle needs this information to ensure it can contact a person at the dealer cooperative knowledgeable about the stewardship plan. Additionally, CalRecycle needs to know who specifically is submitting the stewardship plan on behalf of the dealer cooperative in case it needs to verify that someone authorized by the dealer cooperative is submitting the stewardship plan. Adding a period after “address” is necessary to fix a typographical error.

The contact name and contact title are necessary to ensure accountability for the dealer cooperative of the submitted information within the stewardship plan. The name of the dealer cooperative is necessary to ensure proper identification of the dealer cooperative when CalRecycle is reviewing the stewardship plan. Mailing address specifically is required because certain legal documents CalRecycle may serve the dealer cooperative with are legally required to be sent through postal mail. Both a phone number and e-mail address are required because if one contact method is unsuccessful, CalRecycle needs a backup contact method to contact the dealer cooperative.

### **Subsection (c)**

The purpose of this paragraph is to require the disclosure of names and titles of decision-makers in the dealer cooperative, including each member of the board of directors.

This is necessary for transparency and accountability, ensuring that interested parties and CalRecycle are aware of who holds decision-making power within the dealer cooperative. It also is necessary for CalRecycle to know who is responsible for the dealer cooperative in the instance that legal action needs to be taken against the dealer cooperative for noncompliance with the Act and the regulations. PRC section 14591.2(a) references “responsible party” for purposes of imposing disciplinary action, identification of people responsible for making decisions on behalf of the dealer cooperative will assist CalRecycle in identifying those responsible parties.

### **Subsection (d)**

The purpose of this paragraph is to mandate the verification of the dealer cooperative’s tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986.

This is necessary to confirm the nonprofit status of the dealer cooperative, which is a legal requirement for a dealer cooperative under PRC section 14510.2 and therefore impacts its regulatory requirements and eligibility. It is infeasible for CalRecycle to spend the resources to research each dealer cooperative’s 501(c)(3) status online when

CalRecycle will have oversight over numerous dealer cooperatives. Rather, it is more efficient and a better expenditure of resources for each dealer cooperative to provide confirmation of their 501(c)(3) status to CalRecycle since it is simple to include in the stewardship plan. Including confirmation of 501(c)(3) status in the stewardship plan also allows the public to see the confirmation of 501(c)(3) status when the stewardship plan is posted online by the dealer cooperative, which is necessary for accountability and transparency.

#### **Subsection (e)**

The purpose of this paragraph is to require the submission of the dealer cooperative's latest articles of incorporation or equivalent formation documents.

This is necessary for regulatory compliance and to ensure the legal and legitimate operation of the dealer cooperative. The dealer cooperative needs to supply the articles of incorporation to CalRecycle in the instance CalRecycle is required to utilize the information contained within, such as using the agent for service of process to serve legal documents on the dealer cooperative. It is infeasible for CalRecycle to spend the resources to research each dealer cooperative's articles of incorporation online when CalRecycle will have oversight over numerous dealer cooperatives. Rather, it is more efficient and a better expenditure of resources for each dealer cooperative to provide their articles of incorporation to CalRecycle since it is simple to include it in the stewardship plan. Including the articles of incorporation in the stewardship plan also allows the public to see the articles of incorporation when the stewardship plan is posted online by the dealer cooperative, which is necessary for accountability and transparency.

Allowing equivalent formation documents to the articles of incorporation most recently filed with the California Secretary of State is necessary because the dealer cooperative does not necessarily have to incorporate with the California Secretary of State. It may be incorporated in another state.

#### **Subsection (f)**

The purpose of this paragraph is to mandate the inclusion of a list of all dealer members within the dealer cooperative, including their registration numbers.

This is necessary for regulatory oversight and to ensure that all dealer members are properly identified and accountable within the stewardship plan. The Act requires a dealer cooperative to be composed of dealer members and to assess fees on those dealer members. Therefore, CalRecycle is required to be informed by the dealer cooperative of the name and identifying registration number of its dealer members to verify compliance with the Act's legal requirements imposed in relation to dealer members. Specifically, for purposes of the requirement for CalRecycle to audit each dealer cooperative every two years under PRC section 14578.5(f), providing the names and registration numbers of each dealer member will allow CalRecycle to cross-reference the number of dealer members with the amount of fees imposed by the dealer

cooperative to verify the cooperative fees are being utilized appropriately for the operation of the approved stewardship plan, as required under PRC section 14578.5(f).

#### **Subsection (g)**

The purpose of this paragraph is to require a list of unserved convenience zones be included in the stewardship plan where the dealer cooperative will provide redemption services.

This is necessary for CalRecycle to ensure that the dealer cooperative is only operating in unserved convenience zones in which it has dealer members, as required by the Act. This serves to address areas that lack sufficient redemption options, fulfilling the stewardship plan's purpose of improving accessibility and efficiency in beverage container redemption. CalRecycle needs to know in which unserved convenience zones the dealer cooperative will operate so that CalRecycle can exercise oversight and enforcement over the operation of the dealer cooperative. Additionally, CalRecycle needs this information to verify that the dealer cooperative is only proposing to operate and receive program payments in unserved convenience zones in which it has dealer members, as required by the Act.

#### **Subsection (h)**

The purpose of this paragraph is to mandate the inclusion in the stewardship plan of a list of processors and recycling centers and their certification numbers to which the dealer cooperative will ship beverage containers.

This is necessary for transparency and to ensure that these facilities are identified for regulatory and operational oversight. CalRecycle needs to know to whom the dealer cooperative proposes to ship beverage containers for recycling to assess whether the dealer cooperative is capable of meeting its performance standards for redemption established in section 2375.1(b)(8) and whether it has the capacity to provide sufficient redemption opportunities that are convenient for consumers, as required under PRC section 14578.5(c)(1). A dealer cooperative cannot merely redeem beverage containers from consumers. It must then ship the containers to a processor or recycler for recycling after redemption. Therefore, it is necessary for the dealer cooperative to include in its stewardship plan the identities of the processors and recyclers to which it will ship beverage containers. Requiring the certification numbers of the processors and recycling centers to be submitted to CalRecycle as part of stewardship plan submission is necessary because recycling centers and processors may have identical or similar names.

#### **Subsection (i)**

The purpose of this paragraph is to require a list of known redemption sites at the time of the stewardship plan submission.

This is necessary to provide an initial framework of operational redemption sites, facilitating early planning and public awareness of the program. Whether the

stewardship plan receives approval or disapproval is based on the level of redemption it will provide, and therefore CalRecycle needs to know at least the initial planned redemption sites to determine whether the dealer cooperative's stewardship plan will provide convenient consumer redemption as required under the Act.

#### **Subsection (j)**

The purpose of this paragraph is to mandate the inclusion of a timeline for the stewardship plan to become fully operational.

This is necessary to establish clear expectations and goals for the implementation and operational readiness of the stewardship plan. A dealer's obligation under PRC section 14578(a)(2)(A) is not satisfied until the stewardship plan of the dealer cooperative of which it is a member is operational, and therefore the stewardship plan must include a timeline for the operation of the stewardship plan so that CalRecycle can accurately enforce the provisions of the Act depending on the operational date. Additionally, including this information in the stewardship plan is necessary to put consumers on notice within the unserved convenience zones of when they can expect to be able to begin redeeming empty beverage containers at the dealer cooperative redemption site(s).

### **SECTION 2375.4. STEWARDSHIP PLAN SUBSTANTIVE CONTENTS**

#### **Section 2375.4**

The purpose of the change in regulatory language is to introduce section 2375.4 entitled "Stewardship Plan Substantive Contents".

This is necessary to introduce a stewardship plan section that is based on a single specific topic related to substantive stewardship plan contents.

#### **Introductory Clause**

The purpose of this amendment is to add an introductory clause to the subsection requiring substantive contents for the stewardship plan. The clause establishes comprehensive and specific requirements for the substantive content of the stewardship plan.

This is necessary to ensure that all relevant information to the dealer cooperative's operation, redemption program, and education and outreach program are provided. This facilitates effective oversight and management of the stewardship program as a whole.

#### **Subsection (a)**

The purpose of this paragraph is to require the stewardship plan to describe each method of redemption offered by the dealer cooperative.

This is necessary to provide clear information on the available redemption options, ensuring that they are accessible and understood by consumers and other interested parties. CalRecycle needs to know this information in making a determination of whether to approve and disapprove the stewardship plan because requirements of the Act and regulations hinge on the type of redemption method offered, such as the Act's requirement under PRC section 14578.5(c)(1) to provide redemption opportunities that are sufficiently convenient for consumers.

### **Subsection (b)**

The purpose of this paragraph is to outline an education and outreach program as part of the stewardship plan.

This is necessary to ensure active engagement and participation of consumers and dealers in the stewardship program, enhancing the effectiveness of the beverage container redemption program. A key requirement under PRC section 14578.5 is that all stewardship programs “include sufficient redemption opportunities for consumers that have comparable consumer convenience to the requirements of Section 14571”. PRC section 14571 includes standardized operational requirements for traditional beverage container recycling centers such as the hours that recycling centers must operate and signage that must be posted that indicates those hours of operation. In contrast to recycling centers, each dealer cooperative in the state could potentially have different operating hours and redemption methods since they may decide those operating hours and methods for themselves in their stewardship plan rather than being dictated by PRC section 14571. Therefore, an education and outreach program that includes elements in addition to just signage is required for consumers to have a genuine opportunity to be informed of the different operating hours and redemption methods of each dealer cooperative that operates near the consumer. Consumer awareness of differing dealer cooperative stewardship programs necessitates an education and outreach program to ensure that the dealer cooperative provides redemption opportunities that are truly accessible and convenient to the consumer.

Furthermore, CalRecycle made an additional technical change of adding “all of” to “the following”.

This is necessary to clarify that the following provisions are an exhaustive list of the required substantive information for the stewardship plans. This change in regulatory language indicates that the information included in each of the following subsections is required.

### **Subsection (b)(1)**

The purpose of this paragraph is to detail activities for promoting awareness and maximizing consumer and dealer participation in the stewardship program. The subparagraph provides the following example of these activities that are required: providing educational and outreach materials to persons selling and purchasing

beverages in beverage containers in the area covered by the dealer cooperative's stewardship plan.

This is necessary to ensure that the dealer cooperative stewardship program reaches a wide audience and effectively communicates its purpose and benefits. Activities for promoting awareness of the stewardship program are necessary because the redemption opportunities for consumers cannot be convenient as required by the Act if consumers are not aware of the opportunities. In addition to convenience, participation by consumers in the stewardship program is also necessary to effectuate the Act's purpose of reducing litter of beverage containers and increasing recycling of beverage containers.

Dealer awareness and participation is also necessary as dealers in the unserved convenience zone(s) covered by the dealer cooperative may not be aware of the dealer cooperative, and therefore need to be informed that they have the opportunity to join a dealer cooperative as an alternative to redeeming on the premises as required by PRC section 14578(a). Additionally, for dealer members of the dealer cooperative, involving them in participating in the outreach to consumers is invaluable. This is because the place of purchase of beverage containers is likely the most effective place to educate consumers on redemption opportunities of the beverage containers they've purchased.

Listing "providing educational and outreach materials to persons selling and purchasing beverages in beverage containers in the area covered by a dealer cooperative plan" as an activity that is required is necessary because educational and outreach materials are the most effective way to communicate regarding the stewardship plan. Educational and outreach materials are a tangible source of information that can be referred to at any time. These materials are required as a minimum. However, the "including, but not limited to" phrase makes it clear that a dealer cooperative can also choose to engage in additional activities to promote awareness and maximize participation in the stewardship program.

Further, CalRecycle made a change to delete "how each beverage container material type will be redeemed under the stewardship plan".

This is necessary to increase organization of the section because very similar language is now contained in section 2375.4(f)(1). Therefore, this provision is duplicative and needs to be deleted.

An additional change to this language was to replace the term "dealer cooperative zone" with "area covered by a dealer cooperative's stewardship plan", which has been done throughout the regulations.

This is necessary because "area covered by a dealer cooperative's stewardship plan" has a plain meaning that can be easily understood without proposing a formal regulatory definition for "dealer cooperative zone". The amendment is necessary to ensure the use of consistent and appropriate terminology for clarity.

#### **Subsection (b)(2)**

The purpose of this amendment is to replace the term “dealer cooperative zone” with “area covered by a dealer cooperative’s stewardship plan”, which has been done throughout the regulations.

The purpose is also to delete the provision requiring the plan to demonstrate that the needs of the community and the goals of the Act will be best served by distribution in the identified languages, and allowance for CalRecycle to disapprove a plan if those requirements are not met.

This is necessary because “area covered by a dealer cooperative’s stewardship plan” has a plain meaning that can be easily understood without proposing a formal regulatory definition for “dealer cooperative zone”. The amendment is necessary to ensure the use of consistent and appropriate terminology for clarity.

This is necessary 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 area 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. Using the 5% standard is necessary to increase clarity because it is an easily ascertainable standard, unlike the previously proposed language. Deleting the provision about CalRecycle disapproval is necessary because it is redundant due to CalRecycle already having authority to disapprove a noncompliant plan.

#### **Subsection (b)(2)(A)**

The purpose of the change in regulatory language is 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 to provide greater communication to the public and increase consumer convenience. 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, however the signage must be at the front of the store to promote visibility.

#### **Subsections (b)(2)(B), and (b)(2)(B)(i) through (iii)**

The purpose of this clause and its subclauses is to mandate the inclusion of information on an internet website with mobile platform functionality. The purpose of requiring the inclusion of this information on an internet website rather than requiring the dealer cooperative to create an entirely new internet website is to allow the dealer cooperative



to use an existing website or to coordinate with other dealer cooperatives rather than having to expend the resources to create a new web platform from scratch.

This is necessary to leverage digital platforms for wider reach and accessibility, ensuring up-to-date and accurate information is readily available. Internet websites are widely used and the most efficient way in today's society to disseminate information. Therefore, an internet website is necessary to provide education and outreach to ensure consumers have a genuine opportunity to be informed of the different operating hours and redemption methods of each dealer cooperative that operates near the consumer. Some consumers, especially low-income consumers, may not have access to computers and only use smart phones to access the internet. To facilitate the outreach to those consumers, the internet website with the redemption information is necessary to include functionality for mobile platforms. Up to date information on the location, telephone number, days and hours of operation, and material types redeemed at redemption sites is the basic information necessary to include on the internet website to communicate to consumers when, where, and how they can conveniently redeem their empty beverage containers.

#### **Subsection (b)(2)(C)**

The purpose of this paragraph is to incorporate optional non-printed materials in the education and outreach program, such as a toll-free telephone number, with provisions for hearing and speech-impaired individuals.

This is necessary to ensure the program is inclusive and accessible to all potential users, regardless of their access to printed materials or internet services. This provision is necessary to include to authorize a dealer cooperative to offer a general telephone number associated with the dealer cooperative redemption program in addition to a dealer cooperative internet website in acknowledgement that there are persons in the community that redeem beverage containers that may not have access to the internet. The requirement that such a telephone number be used to provide services for hearing-impaired and speech-impaired individuals is necessary to ensure that individuals with a disability are able to use the telephone services. The requirement that the telephone number be toll-free is necessary so that community members wishing to redeem empty beverage containers who may not be able to afford a telephone, such as persons who are experiencing homelessness, are not unfairly excluded from receiving redemption information through the telephone number.

#### **Subsection (c)**

The purpose of this paragraph is to require the stewardship plan to establish a dispute resolution process and a method for handling complaints about the stewardship program.

This is necessary to provide clear and effective avenues for addressing any issues with redemption or payments, ensuring consumer trust and program integrity. Because the dealer cooperatives are a novel method of beverage container redemption under

California state law, a method to receive feedback and complaints by the dealer cooperative is necessary for dealer cooperatives that must interact with consumers by returning California Redemption Value (CRV) back to consumers that consumers paid at the point of initial sale. Additionally, being required to accept complaints from the public is necessary to facilitate pathways of communication if the community is unhappy with an aspect of a redemption site. This will give the dealer cooperative the opportunity to make the redemption site more acceptable to the public which will in turn increase the likelihood that the redemption site will continue in operation and continue to provide redemption opportunities to the public. This method to receive complaints and the associated dispute resolution process for consumers in the event of non-payment or underpayment by a redemption contractor is necessary to ensure that the dealer cooperatives are aware of any failings in their redemption program and to document the process by which a consumer dispute can be addressed.

#### **Subsection (d)**

The purpose of this paragraph is to require the stewardship plan to detail opportunities for community input, especially in areas facing unique challenges in beverage container redemption.

This is necessary to ensure that the dealer cooperative's stewardship program is responsive to the needs of different communities and can adapt to address specific local challenges. Maintaining open channels of communication regarding unique challenges associated with empty beverage container redemption in the dealer cooperative zone is necessary for the dealer cooperative to become aware of these challenges and to develop solutions to mitigate or overcome the challenges. Addressing these unique challenges is a strength of the dealer cooperative legal framework due to each dealer cooperative being able to tailor their stewardship plan to their distinct community. This is necessary to increase the likelihood that the dealer cooperative will continue in operation and continue to provide convenient redemption opportunities for the public as required by the Act.

#### **Subsection (e)**

The purpose of this paragraph is to require the stewardship plan to describe how the dealer cooperative will address factors affecting consumer convenience at redemption locations.

This is necessary to ensure that considerations such as safety, cleanliness, parking, and accessibility are adequately addressed by the dealer cooperative. These factors are key in enhancing the overall user experience and fulfilling the requirement of the Act that a dealer cooperative provide convenient redemption opportunities to consumers. If a redemption site is unclean or unsafe, has inadequate parking, or is not accessible via public transportation or walking, consumers are less likely to redeem their beverage containers at the redemption site and fewer beverage containers will be recycled. Therefore, it is necessary for the dealer cooperative to describe how it will address

these factors in the stewardship plan for CalRecycle to assess whether the dealer cooperative is capable of providing convenient beverage container redemption opportunities to consumers.

#### **Subsection (f)**

The purpose of this paragraph is to require the dealer cooperative to describe how each materials type will be redeemed, with additional requirements if the dealer cooperative chooses to impose redemption volume and material type restrictions to some of the redemption sites.

This is necessary to provide clear information of how the dealer cooperative will provide consumers the opportunity to redeem of all material types eligible for CRV. This ensures that the dealer cooperative redemption sites provide consumer convenience to be able to redeem material types and be operational for ease of access. If a dealer cooperative chooses to have redemption sites that will restrict the volume or material types from being redeemed, then the dealer cooperative will have to have a single site in the unserved convenience zone that overcomes this reduced consumer convenience. CalRecycle needs to know this information in making a determination of whether to approve and disapprove the stewardship plan because requirements of the Act and regulations hinge on providing consumer convenience and access to redemption opportunities, such as the Act's requirement under PRC section 14578.5(c)(1) to provide redemption opportunities that are sufficiently convenient for consumers.

#### **Subsection (f)(1)**

The purpose of this paragraph is to specify that stewardship plans include a description of how the dealer cooperative will redeem all beverage container material types.

This is necessary to ensure that CalRecycle has information in the stewardship plan to make a determination of whether to approve or disapprove the stewardship plan to verify that a dealer cooperative will redeem all beverage container material types, consistent with PRC section 14578.5(c)(3).

#### **Subsection (f)(2)**

The purpose of this paragraph is 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% of the beverage containers sold by dealer members into the unserved convenience zones in which any of the dealer members operate. Additionally, the purpose of the change in regulatory language is 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 regulatory language has been changed to separate this subdivision into two distinct paragraphs.

These amendments are necessary to clarify that 100% 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% of the number of beverage containers that the dealer members sell. This provides clarity that the capacity requirement is fungible and can incorporate beverage containers sold by dealers that are not members of the dealer cooperative. Additionally, these amendments are necessary to split this subsection into two distinct subsections to increase clarity and separate out into this section the 100% capacity of the dealer cooperative and into subsection (f)(1) the redemption of all material types. It is necessary 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 and insert the language at section 2382(k) because the prohibition is more in the nature of an operational requirement than a component of the stewardship plan.

### **Subsection (f)(3)**

The purpose of this paragraph is 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.

These amendments are necessary to clarify the standard for assessing comparable consumer convenience and to remove unnecessary descriptions of terms that are now clearly defined in section 2370.

### **Subsection (f)(4)**

The purpose of this paragraph is to add a provision specifying 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 is necessary to allow 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 redemption sites. The specific threshold of 10 hours, with no less than five of those hours on a Saturday or Sunday between the hours of 9 a.m. to 5 p.m., is necessary to be consistent with PRC section 14571(i)(1)(A).

### **Subsection (f)(5)**

The purpose of this paragraph is to allow dealer cooperatives to operate across multiple unserved convenience zones.

This is necessary to enhance the reach and efficiency of the stewardship program, allowing for broader service coverage. Allowing a single dealer cooperative to operate in multiple convenience zones, regardless of whether the convenience zones overlap or are adjacent, allows the dealer cooperative to achieve economies of scale and save on costs by offering more redemption opportunities. It also allows more dealer members across different unserved convenience zones, or a single dealer with sites in multiple unserved convenience zones, to join the dealer cooperative and pay dealer cooperative stewardship fees to fund the stewardship program.

### **Subsection (f)(6)**

The purpose of this paragraph is to add a provision specifying 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 is necessary to balance dealer cooperative operational flexibility while ensuring convenience for consumers comparable to PRC section 14571. The language is similar to language that was deleted from former 2375.1(b)(8)(B), however the specific threshold of 10 hours, with no less than five of those hours on a Saturday or Sunday between the hours of 9 a.m. to 5 p.m., is necessary to insert to be consistent with PRC section 14571(i)(1)(A). The allowance of the redemption limit to be per customer per day per redemption method is necessary to tailor specific limits to types of redemption method, for instance because reverse vending machines will have different maximum capacities than bag drop receptacles.

## **SECTION 2375.6. STEWARDSHIP PLAN PERFORMANCE STANDARDS**

### **Section 2375.6**

The purpose of the change in regulatory language is to introduce section 2375.6 entitled “Stewardship Plan Performance Standards”.

This is necessary to introduce a stewardship plan section that is based on a single specific topic related to the stewardship performance standards.

### **Introductory Clause**

The purpose of this amendment is to add an introductory clause to the subsection requiring performance standards for the stewardship plan. The clause indicates specific requirements that apply to each of the performance standards described in the subsections below. The specific requirements include a description of how each performance standard will be achieved and a description of how it will be measured on a quarterly basis.

This is necessary to ensure that the dealer cooperatives' performance in beverage container redemption is regularly and systematically evaluated, promoting continuous improvement and adherence to statutory and regulatory requirements. Performance standards are a hallmark of product stewardship plans because they facilitate measurement of the success of the stewardship program through concrete metrics.

Measuring the achievement of the performance standards on a quarterly basis rather than another timeframe is necessary to utilize the information in the quarterly reports the dealer cooperative is submitting to CalRecycle, which is the best source of data to determine whether the stewardship program is achieving its performance standards.

#### **Subsection (a)**

The purpose of this paragraph is to ensure that dealer cooperatives provide a thorough explanation and quantification of the geographic distribution of redemption sites. By requiring a breakdown of the number of sites per convenience zone per person, this clause aims to promote equitable access to redemption facilities.

This is necessary to prevent regional disparities in redemption site availability, ensuring that all individuals have convenient access to these services regardless of their location. This facilitates the dealer cooperative's satisfaction of the Act's requirement that the dealer cooperative provides convenient redemption opportunities to consumers. Additionally, allowing the dealer cooperative to establish its own standard of X number of redemption sites per X number of persons in the unserved convenience zone rather than prescribing this ratio for dealer cooperatives ensures maximum flexibility to provide convenient redemption opportunities to consumers in the specific geographical region in which the dealer cooperative is located.

#### **Subsection (b)**

The purpose of this paragraph is to mandate that dealer cooperatives maintain a specified minimum redemption capacity per quarter in each convenience zone. This capacity must be sufficient to redeem a minimum of 100% of beverage containers sold by dealer members in those convenience zones.

The minimum 100% threshold is necessary to ensure that the redemption infrastructure is adequately scaled to meet consumer demand and prevent any potential backlog or service gaps in container redemption. Allowing the dealer cooperative to establish its own redemption capacity per quarter in the unserved convenience zone rather than prescribing this capacity, so long as it meets or exceeds 100% of the beverage containers sold by the dealer members, ensures dealer cooperatives have maximum flexibility to provide convenient redemption opportunities to consumers in the specific geographical region in which they are located.

#### **Subsection (c)**

The purpose of this paragraph is to set a minimum performance standard for the redemption of beverage containers, which is at least 80% of the beverage containers sold by dealer members in each convenience zone.

This is necessary to ensure a high level of efficiency and effectiveness in the redemption process, contributing to the overall goals of waste reduction and recycling. If the dealer cooperative has the capacity to redeem 100% of the beverage containers its member dealers sell but then actual redemption falls below 80%, this means that the dealer cooperative is not providing adequate redemption to consumers. This could be due to a lack of education and outreach, unappealing redemption sites, or a multitude of other factors that a dealer cooperative would need to address to ensure beverage containers are actually being redeemed and recycled as part of the stewardship program in the unserved convenience zone.

The threshold of 80% redemption is necessary rather than a different percentage because this reflects the statutory goal in PRC section 14501(c) that 80% of beverage containers be recycled.

#### **Subsection (d)(1)**

The purpose of this paragraph is to require the stewardship plan to establish standards for the average wait time for consumers redeeming beverage containers and to outline the factors that may influence this wait time.

This is necessary to enhance customer experience and ensure that the redemption process is convenient and accessible. By requiring the dealer cooperative to consider factors that affect average consumer wait time such as location, staffing, and hours of operation, this clause aims to optimize the redemption process offered by the dealer cooperative to consumers. As wait time is one of most important factors that determines whether a redemption opportunity is convenient for a consumer, a dealer cooperative must consider this factor and provide a numerical average wait time in its stewardship plan. Allowing the dealer cooperative to establish its own average wait time rather than prescribing a number, such as five minutes, is necessary to ensure dealer cooperatives have maximum flexibility to provide convenient redemption opportunities to consumers in the specific geographical region in which they are located.

#### **Subsection (d)(2)**

The purpose of this paragraph is to outline the factors that may influence the average wait time for consumers to redeem beverage containers. Providing examples of factors affecting wait time supports dealer cooperatives in adding specificity to the justification of the wait time performance standard.

These amendments are necessary to clarify that the use of these specific wait time factors as part of the wait time performance standard are optional examples and not required.

## **SECTION 2375.8. STEWARDSHIP PLAN BUDGET**

### **Section 2375.8**

The purpose of the change in regulatory language is to introduce section 2375.8 entitled “Stewardship Plan Budget”.

This is necessary to introduce a stewardship plan section that is based on a single specific topic related to the stewardship plan budget.

#### **Introductory Clause**

The purpose of this paragraph is to require the stewardship plan to provide a clear framework for the financial management of the dealer cooperative, ensuring transparency and accountability in how stewardship fees are used to support the cooperative’s budget. This is necessary for the dealer cooperative to operate in a financially sustainable, prudent, and responsible manner. The dealer cooperative stewardship fees imposed on dealer members are statutorily required under PRC section 14578.5(c)(2) to be used to cover operational costs and implementation of the approved stewardship plan. Therefore, the stewardship plan must detail the dealer cooperative’s budget and how those fees will be used to support that budget so that CalRecycle can verify in reviewing the stewardship plan that the dealer cooperative will utilize the fees as required by the Act to provide convenient redemption opportunities to consumers.

#### **Subsection (a)**

The purpose of this paragraph is to require the stewardship plan to include a detailed itemization of anticipated costs for the administration and implementation of the stewardship plan. Additionally, a reference is added 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.

This provision is necessary to ensure financial transparency and accountability of the stewardship program, allowing for effective oversight by CalRecycle and ensuring that dealer cooperative funds are used appropriately and effectively. The dealer cooperative stewardship fees imposed on dealer members are statutorily required under PRC section 14578.5(c)(2) to be used to cover operational costs and implementation of the approved stewardship plan and therefore the stewardship plan must describe the purpose for which funds will be spent. CalRecycle needs the opportunity to review the purpose and amount on which the dealer cooperative will be spending stewardship funds to accurately assess whether the dealer cooperative is capable of providing convenient consumer redemption in accordance with its stewardship plan.

Including a reference to section 2381(c)(6), which specifies budget categories that identify required information that dealer cooperatives must include in quarterly reports, is necessary to provide CalRecycle with sufficient information to assess stewardship



program budgets and expenditures for the first four quarters of operation to determine whether to approve or disapprove a stewardship plan. In order for a dealer cooperative to be successful, it must consider those anticipated costs for the first four quarters of operation to ensure it has an adequate budget.

#### **Subsection (b)**

The purpose of this paragraph is to require the stewardship plan to include a necessary funding level for covering the stewardship program's budgeted costs and to outline the management of monetary reserves and deficits.

This provision is necessary to ensure the financial stability of the stewardship program, enabling it to address surplus funds and deficits effectively and maintain operational integrity. Without financial stability, a dealer cooperative will be unable to provide convenient consumer redemption as required by the Act. Specifically, requiring the stewardship plan to include the target amount for monetary reserves, and the operating deficit amounts that the target monetary reserves will be able to cover, and a description of how surplus funds and operating deficits that exceed those amounts will be addressed, gives CalRecycle concrete numbers it can use to assess the financial status of the dealer cooperative and whether it is operating in a prudent and responsible manner within the parameters of its established budget.

The purpose of this change in regulatory language is to clarify that the subdivision is referencing the dealer cooperative's monetary reserves as opposed to other entities' reserves.

This change is necessary to enhance clarity of the proposed regulatory text and to ensure it is understood that the target amount is for the dealer cooperative's monetary reserves and not for the individual dealer members' monetary reserves.

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

#### **Subsection (a)**

The purpose of the paragraph is to specify that CalRecycle shall require additional stewardship plan information if necessary to corroborate or clarify the previously submitted information and to identify a 10-day deadline for dealer cooperative to provide the additional information.

This is necessary to remove ambiguity and discretion around whether CalRecycle will require additional information. Changing the "may" to a "shall" is necessary to provide certainty to dealer cooperatives when that additional information will be required: when the additional information is necessary to clarify or corroborate the information previously provided. The requirement for a dealer cooperative to submit that information within 10 days is necessary to ensure that CalRecycle can complete review of a

stewardship plan in a timely manner if the information initially submitted by the dealer cooperative in the stewardship plan did not adequately address all of the information required to be submitted.

#### **Subsection (b)**

The regulatory language has been changed to delete subsection (b)(2) in its entirety and renumber (b)(1) to (b), since only one subsection remains.

#### **Subsection (c)**

The purpose of the change in regulatory language is to remove the reference to CalRecycle approving stewardship plans in its sole discretion.

This 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 about the approval requirements for a stewardship plan.

#### **Subsection (e)(2)**

The purpose of the change in regulatory language is 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.

This is necessary 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. Requiring the certification numbers of the processors and recycling centers to be submitted to CalRecycle as part of the operational notice is necessary because recycling centers and processors may have identical or similar names. Therefore, it is necessary and reasonable to require the certification number to also be provided to enable CalRecycle to correctly identify which processors and recycling centers the dealer cooperative is shipping empty beverage containers to.

### **SECTION 2377. STEWARDSHIP PLAN FIVE-YEAR UPDATES**

#### **Section 2377**

The purpose of the amendment is to update the title of this section to include the words "five-year", in reference to the frequency of the required updates.

This is necessary to enhance clarity and reflect the minimum frequency that stewardship plans must undergo review specified in this section. The change is necessary to distinguish between the updates in this section that occur a minimum of every five years to the changes in section 2378 which may occur more frequently.

#### **Subsection (b)(2)**

The regulatory language has been changed to delete the word “may” and replace with the word “shall”.

The purpose of this amendment is to remove any ambiguity as to what action CalRecycle will take if it concludes that a dealer cooperative cannot implement the applicable requirements of the Act and regulations without updating a stewardship plan. In that instance, the department will reject a determination that a stewardship plan update is unnecessary.

## **SECTION 2378. STEWARDSHIP PLAN CHANGES AND NOTIFICATION**

### **Subsection (a)**

The purpose of this paragraph is to introduce a list of specific information in an approved stewardship plan that a dealer cooperative is required to notify CalRecycle electronically in writing 30 days before implementing.

This is necessary to enhance clarity and remove ambiguity regarding the circumstances that require advanced notice to CalRecycle before dealer cooperatives can implement plan changes. Providing the notice electronically in writing is necessary to ensure that all the information is submitted through a standardized and efficient method. Notification is required in advance of these changes because CalRecycle must have time to assess the impact of these changes before they are implemented. Thirty days' prior notice of these changes is necessary because CalRecycle is not able to process and analyze information immediately and any fewer days would not provide adequate time considering the large number of changes that may occur amongst all of the state's dealer cooperatives. More than 30 days may be difficult for dealer cooperatives to know in advance that the changes will be occurring.

### **Subsection (a)(1)**

The purpose of the regulatory language is to specify the types of stewardship plan changes that require a dealer cooperative to notify CalRecycle electronically in writing 30 days before implementation. This paragraph clarifies 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).

This is necessary to establish clear circumstances that require advanced notice to CalRecycle before dealer cooperatives can implement plan changes. This is necessary to reduce the burden on dealer cooperatives by only requiring this advance notice for specific information, outlined in this paragraph as the information specifically called out in the cross-references, which is mostly informational in nature and has been determined by CalRecycle to require 30-day advance notice so CalRecycle has time to process the impact of the change.

### **Subsection (a)(2)**

The purpose this paragraph is to specify changes of redemption contractor or a new redemption site becomes operations as a circumstance for a dealer cooperative to notify CalRecycle electronically in writing 30 days before implementation.

This is necessary to establish clear circumstances that require advanced notice to CalRecycle before dealer cooperatives can implement plan changes. This is necessary to reduce the burden on dealer cooperatives by only requiring this advance notice for specific information, outlined in this paragraph as the new redemption contractors or redemption sites.

### **Subsection (a)(3)**

The purpose this paragraph is to specify that when an existing redemption site ceases operation as a circumstance for a dealer cooperative to notify CalRecycle electronically in writing 30 days before implementation.

This is necessary to establish clear circumstances that require advanced notice to CalRecycle before dealer cooperatives can implement plan changes. This is necessary to reduce the burden on dealer cooperatives by only requiring this advance notice for specific information, outlined in this paragraph as a redemption site ceasing operation.

### **Subsection (b)**

The purpose of this paragraph is to specify that changes to the approved stewardship plan information contents that satisfies sections 2375.2(b), 2375.2(c), or 2375.2(h), or stewardship plan budgets specified in 2375.8 requires a notification to CalRecycle within 30 days.

This is necessary because a dealer cooperative may not be able to anticipate changes to this information in advance, and the dealer cooperative and its members should not be liable for failure to provide information which is not known. Thirty days' notice after these changes occur is necessary to give the dealer cooperative ample time to notify CalRecycle, while ensuring that CalRecycle is still made aware of these changes in case it needs to take any follow-up actions. More than 30 days may be too long of a time period after the change that any follow-up action necessitated by CalRecycle may come too late.

### **Subsection (c)(1)**

The purpose of this paragraph is to specify that changes to an approved stewardship plan substantive contents that satisfied section 2375.4 or to the performance standards in 2375.6 require the dealer cooperative to notify CalRecycle electronically in writing before implementation and wait for approval to implement.

This is necessary because the information specified in sections 2375.4 regarding stewardship plan substantive contents or section 2375.6 regarding stewardship plan performance standards is critical to the operation of the stewardship plan and the dealer cooperative's offering of consumer convenience in compliance with SB 1013, therefore,

a dealer cooperative cannot implement these changes without department approval. Doing so would allow a dealer cooperative to change a fundamental part of the stewardship plan based on which CalRecycle approved the stewardship plan.

#### **Subsection (c)(2)**

The purpose of paragraph is to specify that, within 30 days of receipt, CalRecycle is required to 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.

This is necessary because the procedure allows CalRecycle 30 days to review these proposed changes with sufficient time to analyze the notification with consideration to other notification that may be received for any other dealer cooperatives across the state. Thirty days provides 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 purpose of this change is to specify that a dealer cooperative that is required to prepare annual audited financial statements pursuant to Government Code section 12586(e) also must submit those statements to CalRecycle no later than nine months after the close of the fiscal year to which the statements relate.

This is necessary because 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. Requiring those statements to be submitted to CalRecycle rather than requiring entirely new types of financial statements is necessary to reduce the burden on dealer cooperatives. This amendment is necessary to ensure clarity on what dealer cooperatives are obligated to provide to CalRecycle and 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. The nine-month deadline is part of the Government Code section 12586(e); therefore, this timeframe is necessary for consistency between the proposed regulations and existing law.

##### **Subsection (a)(2)**

The purpose of the regulatory language is to add a requirement that dealer cooperatives prepare their financial records in a prudent and responsible manner.

Requiring dealer cooperatives to prepare their financial records in a prudent and responsible manner is necessary to ensure the trustworthiness and auditability of the figures reported in the dealer cooperative's financial statements.

#### **Subsection (d)**

The purpose of this amendment is to specify that dealer cooperatives must maintain records of dealer cooperative stewardship fees assessed on dealer members and how dealer cooperative stewardship fees are utilized.

This is necessary to ensure that dealer cooperatives will retain the necessary financial records to enable them to accurately report on stewardship program expenditures in quarterly reports. Additionally, because CalRecycle is required to audit each cooperative at least once every 24 months to ensure that cooperative fees are being utilized for the operation of the approved redemption model (PRC section 14578.5(f)), this regulatory provision requiring the dealer cooperative to maintain those records ensures CalRecycle will have information to audit in this regard.

#### **Subsection (g)**

The purpose of this amendment is to clarify that a dealer cooperative is subject to the five-year record retention period required pursuant to section 2085(b).

This is necessary to ensure dealer cooperatives are aware of the length of time they are legally required to retain records created pursuant to the Act and these regulations. It is necessary to place this requirement in this section within subchapter 4.5 relating to recordkeeping to place similar provisions relating to dealer cooperative recordkeeping in proximity to each other for readability.

### **SECTION 2381. REPORTING**

#### **Subsection (a)(3)**

The regulatory language has been changed to add the website address for the Web Content Accessibility Guidelines (WCAG) 2.0, published in 2008.

This is a non-substantial change to the regulations without any change in regulatory effect.

#### **Subsection (b)(1)(D)**

The purpose of the change in regulatory language is to remove the "but not limited to" in regard to reporting data of the stewardship program's implemented collection methods.

This is necessary to promote clarity because it makes the following list defined and complete for purposes of compliance.

### **Subsection (b)(1)(D)(i)**

The purpose of the change in regulatory language is 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 is necessary because the definition of “innovative method of redemption” includes pickup service and non-technology-based 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 purpose of the change in regulatory language is 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-technology-based 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 purpose of the change in regulatory language is 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-technology-based 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 purpose of the change in regulatory language is 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 is necessary because the definition of “innovative method of redemption” includes pickup service and other non-technology-based methods of redemption where operating

time may not be feasible to report. Additionally, this clarifies that 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 broadens the previously narrow description of alternative method of redemption and clarifies for dealer cooperatives on what information needs to be tracked and reported in quarterly reports.

#### **Subsection (b)(1)(D)(iii)**

The purpose of the change in regulatory language replacing the requirement from “innovative method of redemption” to “alternative method of redemption” is 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 is necessary because the definition of “innovative method of redemption” includes pickup service and other non-technology-based methods of redemption where downtime may not be feasible to report. Additionally, this clarifies that 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 broadens the previously narrow definition of alternative method of redemption and clarifies for dealer cooperatives on what information needs to be tracked and reported in quarterly reports.

#### **Subsection (c)(4)**

The purpose of this amendment is to make a non-substantial, technical change updating the section cross-referenced from “2375.1(b)(8)” to “2375.6”.

This is necessary to reflect a conforming change to the reorganization of section 2375.1 into multiple sections based on topic. Section 2375.6 consolidated all regulation language regarding stewardship plan performance standards into one section. This is necessary to reflect the renumbering of the sections and enhance readability and correctness.

#### **Subsection (c)(5)**

The purpose of the change in regulatory language is 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. Additionally, because CalRecycle is required to audit each cooperative at least once every 24 months to ensure that cooperative fees are being utilized for the operation of the approved redemption model (PRC section 14578.5(f)), this regulatory provision requiring the dealer cooperative to report that information enables CalRecycle to cross-reference the quarterly reported information with the two-year audits.

#### **Subsection (c)(6)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports their gross revenue and itemized expenditures in specified categories.

These amendments are necessary to 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. Inserting the word "gross" is necessary to reduce ambiguity about what type of revenue is required to be reported. Adding "if applicable" is necessary because not all dealer cooperatives may experience all types of expenditures listed.

#### **Subsection (c)(6)(A)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on program development and planning.

It is necessary to report an itemization of expenditures on program development and planning because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives.

#### **Subsection (c)(6)(B)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on administration, personnel, and overhead.

It is necessary to report an itemization of expenditures on administration, personnel, and overhead because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives.

#### **Subsection (c)(6)(C)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on operational costs.

It is necessary to report an itemization of expenditures on operational costs because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives.

#### **Subsection (c)(6)(D)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on education and outreach.

It is necessary to report an itemization of expenditures on education and outreach because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives. It also is necessary to gauge the success of the dealer cooperative's education and outreach program.

#### **Subsection (c)(6)(E)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on technology and equipment.

It is necessary to report an itemization of expenditures on technology and equipment because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives.

#### **Subsection (c)(6)(F)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on regulatory compliance and reporting.

It is necessary to report an itemization of expenditures on regulatory compliance and reporting because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives.

#### **Subsection (c)(6)(G)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on partnerships and collaborations

It is necessary to report an itemization of expenditures on partnerships and collaborations because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives.

#### **Subsection (c)(6)(H)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on legal and professional services.

It is necessary to report an itemization of expenditures on legal and professional services because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives. It also is necessary to inform CalRecycle if the dealer cooperative has experienced excessive legal issues, which may indicate the dealer cooperative is not operating the stewardship plan in compliance with all applicable laws.

#### **Subsection (c)(6)(I)**

The purpose of the change in regulatory language is to require dealer cooperatives to include in quarterly dealer cooperative stewardship program reports an itemization of expenditures on a contingency fund.

It is necessary to report an itemization of expenditures on a contingency fund because this enables CalRecycle to cross-reference the information reported with that in the dealer cooperative's annual audited financial statements to conduct responsible administration and oversight of the operation of dealer cooperatives. It also is necessary to inform CalRecycle of the financial health of the dealer cooperative and what may happen if the dealer cooperative were to experience a sudden budget shortfall.

### **SECTION 2382. DEALER COOPERATIVE OPERATION**

#### **Subsection (a)**

The purpose of this amendment is 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".

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 sections 2375.4 and 2375.6 would be considered a failure to operate and fully implement the approved plan, which becomes basis for a violation. Citing to sections 2375.4 and 2375.6 specifically is necessary because stewardship plan substantive contents and performance standards are fundamental to providing consumer convenience in accordance with SB 1013. This change provides clarity and transparency concerning what provisions are considered standards of compliance.

#### **Subsection (d)**

The purpose of this amendment is to include the word “ever” so 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 a redemption contractor or dealer cooperative.

This is necessary to avoid 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”. The five-year timeframe only applies to the revocation criteria and a permanent ineligibility applies to violations of PRC section 14597 since that section contains serious violations of fraud that warrant permanent ineligibility to operate as a redemption contractor or dealer cooperative.

#### **Subsection (g)(1)**

The purpose of this subdivision is to clarify that redemption locations operating as part of a dealer cooperative’s stewardship program do not make the unserved convenience zone served.

This is necessary so that there is no confusion that, in order for a convenience zone to be considered served, there must be a certified recycling center operating a recycling location within that convenience zone, as required by PRC section 14571(a). This is consistent with the Act’s provisions regarding dealer cooperatives’ stewardship programs under PRC section 14578(a) that predicates operation of a dealer cooperative in a convenience zone where no recycling location has been established. PRC sections 14578(b)(3) and 14578.5(c)(1) also specify that a dealer cooperative operates in an unserved convenience zone. During workshops presenting concepts and language to interested parties, CalRecycle noted a significant amount of confusion from the public as to whether the operation of a dealer cooperative in a convenience zone changes its status to “served”. This interpretation would lead to an absurd result. A dealer cooperative is only permitted to operate in an unserved convenience zone. If such operation would change the convenience zone status to served, then the primary condition allowing the dealer cooperative to operate would cease to exist. CalRecycle contends and interprets PRC sections 14578 and 14578.5 so that a dealer cooperative cannot change the status of a convenience zone to served because the dealer cooperative’s operation, by law, is only permitted in unserved convenience zones.

The purpose of the regulatory language is to add a reference to PRC section 14571(a).

This is necessary for clarity and consistency with the Act, specifically making it clear that dealer cooperatives' redemption locations do not make an unserved convenience zone "served" as that technical term is used in PRC section 14571(a) since PRC section 14571(a) contemplates a certified recycling center make a zone "served" and not a dealer cooperative.

#### **Subsection (g)(2)**

The purpose of the regulatory language is 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 is necessary to enhance clarity that dealers in an unserved convenience zone are not exempt from complying with the Act due to a dealer cooperative operating in the unserved zone where the dealer is located. If a dealer is a dealer member of a dealer cooperative that becomes fully operational, it must continue being a dealer member of the dealer cooperative or otherwise switch to another fully operational dealer cooperative or redeem containers in store. If a dealer is not a dealer member of a dealer cooperative that becomes fully operational, it must become a member of a fully operational dealer cooperative or redeem containers in store.

#### **Subsection (i)**

The purpose of this amendment is to include the term "at least" to modify the minimum amount of time required of a dealer cooperative to notify CalRecycle when the dealer cooperative dissolves or ceases operation.

This is necessary to establish a minimum notification timeline, while allowing a dealer cooperative to provide notice more than six months prior to dissolution or ceasing operations if it chooses. This clarifies that six months is the minimum amount of time required to notify CalRecycle before the dealer cooperative dissolves or ceases operation and that notification is not required to be submitted precisely six months in advance.

#### **Subsection (k)**

The purpose of this amendment is 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.

This provision is necessary to clarify that the requirement that a dealer cooperative redeem an amount equal to 80% of the containers its members sell and have the capacity to redeem an amount equal to 100% of the containers its members sell does not give the dealer cooperative the authority to refuse to redeem beverage container material types or beverage types sold by a dealer that is not a member of the cooperative. This language was moved to this section from the stewardship plan

sections because it is related to the subject matter of dealer cooperative operational requirements.

### **Subsection (l)**

The purpose of this amendment is 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 is necessary to ensure that a dealer cooperative only receives empty beverage container material from consumers, which 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 purpose of this amendment is to specify 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.

This is necessary 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 purpose of this amendment is to specify 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.

This is necessary 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. Specifically, it is necessary to specify that the dealer cooperative “shall” inspect containers before payment of the refund value rather than “may” inspect containers before payment of the refund value to make it clear that inspection is not optional

### **Subsection (m)(3)**

The purpose of this amendment is to specify 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.

This is necessary 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 purpose of this amendment is to specify 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 purpose is also to add the term “eligible” before “beverage container” in the language moved to this subsection from section 2535.

This is necessary 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. It is necessary to add the term “eligible” before “beverage container” in the language moved to this subsection from section 2535 to clarify that redemption shall only be paid on eligible empty container types.

#### **Subsection (n)(1)(B)**

The purpose of this amendment is to specify that dealer cooperative 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 included to clarify that redemption shall only be paid on eligible empty container types.

This is necessary 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. Three working days specifically is necessary as the timeframe in which an innovative method of redemption must pay

the redemption value to be consistent with PRC section 14538(d)(3)(B), which allows three days for the payment of the refund value by bag drop receptacles. Since bag drop is a type of innovative method of redemption, it is necessary to extend this allowance to pay the redemption value within three days to other types of innovative methods of redemption offered by dealer cooperatives as well to maintain consistency within the regulations.

#### **Subsection (n)(2)**

The purpose of this amendment is to specify that dealer cooperatives are subject to the requirements specified in section 2535 subsections (c) through (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.

This is necessary 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 purpose of this subdivision is to clarify that dealer cooperatives with an approved operational stewardship plan are eligible for handling fees pursuant to existing section 2516(g). This implements PRC section 14578.5(d)(1), which provides that dealer cooperatives may receive handling fees, among other payments.

This subdivision is necessary to provide consistency with section 2516(g), which provides that a dealer cooperative with an approved stewardship plan is eligible for a single handling fee payment for each beverage container redeemed as part of its stewardship program, regardless of location within an unserved convenience zone. It is necessary to include this provision within Subchapter 4.5, the subchapter specifically relating to dealers and dealer cooperatives, to put dealer cooperatives on notice that they are eligible for handling fees in the manner prescribed in existing section 2516(g). Further, this subdivision is necessary to clarify PRC section 14578.5(d)(1) as the statute uses the word “may”, and this regulation removes any uncertainty as to whether a dealer cooperative is entitled to handling fees paid by CalRecycle.

## **ARTICLE 5. ENFORCEMENT**

### **SECTION 2385. STEWARDSHIP PLAN REVOCATION; ENFORCEMENT MECHANISMS**

#### **Subsection (a)(1)**



The regulatory language has been changed to specify that failing to comply with any applicable requirement of the Act or these regulations constitutes grounds for CalRecycle to require a dealer cooperative to take corrective action.

The purpose of this change is to promote clarity by placing the regulated entity on notice that the consequence of noncompliance of a stewardship plan results in the imposition of corrective action.

#### **Subsection (a)(2), (a)(2)(A), and (a)(2)(B)**

The regulatory language has been changed to describe what can constitute a corrective action, which for purposes of these regulations is resubmission of a previously approved stewardship plan within 30 days of written notification by CalRecycle that includes corrections to address the failure or failures of the dealer cooperative to comply with the law, or additional reporting of specified information to verify compliance with any applicable provision of the Act or these regulations.

The purpose of this change is to promote clarity by placing the regulated entity on notice regarding what constitutes corrective action.

#### **Subsection (b)**

The regulatory language has been changed to specify that failing to comply with any applicable requirement of the Act or these regulations constitutes grounds for CalRecycle to partially or entirely revoke an approved stewardship plan. The purpose is also to revise the language allowing revocation of a stewardship plan to include revocation of a dealer cooperative registration number to instead require that revocation of the entirety of a previously approved stewardship plan includes revoking the dealer cooperative registration number.

The purpose of this change is to promote clarity by placing the regulated entity on notice that noncompliance in regard to a corrective action or failing to implement the approved stewardship plan results in the partial or total revocation of an approved stewardship plan. It is necessary to require that revocation of the entirety of a previously approved stewardship plan includes revoking the dealer cooperative registration number rather than making this optional to give notice to dealer cooperatives of the consequence of plan revocation. This provision is necessary to make specific PRC section 14578.5(e), which authorizes CalRecycle to revoke a dealer cooperative's registration or stewardship plan.

#### **Subsection (d)**

The purpose of the change in regulatory language replacing the term "may" with "shall" is 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 is necessary in order to reduce CalRecycle's discretion and provide certainty regarding the procedural steps associated with enforcement.

The regulation text has also been changed to delete the word “may” and replace with the word “shall” in regard to whether a failure to submit a timely hearing request is deemed a waiver of the right to a hearing.

The purpose of this amendment is to remove any ambiguity as to what happens when there is a failure to submit a timely hearing request. In that instance, the right to a hearing will be deemed as waived.

Additionally, the regulation text has been changed to add that when there is good cause for an untimely request for hearing, then the right to a hearing has not been deemed as waived.

This purpose of this amendment is to provide clarity as to what condition an untimely hearing request will not result in the right to a hearing being deemed as waived.

Additionally, the regulation text has been changed to add that a conforming request for hearing causes a hearing to be undertaken.

This change is necessary to provide clarity to dealer cooperatives that if they submit a request for hearing that complies with the requirements of the regulations, then that causes a hearing to be undertaken.

## **SECTION 2386. PENALTIES AND INTEREST CHARGES**

### **Subsection (a)**

The regulatory language has been changed to clarify what constitutes the grounds for CalRecycle to issue a Notice of Violation.

This amendment promotes clarity as the purpose of the section is to put regulated entities on notice as to the consequence of a dealer or dealer cooperative violating the regulations or PRC sections 14578 or 14578.5.

### **Subsection (a)(3)**

The purpose of this amendment is to require that if a dealer cooperative fails to respond within 30 days of receipt of a Notice of Violation, CalRecycle shall assess any civil penalty specified in the Notice of Violation. The purpose of the amendment is also to delete language authorizing the assessment of maximum penalties without a hearing when no hearing is requested.

This is necessary to require CalRecycle to assess any civil penalties identified in the Notice of Violation without a hearing when no hearing is requested in order to clarify what will occur when a timely request for hearing is not submitted. Pursuant to PRC section 14591.1(e), the amount of the civil penalty identified in the Notice of Violation is calculated based on the circumstances of the violation. Therefore, it is necessary to amend the language to enable CalRecycle to identify an appropriate penalty amount in

a Notice of Violation. Removing the maximum penalty language is necessary to give dealer cooperatives notice of the precise amount of the penalty as it is established in the Notice of Violation. Additionally, the language revision from “may” to “shall” reduces discretion and clarifies when CalRecycle will take action regarding assessing the civil penalty following a failure to respond to a Notice of Violation.

The regulation text has also been changed to delete the word “may” and replace with the word “shall” in regard to whether a failure to submit a timely hearing request is deemed a waiver of the right to a hearing.

The purpose of this amendment is to remove any ambiguity as to what happens when there is a failure to submit a timely hearing request. In that instance, the right to a hearing will be deemed as waived.

Additionally, the regulation text has been changed to add that when there is good cause for an untimely request for hearing, then the right to a hearing has not been deemed as waived.

The purpose of this amendment is to provide clarity as to the circumstances when an untimely hearing request will not result in the right to a hearing being deemed as waived.

#### **Subsection (b)**

The purpose of this amendment is to broaden the applicability of this subdivision to subject dealers that are and dealers that are not members of a dealer cooperative to the process of serving Notices of Violation to dealers.

The purpose of this amendment is to establish a consistent process to serve all dealers with Notices of Violation regardless of their participation as members in a dealer cooperative. The previous language that only subjected dealers that are not members of dealer cooperatives to the Notice of Violation process was too narrow because dealers that are members of dealer cooperatives may also violate the Act and regulations and therefore also need to be subjected to the process of serving Notices of Violation to dealers.

#### **Subsection (c)**

The purpose of this amendment is to remove the reference to CalRecycle’s authority to assess an administrative civil penalty consistent with PRC section 14591.1(a)(2) with the issuance of a Notice of Violation.

This deletion is necessary because it is unnecessary and duplicative to enact regulations regarding penalty authority that is already afforded to CalRecycle pursuant to the Act.

#### **Subsection (d)**

The purpose of this amendment is 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 also to delete language that specified that interest on penalties accrues from the date the penalty payment was due.

This is necessary 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 purpose of the change in regulatory language is 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.

This amendment is necessary to enhance clarity and correct a drafting error that made the sentence grammatically incorrect.

### **ARTICLE 3. ACCOUNTING AND REPORTING REQUIREMENTS**

#### **SECTION 2420. RECORDKEEPING**

##### **Subsection (d)(3)**

The purpose of this amendment is to revise "subsections" to "section".

It is necessary to change the plural tense to the singular because the list of sections that is enumerated has an "or" rather than an "and" before the final item in the list, and therefore it is grammatically correct to have a singular rather than plural reference to "section".

##### **Subsection (e)(1)**

The purpose of this amendment is to change a colon to a semi-colon.

This amendment is necessary to enhance clarity and correct a grammatical error. Since the other paragraphs in this subdivision end with a semi-colon, it is necessary for

consistency and grammatical correctness for this paragraph to also end with a semi-colon.

## **SECTION 2425. REPORTING**

### **Subsection (f)(3)**

The purpose of this amendment is 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”.

These amendments are necessary to use consistent and appropriate terminology to enhance clarity. This is necessary to clarify which entities specified in this provision are certified and which are registered. Because the first entity in the list has “certified” before it, “registered” must be added before dealer cooperatives to avoid any confusion about whether the adjective “certified” applies to dealer cooperatives, who are registered and not certified entities. Similarly, since “drop-off or collection programs” and “community service programs” are certified entities, this must be specified so it is clear the adjective “registered” does not apply to them.

### **Subsection (f)(5)**

The purpose of this non-substantial technical amendment is to change “item 3” to “paragraph 3” in this section of the Act.

This is necessary to maintain clarity and consistency in the proposed regulations because “paragraph (3)” is the proper and standard way to cross-reference a paragraph.

### **Subsection (h)(1)(B)(i)**

The purpose of this this non-substantial technical amendment is to include the word “subparagraph” to enhance clarity in the reference to subparagraph (A) of this subsection.

This is necessary to maintain clarity and consistency in the proposed regulations because “subparagraph (A)” is the proper and standard way to cross-reference a subparagraph.

## **SECTION 2430. PAYMENTS**

### **Subsection (a)(1)**

The purpose of the change in regulatory language is to clarify that while a processor is only required to complete the receiver's section of shipping reports for loads of material received from recycling centers, a processor is required to complete the entire shipping

report for a load of material received from a dealer cooperative. The purpose is also to add a comma after “inspect”. The purpose is also to add “or dealer cooperatives” to the clause at the end of the paragraph that precedes the subsequent paragraphs that list what a processor is required to do.

The amendments are necessary to make this provision consistent with section 2420(a), which requires processors to prepare entire shipping records for material received from dealer cooperatives. Because dealer cooperatives are a new type of recycling operator under the Beverage Container Recycling Program (BCRP), it is necessary for processors that have more experience under the program to prepare shipping reports rather than the dealer cooperatives. This will streamline the process as a single processor may prepare shipping reports for multiple dealer cooperatives, rather than each dealer cooperative preparing their own shipping report. It is necessary to add the comma after “inspect” to make it grammatically clear that both the verb “weigh” and the verb “inspect” apply to the subject of the sentence: loads of material. It is necessary to add “or dealer cooperatives” to the clause at the end of the paragraph to make it clear that the following requirements are required to be undertaken by processors for loads either from a recycling center or from a dealer cooperative.

#### **Subsection (a)(1)(A)**

The purpose of the change in regulatory language is 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.

This is necessary to clarify that processors only have to conduct this verification process for shipping reports obtained from recycling centers. This is necessary because a processor only obtains shipping reports from recycling centers and not dealer cooperatives. For dealer cooperatives, a processor does not obtain the shipping report from the dealer cooperative because it is the processor who prepares the entirety of the shipping report.

#### **Subsection (a)(1)(B)**

The purpose of the change in regulatory language is 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 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 purpose of the change in regulatory language is 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%, and if it does exceed that value, the

processor shall calculate the refund value by multiplying the received weight by the segregated rate per pound.

This is necessary to ensure equitable application of payments to both recycling centers and dealer cooperatives and to clarify how a processor calculates the refund value based on the variance between the redemption weight and received weight.

#### **Subsection (a)(1)(F)**

The purpose of this amendment is to make a non-substantial, technical change by adding “subparagraph” to “(D)”.

This is a necessary conforming change to clarify the provision being referenced using correct legal terminology because “subparagraph (D)” is the proper and standard way to cross-reference a subparagraph.

## **SUBCHAPTER 6. RECYCLING CENTERS**

### **ARTICLE 1. REQUIREMENTS FOR RECYCLING CENTERS**

#### **SECTION 2501. LOAD INSPECTION REQUIREMENTS**

##### **Subsection (a)**

The purpose of this amendment is to make a non-substantial change of replacing “Certified recycling centers” with “A certified recycling center”. This is a non-substantial change without regulatory effect.

##### **Subsection (a)(2)**

The purpose of this amendment is to remove the word “other” as it is unnecessary in the regulation text and simplifies the regulation text without the word. This is a non-substantial change without regulatory effect.

##### **Subsection (f)**

The purpose of this amendment is to make a non-substantial change from “Certified recycling centers” to “A certified recycling center”. This is a non-substantial change without regulatory effect.

### **ARTICLE 2. HANDLING FEES**

#### **SECTION 2516. ELIGIBILITY CRITERIA**

##### **Subsection (g)**

The purpose of the change in regulatory language replacing “may” with “is eligible to” is to 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 amendment is necessary to remove discretionary language and to clarify that the limit of one recycling center receiving handling fees per convenience zone specified in PRC section 14585(c) does not apply to dealer cooperatives. Replacing “may” with “is eligible to” increases clarity by removing any doubt as to whether more than one dealer cooperative is eligible to receive handling fees in a convenience zone.

## **SECTION 2518. CALCULATIONS AND PAYMENTS**

### **Subsection (b)(2)**

The purpose of the amendment is to make the non-substantial, technical change of removing the expanded reference language that includes “of Article 3 of Subchapter 6” from section 2530.

This is necessary to remove unnecessary language and standardize the cross-reference format within the regulatory text. This is necessary for consistency and clarity.

## **ARTICLE 3. ACCOUNTING AND REPORTING REQUIREMENTS**

### **SECTION 2530. REPORTING**

#### **Subsection (a)(3)**

The purpose of this amendment is to add a dealer cooperative as an entity for which recycling centers must prepare a shipping report when a delivery is made to a recycling center from a dealer cooperative.

This is necessary to ensure that proper program payments are made to the recycling center for containers received from any source, including dealer cooperatives. Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary for recycling centers that have more experience under the program to prepare shipping reports rather than the dealer cooperatives. Also, recycling centers are currently mandated to prepare and submit these types of reports for all other entities from which they receive beverage containers, therefore adding dealer cooperatives is necessary to ensure this requirement is applied consistently among all entities delivering beverage containers to recycling centers.

#### **Subsection (b)**

The purpose of this amendment is to add the term “paragraph” as a non-substantial technical amendment when referencing paragraph (1) in subsection (b).



Adding the term “paragraph” is necessary to maintain clarity and consistency of references in the proposed regulations because “paragraph (1)” is the proper and standard way to cross-reference a paragraph.

## **LOCAL MANDATE DETERMINATION**

CalRecycle has determined that this regulatory action will not result in a mandate to any local agency or school district the costs of which are reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

## **CONSIDERATION OF ALTERNATIVES**

For the reasons set forth in the ISOR, in CalRecycle’s summary and response to public comments, and in this Final Statement of Reasons (FSOR), CalRecycle has determined that no alternative considered by CalRecycle would be more effective in carrying out the purpose for which the regulatory action was proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy than the action proposed by CalRecycle.

Despite not being the most cost-effective to affected private persons, CalRecycle is selecting the proposed regulation over alternatives (as described in the STD 399 form) based on public comments received and what constitutes “comparable or sufficient” recycling opportunities under the Act.

The proposed regulations include a registration process for dealers, application and registration process for dealer cooperatives, the process for updating information after registration as needed, and other regulations for the implementation and enforcement of the dealer cooperative program. The proposed regulations are not the most cost-effective means of accomplishing convenience for consumers that are comparable to subdivision (a) of PRC section 14571; however, CalRecycle is statutorily mandated to adopt regulations pursuant to PRC section 14578.5(b).

Alternative 1 is more cost effective than the proposed regulations but does not accomplish the goal of the regulations of providing consumer convenience that is comparable to other sections of the Act, as evidenced in public comments received during the 45-day comment period. Alternative 1 requires one innovative method of redemption per zone and removes the provisions of section 2375.4(f)(4) and (6). This alternative would neither lessen nor increase any impact on small businesses.

Alternative 2 is less cost effective than the proposed regulations and does not accomplish the goal of the regulations of increasing redemption of CRV beverage containers and therefore increasing the success of the program to provide accessible redemption opportunities for consumers across California. Instead, the alternative removes requirements for dealer cooperatives to engage in outreach and education to maximize consumer participation in the stewardship program. Without the education

and outreach to consumers, CalRecycle expects that fewer CRV beverage containers would be redeemed, therefore reducing the success of the program to provide accessible redemption opportunities for consumers. This alternative would neither lessen nor increase any impact on small businesses.

### **Statement Regarding Small Business Alternatives**

No alternatives were considered by CalRecycle nor otherwise identified and brought to CalRecycle's attention that would lessen any adverse economic impact on small business, pursuant to Government Code section 11346.9(a)(5).

The proposed regulations require all dealers in convenience zones across the state to submit an initial registration to CalRecycle and to confirm their registration information on an annual basis, but small business dealers would otherwise not be subjected to the majority of the fiscal impact of the proposed regulations. Government Code section 11342.610 defines a "small business" as a retail trade that is independently owned and operated, not dominant in its field, and does not exceed annual gross receipts of \$2,000,000. The Act exempts a dealer from either requirement outlined in PRC section 14578(a) if its gross annual sales are less than \$1.5 million, excluding fuel sales, or if the dealer is less than 5,000 square feet (PRC section 14578(b)(1) and (2)). Therefore, the impact on small businesses is minimal since most small businesses are exempt from these proposed dealer cooperative or in-store redemption requirements.

### **INCORPORATION BY REFERENCE**

The Notice of Proposed Action listed the below document as incorporated by reference. This document has since been removed from the regulation text as noticed in the 15-Day notice communicated on August 19, 2024.

- 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/files/2023\\_FASAB\\_Handbook.pdf](https://files.fasab.gov/pdf/files/2023_FASAB_Handbook.pdf) (accessed January 25, 2024).

The document below was also listed in the Notice of Proposed Action and remains incorporated by reference.

- The entirety of the Web Content Accessibility Guidelines (WCAG) 2.0 published in 2008 by the World Wide Web Consortium, which can be accessed here: <https://www.w3.org/TR/WCAG20/> (accessed January 25, 2024).

The publication of this incorporated document in full in the California Code of Regulations would be cumbersome, unduly expensive, or otherwise impractical

because it is available online, as specified in the Notice of Proposed Action, dated March 15, 2024, and in print would be approximately 30 pages of text.

## **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD**

### **Summary of Comments Received**

Written comments were received by CalRecycle during the 45-day comment period which began on March 15, 2024, and ended on April 30, 2024. Written and oral comments were additionally received at a hybrid public hearing on April 30, 2024.

The comments received during the 45-day public comment period and public hearing are displayed on the attached 45-Day Comment Period Matrix, which shows the corresponding comment code, the CCR section that the comment is in reference to (if applicable), the commenter's name, their organization, and CalRecycle's response to the comment. Please refer to the 45-Day Comment Period Matrix for the list of 314 total comments received during the 45-day public comment period and public hearing. Please note that 13 of the 314 total comments received contain the full comment submissions that were broken down and responded to as discrete comments. Thus, I-3-1, I-4-1, C-2-1, C-3-1, C-4-1, C-7-1, O-1-1, O-2-1, O-3-1, O-4-1, O-5-1, O-6-1, and O-7-1, do not have corresponding responses in the comment matrix, as the content of each submission was responded to starting with comment codes I-3-2, I-4-2, C-2-1, etc. The 45-Day Comment Period Matrix contains a key of comment codes of all 314 comments. In both this FSOR and the 45-Day Comment Period Matrix, I = a comment from an Individual, C = a comment from a Company, and O = a comment from an Organization.

CalRecycle has sorted the total 314 comments into the following 17 categories of comments with specified subcategories based upon the underlying regulatory concepts that the comments relate to, along with the corresponding page number in this FSOR:

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## **CalRecycle’s Response to 45-Day Comments Received**

CalRecycle would like to express its appreciation to the numerous organizations, companies, and individuals that participated in the 45-day public comment period and public hearing. CalRecycle concluded that changes were necessary to the originally noticed regulations. The updates to the proposed regulations were noticed in a 15-day comment period, which lasted from August 19 through September 3, 2024. The changes are summarized below and in the purpose and necessity section of this FSOR.

The 45-Day Comment Period Matrix that includes CalRecycle’s responses is posted on the [SB 1013 Dealer Registration and Dealer Cooperatives Permanent Regulations website](#), and is incorporated by reference. The original comment letters received during the 45-day public comment period are available for public inspection during normal business hours at 1001 I Street, 24<sup>th</sup> Floor, Sacramento, CA 95814. To schedule a time to inspect these documents, please contact Csilla Richmond at [regulations@calrecycle.ca.gov](mailto:regulations@calrecycle.ca.gov).

## **1. Comments in Support**

CalRecycle received general support from four organizations and interested parties. The following 15 comments support the objectives and goals of the SB 1013 Dealer Registration and Dealer Cooperatives Permanent Rulemaking:

*Comment Codes I-3-44, I-7-1, O-6-2, O-6-9, O-6-11, O-6-18, O-8-8, O-8-9, O-8-13, C-7-2, C-7-5, C-7-6, C-7-10, and C-7-12.*

**CalRecycle’s response to all comments in support:** CalRecycle thanks these commenters for their participation in the 45-day public comment period. No changes

were made to the proposed regulations as these comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

## 2. Lack of Authority

CalRecycle received 53 comments that expressed concerns on CalRecycle's legal authority to impose prescribed requirements in regulation. These comments cover multiple sections of the proposed regulations, including definitions, stewardship plan contents, and dealer cooperative operation and performance standards. These comments and CalRecycle's responses are summarized below under their respective subcategory.

### 2.1 Regulations Are Not Authorized or Defined in Statute

#### *CalRecycle Response 1: Remove Proposed Sections or Provisions of Dealer Cooperative Regulation Text*

*Comment Codes* I-3-13, I-3-26, I-3-27, I-3-42, I-7-2, C-3-16, C-3-23, C-3-24, C-3-38, C-3-39, C-3-44, C-3-45, C-3-46, C-3-49, C-3-55, C-3-56, C-3-63, C-3-66, C-3-67, C-3-68, C-3-69, C-3-73, C-3-75, C-3-76, C-3-77, C-3-78, C-3-79, C-3-80, C-3-83, C-3-84, C-3-89, C-3-90, and C-3-91.

**Comment:** CalRecycle received 33 comments expressing concern with an overreach of CalRecycle's authority throughout the regulations. The comments generally suggested the removal of the sections or provisions on the basis that they were overburdensome, unnecessary, and unauthorized.

**Response:** CalRecycle rejects these comments. Imposing requirements or definitions in regulation that are not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements and definitions through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. These provisions are reasonable and do not conflict with or contradict any statutory provision within the Act.

#### *CalRecycle Response 2: Remove Dealer Redemption Requirements*

*Comment Code* C-7-7.

**Comment:** CalRecycle received one comment suggesting section 2373 Dealer Redemption Requirements be deleted on the basis that they are not defined in statute.

**Response:** CalRecycle rejects this comment. This comment requests a change in the regulations that is not consistent with statute. Dealer redemption requirements are

necessary to clarify that the statutory burden to redeem in-store when the dealer is in an unserved convenience zone applies when the non-exempt dealer is not a member of a dealer cooperative, the dealer cooperative is not fully operational with an approved plan, or the dealer cooperative registration has been revoked. The adoption of regulations regarding a dealer cooperative's redemption plan is required pursuant to PRC section 14578.5.

#### *CalRecycle Response 3: Remove Budget Information Requirements*

*Comment Code C-3-61.*

**Comment:** CalRecycle received one comment expressing concern over requiring dealer cooperative budget information in the stewardship plan. The comment states that CalRecycle does not have the statutory authority to request this information which could potentially be used for enforcement on financial violations outside of the dealer cooperatives' control.

**Response:** CalRecycle accepts this comment in part. Based on feedback from interested parties, compliance with budget information was removed as a basis for revocation of a stewardship plan. CalRecycle rejects the comment in part because proposing requirements not set out in statute do not violate the Administrative Procedure Act's standard of consistency and creating requirements through regulation is part of the rulemaking process. These requirements are necessary to assess whether a dealer cooperative can provide consumer convenience, and they do not conflict or contradict with any statutory provision within the Act.

#### *CalRecycle Response 4: Reporting Requirements*

*Comment Codes I-3-46, O-4-15, and C-3-74.*

**Comment:** CalRecycle received three comments expressing concern over the reporting requirements featured in sections 2381 and 2385 being unnecessary and not authorized in statute.

**Response:** CalRecycle rejects these comments. PRC section 14578.5(c)(6) establishes statutory authority to CalRecycle to require reports of any relevant information from dealer cooperatives in the form and manner that CalRecycle may prescribe. The reporting requirement information and frequency are necessary to ensure that CalRecycle can determine dealer cooperative compliance.

#### *CalRecycle Response 5: Remove Stewardship Plan Substantive Contents*

*Comment Code I-3-31.*

**Comment:** CalRecycle received one comment suggesting section 2375.1 Stewardship Plan Substantive Contents be deleted on the basis that they lack authority.

**Response:** CalRecycle rejects this comment. The provisions outlining the content requirements for dealer cooperative stewardship plans are necessary to fulfill the requirements of the Act. The stewardship plan content requirements are necessary to identify the scope of the dealer cooperative programs, establish baseline performance standards, and to comply with PRC section 14578.5(c)(1).

*CalRecycle Response 6: Remove Wait Time Performance Standard*

*Comment Code C-3-57.*

**Comment:** CalRecycle received one comment expressing concern over the performance standard of wait times on the basis that this requirement lacks authority, is burdensome, and not comparable to the requirements of other program entities.

**Response:** CalRecycle rejects this comment. Wait times are an important indicator of consumer convenience for beverage container redemption. Therefore, it is reasonable and necessary for a dealer cooperative to include in its stewardship plan a performance standard that it sets for itself for consumer wait times.

## **2.2 Changes to Regulatory Text Based on Comments**

*CalRecycle Response 7: Accepted Changes to Regulatory Text*

*Comment Codes C-3-47, C-3-65, and C-3-93.*

**Comment:** CalRecycle received three comments requesting the deletion or change to provisions on the basis that they are over burdensome and unauthorized by statute.

**Response:** CalRecycle accepts these comments. For comments C-3-47 and C-3-93, based on interested party feedback, CalRecycle agrees that clarification is needed and deleted the provision from the proposed regulatory text. For comment C-3-65, CalRecycle deleted the phrase “sole discretion” and changed the language to require CalRecycle to approve a stewardship plan if the stewardship plan meets all applicable requirements of the Act and this chapter.

## **2.3 Informal Hearings**

*CalRecycle Response 8: Informal vs. Formal Enforcement Hearings*

*Comment Codes I-3-41, I-3-49, I-3-51, and I-7-6.*

**Comment:** CalRecycle received four comments expressing concern over the informal hearing procedure pursuant to Gov. Code section 11415.10. These comments suggested that the process be changed to the formal hearing procedure pursuant to Gov. Code section 11500 on the basis that the informal hearings are not authorized in statute and would create a disadvantage for dealer cooperatives.



**Response:** CalRecycle rejects these comments. Gov. Code section 11415.10 authorizes CalRecycle to conduct enforcement actions taken under the proposed regulations as informal hearings under the Administrative Procedure Act set forth in Article 10 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Gov. Code. Informal hearings allow efficient resolution of enforcement actions informally within CalRecycle, rather than requiring all enforcement actions to be heard before the Office of Administrative Hearings as formal hearings. Timely hearings and solutions are necessary for successful stewardship plans and public convenience to redeem beverage containers. For comment 1-3-51, CalRecycle clarifies that the use of formal hearings would be employed for civil penalties that exceed the dollar amount specified in PRC section 14591.1(a)(2).

## **2.4 Dealer Cooperatives in Served Convenience Zones**

### *CalRecycle Response 9: Limiting Dealer Cooperatives to Unserved Zones*

*Comment Code C-3-41.*

**Comment:** CalRecycle received one comment expressing concern over the limitation of dealer cooperative redemption locations to within unserved convenience zones. The comment states that the Act does not prohibit dealer cooperatives from operating in served convenience zones.

**Response:** CalRecycle rejects this comment. PRC section 14578(a) and (b)(3), and PRC section 14578.5(c)(1) and (d)(1) limit the operation of dealer cooperatives to unserved convenience zones. The purpose of SB 1013 is to increase consumer convenience and access to CRV redemption, which is best accomplished by providing redemption opportunities to the communities that currently have no options.

### *CalRecycle Response 10: Program Payments to Dealer Cooperatives in Served Zones*

*Comment Code C-3-43.*

**Comment:** CalRecycle received one comment stating that CalRecycle has the authority to offer payments and processing fees to dealer cooperatives under PRC section 14501(f) and failed to reference the section of the Act that gives CalRecycle authority to limit dealer cooperative operation to unserved convenience zones.

**Response:** CalRecycle rejects this comment. For every regulation section proposed in this rulemaking, CalRecycle has listed authority sections of the PRC that grant CalRecycle the power to promulgate these regulations.

CalRecycle does not have the statutory authority to allow dealer cooperatives to receive program payments for beverage containers redeemed in served convenience zones. The operation of dealer cooperatives is limited to unserved convenience zones under PRC sections 14578 and 14578.5, with PRC section 14578.5(d)(1) stating that a dealer

cooperative is only eligible for program payments if no recycling center operates in the same convenience zone. PRC section 14501(f), which is only a broad finding and declaration about the purpose of the Act being to establish profitable and convenient recycling opportunities, does not supersede the explicit provisions of PRC sections 14578 and 14578.5. Therefore, CalRecycle does not have the authority to make program payments to dealer cooperatives in served zones.

## **2.5 Stewardship Plan Approval and Updates**

### *CalRecycle Response 11: Approval of Stewardship Plans*

*Comment Code C-3-62.*

**Comment:** CalRecycle received one comment suggesting changes to section 2376 that would prioritize approval of stewardship plans on the basis that the Act “requires” CalRecycle to approve stewardship plans, and that the regulations are an overreach of the Act.

**Response:** CalRecycle rejects this comment, which misinterprets the words “shall be approved” in PRC section 14578(a)(2) as requiring mandatory approval by CalRecycle. The phrase “shall be approved” refers to the obligations a dealer cooperative must meet to comply with that section. Requiring CalRecycle to approve all stewardship plans, regardless of whether a stewardship plan met the requirements in SB 1013, would not further the goals or requirements of SB 1013.

### *CalRecycle Response 12: Stewardship Plan Updates*

*Comment Code C-3-70.*

**Comment:** CalRecycle received one comment expressing concern over the notification requirements for stewardship plan updates. The comment suggests that updates should only inform changes that occurred to the plan and not be preemptive notifications of proposed changes.

**Response:** CalRecycle rejects this comment. CalRecycle shall review and approve or disapprove the updated stewardship plan. It is unreasonable for stewardship plan changes to go into effect without CalRecycle review and approval because this could lead to a dealer cooperative operating unlawfully out of compliance with SB 1013, and contrary to PRC section 14578(a)(2), which states that a dealer cooperative must have an approved and operational plan in order to be in compliance with the law.

## **2.6 Misuse of “Innovative Method of Redemption” and Contract Operator Eligibility**

### *CalRecycle Response 13: Innovative Method of Redemption*

*Comment Code C-3-21.*

**Comment:** CalRecycle received one comment expressing concern about the definition of “innovative method of redemption” on the basis that the term is being misused.

**Response:** CalRecycle accepts the commenter's suggestion in part and is deleting the requirement that each dealer cooperative have a minimum of one “innovative method of redemption”. However, the suggestion to remove the definition entirely is rejected because it is necessary to establish the different types of redemption methods available to dealer cooperatives, and to allow payments, delayed up to three business days, to consumers for these methods of redemption.

*CalRecycle Response 14: Redemption Contractor Operator Eligibility Requirements*

*Comment Code C-3-88.*

**Comment:** CalRecycle received one comment expressing concerns about placing the responsibility of verifying compliance history of potential operators on the dealer cooperative; and to address this, the commenter recommends deleting the provision in its entirety and instead relying on the procedure for CalRecycle to review the certification history of the operator and verify operation standards pursuant to section 2030.

**Response:** CalRecycle rejects this comment. This provision provides specific operation standards unique to dealer cooperatives, a new beverage container recycling entity, and is necessary to prevent fraud within the BCRP. Section 2030 includes procedures for CalRecycle to review recycling center applications based on PRC section 14538. Making dealer cooperative operation provisions the same as recycling center provisions is contrary to the Act's separate treatment of the two distinct recycling entities. There is no statutory or regulatory procedure for redemption contractor or operator certification for CalRecycle to implement; therefore, the responsibility of ensuring these contractors are individuals without prior fraudulent history with the BCRP must be placed on dealer cooperatives. It is also in the best interest of the dealer cooperative to vet these individuals to protect their dealer members and ensure the stewardship program operates in compliance with the Act and regulations.

### 3. Comparable and Sufficient

CalRecycle received 74 comments related to comparable and sufficient consumer convenience. These comments addressed topics including regulations of dealer cooperatives being comparable to recycling centers and processors and other program participants, as well as regulations regarding in-store redemption and reverse vending machines being comparable to other program participants. Additionally, comments addressed operating hours of redemption locations, consumer convenience, and

limitations of innovative methods of redemption. These comments and CalRecycle's responses are summarized below under their respective subcategory.

### **3.1 Comparable and Sufficient Consumer Convenience**

#### **3.1.1 Comparable to Certified Recycling Centers and Processors**

##### *CalRecycle Response 15: Dealer Cooperatives Will Not be Certified as Recycling Centers*

*Comment Codes I-3-6 and I-3-33.*

**Comment:** CalRecycle received two comments expressing concern or requesting that dealer cooperatives be certified and issued a certification number like recycling centers.

**Response:** CalRecycle rejects these comments. To the extent that dealer cooperatives will offer empty beverage container redemption for consumers similar to recycling centers, CalRecycle will register dealer cooperatives with a registration number and not a certification like recycling centers. Additionally, PRC section 14578.5(b)(1) requires that the regulations include a registration process for dealer cooperatives. Making dealer cooperative operation provisions the same as recycling center provisions is not necessary and is contrary to the intent of SB 1013 and this statutory provision.

##### *CalRecycle Response 16: Dealer Cooperatives Will Not Act as Certified Recycling Centers*

*Comment Code I-3-7.*

**Comment:** CalRecycle received one comment expressing confusion on whether dealer cooperatives will operate and receive payment as certified recycling centers.

**Response:** CalRecycle accepts this comment in part. To resolve any confusion expressed by this comment, CalRecycle has made changes in the paragraph addressed to clarify that dealer cooperatives are registered entities. However, CalRecycle rejects in part this comment to the extent that it recommends having dealer cooperatives be certified and paid as if they were recycling centers. Both recycling centers and dealer cooperatives are distinct categories of entities in statute and the treatment of dealer cooperatives in these regulations is consistent with statute.

##### *CalRecycle Response 17: Dealer Cooperative Redemption Locations Do Not Need Individual Registration Numbers*

*Comment Codes I-3-15, I-4-4, and I-8-5.*

**Comment:** CalRecycle received three comments requesting that redemption locations operating as part of a dealer cooperative stewardship plan should have a certification or registration number.

**Response:** CalRecycle rejects these comments. A dealer cooperative is issued a registration number by CalRecycle when its stewardship plan is approved, and it is this dealer cooperative registration number that the redemption site or redemption location operates under rather than being issued its own registration or certification number.

#### *CalRecycle Response 18: Record Legibility*

##### *Comment Code I-3-35.*

**Comment:** CalRecycle received one comment expressing concern regarding the provision that records of dealer cooperatives be legible and comparing it to a similar provision for recycling centers.

**Response:** CalRecycle rejects this comment. With regard to record legibility, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

#### *CalRecycle Response 19: Recordkeeping and Auditing*

##### *Comment Code I-3-36.*

**Comment:** CalRecycle received one comment comparing recordkeeping and auditing provisions for dealer cooperatives to similar provisions for recycling centers. This comment also asserts that CalRecycle does not have the authority to impose the recordkeeping provisions written in the regulatory text.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. This regulatory provision, section 2380(e), is designed to aid the statutory objective of fraud prevention. The provision is reasonable because PRC section 14578.5(f) requires that CalRecycle audit each dealer cooperative at least once every 24 months to ensure that proper program payments are made to consumers and dealer cooperative fees are being utilized for the operation of the approved redemption model. Therefore, records must be suitable for examination. This provision does not conflict with or contradict any statutory provision within the Act.

#### *CalRecycle Response 20: Dealer Cooperative Recordkeeping Requirements Do Not Exceed That of Recycling Centers*

*Comment Codes I-3-37 and I-7-3.*

**Comment:** CalRecycle received two comments that the provisions for recordkeeping and availability of records are more excessive for dealer cooperatives than for recycling centers.

**Response:** CalRecycle rejects these comments. The immediate access to or transfer of original records is necessary to facilitate auditing and to prevent fraud. PRC section 14578.5(f) requires that CalRecycle shall audit each dealer cooperative at least once every 24 months to ensure that proper program payments are made to consumers and dealer cooperative fees are being utilized for the operation of the approved redemption model, and this auditing requirement necessitates the transfer of original records. Making dealer cooperative records provisions identical to recycling center records provisions is not necessary and is contrary to the intent of SB 1013, which establishes distinct requirements for dealer cooperatives as a new recycling entity.

*CalRecycle Response 21: Dealer Cooperative Provisions Are Not Duplicative of Recycling Center Provisions*

*Comment Codes I-3-38 and I-3-39.*

**Comment:** CalRecycle received two comments requesting that dealer cooperative provisions duplicate provisions for recycling centers. Comment I-3-38 requested reporting provisions for dealer cooperatives to duplicate section 2530, which outlines the reporting requirements of recycling centers. Comment I-3-39 requested provisions for dealer cooperatives to duplicate section 2500, which outlines operation standards of recycling centers.

**Response:** CalRecycle rejects these comments. The provisions in section 2381 provide specific operation standards unique to this new beverage container recycling entity and are necessary to increase consumer awareness and provide flexibility of standards for dealer members to comply with their legal obligations. Making dealer cooperative operation provisions the same as recycling center provisions in section 2500 or section 2530 is not necessary and is contrary to PRC section 14578.5(c)(6).

*CalRecycle Response 22: Dealer Cooperative Redemption Location Provisions Are Comparable to Recycling Center Provision*

*Comment Code C-3-85.*

**Comment:** CalRecycle received one comment requesting that dealer cooperative provisions for redemption locations be comparable to section 2500, which outlines the operation standards for recycling centers.

**Response:** CalRecycle accepts this comment. The following changes have been made: the previous stewardship plan contents have been divided into four separate sections, including 2375.2 Stewardship Plan Informational Contents, 2375.4 Stewardship Plan

Substantive Contents, 2375.6 Stewardship Plan Performance Standards, and 2375.8 Stewardship Plan Budget. This provision has been revised to reflect a narrower scope of required compliance with the stewardship plan.

*CalRecycle Response 23: Dealer Cooperative vs. Recycling Center Scrap Material Provisions*

*Comment Codes C-3-87 and C-3-92.*

**Comment:** CalRecycle received two comments suggesting that CalRecycle change the requirements to separate scrap material from program material or not accept scrap material to be consistent with handling of scrap material requirements for recycling centers.

**Response:** CalRecycle rejects these comments. This provision provides specific operation standards unique to this new beverage container recycling entity and is necessary to prevent fraud by accidental and intentional redemption of ineligible material. Additionally, dealer cooperatives being able to reject ineligible material and barring them from paying any refund value for ineligible material is necessary to achieve the statutory mandate of preventing beverage container recycling fraud and increasing redemption convenience for consumers.

*CalRecycle Response 24: Dealer Cooperative vs. Recycling Center Quarterly Reporting Provisions*

*Comment Code O-7-3.*

**Comment:** CalRecycle received one comment expressing concern regarding quarterly reporting requirements for dealer cooperatives, comparing this requirement to recycling centers which do not require quarterly reports.

**Response:** CalRecycle rejects this comment. PRC section 14578.5(c)(6) explicitly authorizes CalRecycle to require reports from dealer cooperatives in the form and manner that CalRecycle may prescribe. Quarterly reports are reasonable because they balance the need for CalRecycle to obtain information on the performance of the stewardship plan without overburdening dealer cooperatives. Dealer cooperatives are a separate recycling entity, and thus making dealer cooperative provisions the same as recycling center provisions is contrary to SB 1013, which establishes dealer cooperatives as a distinct recycling entity.

*CalRecycle Response 25: Dealer Cooperative Enforcement Provisions are Not Duplicative of Recycling Centers*

*Comment Codes I-3-40, I-3-47, and I-3-50.*

**Comment:** CalRecycle received three comments requesting that enforcement provisions for dealer cooperatives duplicate recycling center and processor provisions.

Comment I-3-50 addresses enforcement provisions in general, while comments I-3-40 and I-3-47 specifically request that the revocation of a stewardship plan duplicate revocation provisions of certified recycling centers.

**Response:** CalRecycle rejects these comments. Dealer cooperative enforcement provisions are necessary to provide specific enforcement standards unique to this new BCRP entity. CalRecycle disagrees that the criteria for revocation of a stewardship plan needs to be the same as certified recycling centers because these criteria are designed for dealer cooperatives, a separate and unique BCRP entity.

*CalRecycle Response 26: Dealer Cooperative Shipping Reports Will be Prepared by Processors*

*Comment Code I-3-52.*

**Comment:** CalRecycle received one comment requesting that accounting and reporting requirements for dealer cooperatives be the same as for certified recycling centers, specifically making the preparation of shipping reports the responsibility of the dealer cooperative.

**Response:** CalRecycle rejects this comment. Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary for processors that have more experience under the program to prepare shipping reports rather than the dealer cooperatives. This will streamline the process as a single processor may prepare shipping reports for multiple dealer cooperatives, rather than each dealer cooperative preparing their own shipping report.

*CalRecycle Response 27: Dealer Cooperatives are Not the Same Entity as Recycling Centers*

*Comment Codes I-3-62, I-3-63, and I-3-64.*

**Comment:** CalRecycle received three comments that dealer cooperative provisions were unnecessary, and it would be better for dealer cooperatives to be treated as certified recycling centers. Comments I-3-62 and I-3-63 addressed handling fee appeals and comment I-3-64 addressed reporting requirements.

**Response:** CalRecycle rejects these comments. Dealer cooperatives are a separate recycling entity, and thus making dealer cooperative provisions the same as recycling center provisions is contrary to SB 1013, which establishes dealer cooperatives as a distinct recycling entity.

*CalRecycle Response 28: Make Dealer Cooperative Operation Provisions the Same as Recycling Center Provisions*

*Comment Code I-3-66.*



**Comment:** CalRecycle received one comment stating in general that dealer cooperatives provisions should be consistent with existing recycler regulations.

**Response:** CalRecycle rejects this comment. No response is required because the comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. Dealer cooperatives are a separate recycling entity, and thus making dealer cooperative operation provisions the same as recycling center provisions is contrary to SB 1013, which establishes dealer cooperatives as a distinct entity from recycling centers.

### **3.1.2 In-Store Dealers Comparable to Other Program Participants**

#### *CalRecycle Response 29: Additional Requirements for In-store Dealers*

*Comment Codes I-4-7, O-1-2, O-1-3, C-2-2, C-3-27, C-3-28, C-3-29, C-3-30, C-3-32, C-3-33, C-3-34, C-3-35, C-3-36, and C-3-37.*

**Comment:** CalRecycle received 14 comments requesting additional requirements for non-member dealers who redeem in-store on the basis that the requirements for all dealers should be comparable regardless of whether they join a dealer cooperative.

**Response:** CalRecycle rejects these comments. PRC section 14578 gives dealers the option of either redeeming in store or joining a dealer cooperative and section 14578(a)(1) describes the requirements for dealers who choose to redeem in store. Dealers who redeem in store are ineligible for program payments and therefore do not have the same requirements as dealer cooperatives. Imposing the same requirements for dealers who redeem in store as those applicable to dealer cooperatives would be inconsistent with the statutes being implemented by these regulations. Further regulation on how dealers comply with their statutory duties is not supported by any evidence of need.

#### *CalRecycle Response 30: Additional Enforcement for Dealer Registration and In-store Redemption Dealers*

*Comment Codes O-1-4, O-2-2, C-3-6, I-4-6, I-8-2, and I-8-3.*

**Comment:** CalRecycle received six comments requesting additional requirements and stronger enforcement mechanisms for non-member dealers who redeem in-store and for dealers who do not register. This is on the basis that these entities require the same level of redemption requirements and compliance enforcement as dealer cooperative member dealers.

**Response:** CalRecycle rejects these comments. Enforcement of noncompliant dealers, including the registration of dealers, is thoroughly addressed in section 2386 of the proposed regulations. For comments I-8-2 and I-8-3, section 2371(a) establishes timelines for dealers in convenience zones to register with CalRecycle.

*CalRecycle Response 31: Additional Recordkeeping Requirements for In-store Redemption Dealers*

*Comment Codes O-2-3 and O-2-4.*

**Comment:** CalRecycle received two comments requesting additional recordkeeping requirements for non-member dealers who redeem in-store on the basis that these entities require the same level of auditing and compliance enforcement as dealer cooperative member dealers.

**Response:** CalRecycle rejects these comments. PRC section 14578(a)(1) describes the requirements for dealers who choose to redeem in store and are ineligible for program payments. Imposing the same standards set for dealer cooperatives would create inequitable and burdensome requirements for an entity that does not participate in the BCRP like a recycling center, processor, or dealer cooperative would. The scope of this rulemaking is limited to dealer registration and dealer cooperative operations, stewardship plan, and enforcement.

*CalRecycle Response 32: Insufficient Performance Standards, Enforcement, and Redemption Access Requirements*

*Comment Code C-2-8.*

**Comment:** CalRecycle received one comment suggesting changing the performance standard of a redemption capacity of an amount equal to 100% of beverage containers sold to 80% of beverage containers sold on the basis that this number allows flexibility while still meeting the goals of the Act. The comment also expresses concern that this performance standard is not applied to in-store redemption dealers.

**Response:** CalRecycle rejects this comment. Dealers redeeming individually under PRC section 14578(a)(1) do not have the benefit of a limit to the number of containers they must accept. The 100% threshold is necessary to ensure that the redemption infrastructure is adequately scaled to meet consumer demand and further reducing this number from 100% to 80% of the containers sold by the dealer members would diminish the ability of consumers to redeem beverage containers. To meet the statutory goal established in PRC section 14501(c), dealer cooperatives are required to have an 80% redemption rate which accounts for the reality of beverage redemption efficiency and establishes comparable consumer convenience.

*Comment Code C-3-14.*

**Comment:** CalRecycle received one comment suggesting adding a requirement for dealer cooperatives and in-store redemption dealers to limit their redemption locations to the front of the store. The comment expressed concern that redemption access would be limited if the signage and redemption location were not visible enough at the back of the store.

**Response:** CalRecycle accepts this comment. Based on interested party feedback, CalRecycle agrees that clarification is needed regarding the visibility of signage for dealer members. CalRecycle added a provision requiring specified signage at the front of each dealer member store.

*Comment Code I-4-2.*

**Comment:** CalRecycle received one comment expressing concern that the current requirements and enforcement mechanisms for dealer cooperatives are not sufficient to meet the statutory goal of an 80% redemption rate.

**Response:** CalRecycle rejects this comment. This comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

### **3.1.3 Reverse Vending Machines Comparable to Other Program Participants**

*CalRecycle Response 33: Definition of Operation Categories*

*Comment Code I-3-2.*

**Comment:** CalRecycle received one comment expressing concern with the definition of “categories of operation”. The commenter is concerned that this definition excludes reverse vending machines which previously had its own classification.

**Response:** CalRecycle rejects this comment. The definition for “categories” identifies examples of certified or registered entities operating within the BCRP. Such “categories of operation” may utilize reverse vending machines, but reverse vending machines are not a certified or registered entity in and of themselves therefore CalRecycle cannot define “reverse vending machines” as a “category of operation”. Reverse vending machines are established in proposed section 2370 as an innovative method of redemption.

*CalRecycle Response 34: Reverse Vending Machines as a Certified Entity*

*Comment Code I-3-4.*

**Comment:** CalRecycle received one comment expressing concern over the technological capabilities of reverse vending machines and suggests that “reverse vending machines” should be included in the definition for “operator”.

**Response:** CalRecycle rejects this comment. Regarding recycling center and reverse vending machine technology for visual inspection of qualifying empty beverage containers, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. The definition of “operator” defines the person who is responsible for the operation of entities, facilities, and programs that can be registered or certified by CalRecycle. Because CalRecycle

does not have authority to certify or register reverse vending machines, the inclusion of “reverse vending machine” in the definition of “operator” would be inconsistent with the duties and authority of CalRecycle.

*CalRecycle Response 35: Definition of Innovative Method of Redemption*

*Comment Code O-4-10.*

**Comment:** CalRecycle received one comment suggesting the removal of the provision requiring at least one innovative method of redemption per convenience zone on the basis that reverse vending machines do not provide comparable convenience to recycling centers.

**Response:** CalRecycle accepts this comment. Based on interested party feedback, CalRecycle agrees that clarification is needed regarding the minimum requirement of one innovative redemption method and allowing redemption limits. CalRecycle has deleted the provision in section 2375.1(b)(6) and added a provision allowing the establishment of daily redemption limits with at least one location in each convenience zone accepting all material types operating a minimum of 10 hours per week.

### **3.1.4 Comparable to Other Program Participants**

*CalRecycle Response 36: Stewardship Plan Contents (General)*

*Comment Code C-3-7.*

**Comment:** CalRecycle received one comment that the stewardship plan content provisions for dealer cooperatives are excessive and not required by other program participants.

**Response:** CalRecycle rejects this comment. No response is required because the comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. SB 1013 specifically added dealer cooperatives as a new recycling entity to the BCRP to bolster recycling rates, create more opportunities for consumer redemption, and provide access to redemption for all consumers. The incentive for a dealer in an unserved convenience zone to form a dealer cooperative rather than to redeem in store is that a dealer cooperative is eligible for program payments for redeemed containers, whereas a dealer redeeming in store under PRC section 14578(a)(1) is not.

*CalRecycle Response 37: Stewardship Plan Performance Standards*

*Comment Code C-3-54.*

**Comment:** CalRecycle received one comment that CalRecycle does not have authority to require performance standards for dealer cooperative stewardship plans and that such performance standards are not required by other program participants.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. While the statute is specific that the redemption plan should be comparable, it is not required that dealer cooperative operate in the exact same manner as recycling centers. Making dealer cooperative operation provisions the same as recycling center provisions is not necessary and is contrary to the intent of SB 1013.

#### *CalRecycle Response 38: Stewardship Plan Budget*

*Comment Code C-3-59.*

**Comment:** CalRecycle received one comment that CalRecycle does not have authority to require a budget in dealer cooperative stewardship plans and that such a budget is not required by other program participants

**Response:** CalRecycle rejects this comment. To the extent that stewardship plan budget requirements lack statutory authority, imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. This provision is necessary to fulfill the statutory objectives of increasing consumer convenience because CalRecycle must be aware of whether a dealer cooperative's budget is practical and able to provide consumer convenience before approving or disapproving a stewardship plan. This budget requirement is in fact comparable to recycling centers and processors, which are required to submit budget information when applying for certification under 14 CCR section 2045(d). The provisions do not conflict with or contradict any statutory provision within the Act.

#### *CalRecycle Response 39: Defining Comparable Consumer Convenience*

*Comment Code O-4-11.*

**Comment:** CalRecycle received one comment that dealer cooperative provisions are too similar to the current statutory requirements for recycling centers and do not provide flexibility to this new recycling entity as intended by SB 1013.

**Response:** CalRecycle accepts this comment. CalRecycle has added a definition defining "consumer convenience that is comparable to the requirements of section

14571 and section 14571.9 of the Act” with quantifiable minimum hours of operation. It is necessary to insert quantifiable hours that are similar to recycling centers even though this reduces the flexibility of dealer cooperatives because this ensures consumer convenience and access to redemption.

*CalRecycle Response 40: Comparable Convenience and Convenience Zone Sizes*

*Comment Codes O-6-15 and O-8-4.*

**Comment:** CalRecycle received two comments expressing concern regarding comparable consumer convenience in relation to convenience zone sizes.

**Response:** CalRecycle accepts these comments. The one-mile standard referenced by the commenter has been deleted and replaced with the following: the addition of a definition defining “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” with quantifiable minimum hours of operation.

*CalRecycle Response 41: Dealer Cooperative Reporting*

*Comment Code C-3-82.*

**Comment:** CalRecycle received one comment that CalRecycle requesting information (such as expenditures and revenues and the amount of beverage containers sold by dealer members in dealer cooperatives) is not comparable to other program participants.

**Response:** CalRecycle rejects this comment. PRC section 14578.5(c)(6) requires that the dealer cooperative provide reports such as the amount of empty beverage containers and any other relevant information in the form and manner prescribed by CalRecycle. PRC section 14578.5(f) also requires CalRecycle to conduct audits of each dealer cooperative every 24 months to ensure payments to consumers and fees from dealers are being utilized for the operation of the approved stewardship plan. Having dealer cooperatives report expenditures and revenues is necessary to effectuate this statutory provision because it will allow CalRecycle to accurately and equitably conduct audits on all dealer cooperatives to ensure that dealer cooperative funds are lawfully being utilized on the approved stewardship plan.

### **3.2 Operating Hours**

*CalRecycle Response 42: Defining Comparable Convenience in Regard to Operating Hours of Mobile Collection Programs*

*Comment Code C-3-12.*

**Comment:** CalRecycle received one comment requesting definitions for comparable and sufficient and recommended increasing available hours and location for mobile collection programs.

**Response:** CalRecycle accepts this comment and defined “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act”. However, CalRecycle rejects this comment in part and disagrees that clarification is needed with regard to the available hours and locations specifically for mobile programs because it falls under the new definition for “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act”.

*CalRecycle Response 43: Defining Comparable Convenience in Regard to Operating Hours*

*Comment Codes C-3-9 and C-3-51.*

**Comment:** CalRecycle received two comments expressing concern that the proposed regulations requiring dealer cooperatives to have comparable convenience of recycling centers, referring to PRC section 14571(a) which requires recycling centers to be open 30 hours per week per convenience zone.

**Response:** CalRecycle accepts these comments. CalRecycle added a definition defining “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” with quantifiable minimum hours of operation.

### **3.3 Consumer Convenience**

*CalRecycle Response 44: Defining Comparable Convenience*

*Comment Code C-3-8.*

**Comment:** CalRecycle received one comment requesting CalRecycle to define greater service and requirements to accommodate the larger convenience zone sizes.

**Response:** CalRecycle accepts this comment. CalRecycle has added a definition defining “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” with quantifiable minimum hours of operation.

*CalRecycle Response 45: Defining Comparable Convenience in Regard to an 80% Redemption Rate*

*Comment Code C-3-11.*

**Comment:** CalRecycle received one comment requesting CalRecycle establish a definition of “sufficient” that will provide services for the dealer cooperative program to achieve an 80% redemption rate.

**Response:** CalRecycle accepts this comment in part. Based on interested party feedback, CalRecycle agrees that clarification is needed with regard to defining “sufficient” consumer convenience. CalRecycle has added a definition for “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” with quantifiable minimum hours of operation. However, CalRecycle rejects this comment in part to the extent that the requestor recommends an 80% redemption rate. In lieu of an 80% redemption rate for a zone or statewide, CalRecycle requires in the proposed regulations an 80% rate of redemption based off of containers sold by the dealer members, which is more efficiently monitored based on the sales data provided by a dealer cooperative in its reports to CalRecycle.

*CalRecycle Response 46: Redemption Requirements Clarification*

*Comment Code C-3-13.*

**Comment:** CalRecycle received one comment requesting that CalRecycle require each dealer member of a dealer cooperative to redeem an equal amount of containers, regardless of the size of the dealer cooperative.

**Response:** CalRecycle rejects this comment. The methodology presented would be an inequitable approach to providing sufficient redemption opportunities. PRC section 14501(c) establishes an 80% beverage container recycling goal and the proposed regulations set performance standards for dealer cooperatives to collect an amount equal to 80% of their sold beverage containers from their dealers located in an unserved zone.

*CalRecycle Response 47: Cleanliness and Safety of Redemption Locations*

*Comment Code C-3-52.*

**Comment:** CalRecycle received one comment that CalRecycle does not have the authority to require dealer cooperatives to submit in their stewardship plan how they will address factors such as cleanliness and safety at their redemption locations.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. Requiring dealer cooperatives to describe how they will address cleanliness and safety in their stewardship plan is designed to aid the statutory objective of increasing consumer convenience and access to CRV redemption and does not conflict with or contradict any statutory provision within the Act.



*CalRecycle Response 48: Defining Comparable Convenience and Clarifying Redemption Requirements*

*Comment Code C-4-5.*

**Comment:** CalRecycle received one comment requesting CalRecycle establish clear criteria for sufficient redemption locations and recommended that each redemption location have the capacity to redeem 500,000 containers per month.

**Response:** CalRecycle partially accepts this comment. CalRecycle has added a definition defining “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” with quantifiable minimum hours of operation. However, CalRecycle rejects the commenter's proposed method of quantifying target capacity because it assumes equal distribution of dealers per dealer cooperative and does not take into account the limitations of smaller or more rural cooperatives that have lower sales of beverage containers compared to other high-volume dealers.

### **3.4 Limitations of Innovative Methods of Redemption**

*CalRecycle Response 49: Innovative Methods of Redemption Distinctions*

*Comment Code C-2-3.*

**Comment:** CalRecycle received one comment requesting CalRecycle make a distinction between reverse vending machines and bag drop.

**Response:** CalRecycle accepts the commenter's suggestion to clarify the definition of “innovative method of redemption” and has separated the definition into discrete paragraphs. This change does not affect the scope of the regulatory text.

*CalRecycle Response 50: Delayed Payment of Innovative Methods of Redemption*

*Comment Codes O-6-20 and O-8-15.*

**Comment:** CalRecycle received two comments requesting CalRecycle to clarify delayed payment regarding innovative methods of redemption, especially bag drop.

**Response:** CalRecycle accepts these comments. CalRecycle has defined a three working day period for dealer cooperatives to pay consumers when using innovative methods of redemption such as bag drop as set forth in section 2382(n)(1)(B). This change does not affect the scope of the regulatory text.

*CalRecycle Response 51: Mobile Collection Programs*

*Comment Code O-2-7.*

**Comment:** CalRecycle received one comment requesting that CalRecycle delete mobile collection programs from the definition of “innovative methods of redemption”. This comment also requested that the regulations not allow a dealer cooperative to serve a zone with mobile collection programs.

**Response:** CalRecycle partially accepts this comment. CalRecycle agrees that clarification is needed with regard to classifications of innovative methods of redemption, including mobile collection programs. However, CalRecycle rejects this comment's proposition that there “should be no language in the regulations whatsoever that would allow a dealer cooperative to serve a zone, at least in urban or suburban areas, with mobile collection programs”. CalRecycle has replaced “Mobile collection programs in which beverage containers are picked up from consumers” with “Pickup service as part of which empty beverage containers are redeemed at the consumer's address” as an innovative method of redemption. Regardless of the method of redemption, dealer cooperatives do not make a zone served.

#### *CalRecycle Response 52: Provision Requiring One Innovative Method of Redemption*

*Comment Codes O-3-5, O-5-3, and C-2-7,*

**Comment:** CalRecycle received three comments expressing concern about the provision requiring dealer cooperatives to utilize at least one innovative method of redemption per convenience zone.

**Response:** CalRecycle accepts these comments. CalRecycle deleted the provision that each dealer cooperative stewardship plan must include a minimum of one innovative method of redemption.

## 4. Convenience Zones

CalRecycle received 17 comments related to convenience zones, specifically regarding not allowing recycling centers to be certified in unserved convenience zones in which a dealer cooperative operates, allowing more than one dealer cooperative to operate in a zone, and in-store dealer obligations to redeem. These comments and CalRecycle's responses are summarized below in their respective subcategory.

### 4.1 Recycling Centers in Unserved Convenience Zones

#### *CalRecycle Response 53: Authority Regarding not Allowing Recycling Centers to be Certified in Zones in Which a Dealer Cooperative Operates*

*Comment Codes I-3-10, C-3-15, C-3-18, and C-4-2.*

**Comment:** CalRecycle received four comments that CalRecycle does not have the authority to adopt section 2030(g)(9) preventing recycling centers from being certified in an unserved convenience zone in which one or more dealer cooperatives operate.

**Response:** CalRecycle rejects these comments. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. This regulatory provision, section 2030(g)(9), is designed to aid the statutory objective of creating greater consumer convenience in an unserved zone. A dealer cooperative will provide redemption throughout the unserved zone. The provision is reasonable because if recycling centers are certified in an unserved zone with a fully operational dealer cooperative, this would make the dealer cooperative ineligible to receive program payments to recoup their investment in that zone and would not achieve the goals and objectives identified in SB 1013. It does not conflict with or contradict any statutory provision within the Act.

*CalRecycle Response 54: Concern for not Allowing Recycling Centers to Operate in Zones in Which a Dealer Cooperative Operates*

*Comment Code O-6-7.*

**Comment:** CalRecycle received one comment expressing concern regarding the rejection of a recycling center application in zones in which a dealer cooperative is located and in good standing.

**Response:** CalRecycle rejects this comment in part and declines to delete the provision of the regulations regarding CalRecycle's rejection of applications for proposed recycling centers to locate in unserved convenience zones with a fully operational dealer cooperative. The provision is necessary because it aids in the statutory objective of creating greater consumer convenience in an unserved zone. A dealer cooperative will provide redemption throughout the unserved zone. However, to eliminate potential confusion, CalRecycle accepts this comment in part by making the following changes: CalRecycle has clarified that the regulation text applies if there is "at least one" dealer cooperative, since more than one may be operating in a single unserved zone. Additionally, the "good standing" criteria has been deleted to increase clarity since the term "good standing" could be construed as ambiguous.

*CalRecycle Response 55: No Specific Change, Regarding Prohibiting Recycling Center Certification in Zones in Which a Dealer Cooperative Operates*

*Comment Codes O-8-2 and C-3-17.*

**Comment:** CalRecycle received two comments that did not propose a specific change but expressed a general disapproval of the regulations that will prohibit recycling centers from being certified in the unserved convenience zones in which one or more dealer cooperatives operate.

**Response:** CalRecycle rejects these comments. No response is required because the comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. This provision provides equitable opportunity to secure eligibility for program payments and creates greater consumer convenience in an unserved zone. Within these regulations CalRecycle balances the protections for both types of recycling entities in convenience zones. Established dealer cooperatives are prioritized in unserved convenience zones; whereas, PRC section 14578.5 (d)(1) disincentivizes the operation of dealer cooperatives in convenience zones served by a recycling center by removing their eligibility for program payments.

## **4.2 Multiple Dealer Cooperatives in a Convenience Zone**

*CalRecycle Response 56: Allowing More than One Dealer Cooperative to Operate in a Zone*

*Comment Codes O-4-17 and C-2-9.*

**Comment:** CalRecycle received two comments expressing concern and recommending changing the provision that allows more than one dealer cooperative to operate in one convenience zone.

**Response:** CalRecycle rejects these comments because CalRecycle disagrees with the policy these comments suggest. The provision allowing multiple dealer cooperatives to operate in the same unserved convenience zone is designed to aid the statutory objective of increasing consumer convenience and providing flexibility of standards for dealer members to comply with their legal obligations. Restricting the number of dealer cooperatives in a single unserved convenience zone thereby removes their voluntary choice to either redeem or join a dealer cooperative, as required by PRC sections 14510.2 and 14578(a).

## **4.3 In-Store Dealer Obligations to Redeem**

*CalRecycle Response 57: 120-day Implementation Period of Dealer Cooperatives*

*Comment Codes O-4-8 and C-7-9.*

**Comment:** CalRecycle received two comments expressing concern about the 120-day implementation period of dealer cooperatives and the provision that relieved dealer members of such dealer cooperatives of the obligation to redeem in-store.

**Response:** CalRecycle accepts these comments. CalRecycle has amended the proposed regulations to delete section 2374 in its entirety. The deletion of section 2374 will ensure that there is not a significant period of time when an unserved convenience zone does not have redemption either as part of a dealer cooperative or through dealers redeeming in store.

*CalRecycle Response 58: In-store Redemption Until Stewardship Plan Is Operational*

*Comment Codes O-4-2, O-4-6, O-4-7, C-2-4, and O-6-8.*

**Comment:** CalRecycle received five comments expressing concern about the provision clarifying that dealer cooperatives must redeem in-store until their stewardship plan is fully operational.

**Response:** CalRecycle rejects these comments. PRC section 14578 requires a dealer in an unserved convenience zone, unless exempted, to meet either PRC section 14578(a)(1) by redeeming in store, or PRC section 14578(a)(2) by joining a dealer cooperative. In order to satisfy PRC section 14578(a)(2)(A), the dealer cooperative must be operational. PRC section 14578(b)(3) requires the stewardship plan to be fully implemented and providing redemption opportunities.

*CalRecycle Response 59: Dealer Cooperatives Do Not Make an Unserved Convenience Zone Served*

*Comment Code O-7-4.*

**Comment:** CalRecycle received one comment expressing concern regarding the provision clarifying that redemption locations operating as part of a dealer cooperative's stewardship plan do not make an unserved convenience zone served and recommended deleting this provision.

**Response:** CalRecycle rejects this comment. This provision is necessary to clarify that a dealer cooperative does not satisfy the requirements for a convenience zone to be "served" under PRC section 14571(a). A dealer cooperative is permitted to operate in unserved convenience zones. If a dealer cooperative changed the convenience zone status to served, then the statutory obligation for a dealer to choose to redeem in-store or to join a dealer cooperative would cease and undermine the intent of SB 1013.

## 5. Stewardship Design and Operation

CalRecycle received 30 comments related to dealer cooperative redemption site operations; dealer cooperative membership fees, termination, and initiation; and Generally Accepted Accounting Principles (GAAP) reporting requirements. These comments and CalRecycle's responses are summarized below under their respective subcategory.

### 5.1 Dealer Cooperative Redemption Site Operations

*CalRecycle Response 60: Redemption Limits for Redemption Locations*

*Comment Codes I-4-8, C-3-53, and C-3-58.*

**Comment:** CalRecycle received three comments expressing concern over redemption limits of redemption locations. These comments disagreed with the proposed provision that redemption locations are not required to accept all material types. Additionally, comments C-3-53 and C-3-58 assert that CalRecycle does not have the authority to implement this provision and comment I-4-8 recommended that “all redemption locations should accept 80% of materials sold”.

**Response:** CalRecycle partially accepts and partially rejects these comments. CalRecycle agrees that clarification is needed and has added that at least one redemption location in each unserved convenience zone shall redeem all beverage container material types 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. and 5 p.m.

However, in regard to comments C-3-53 and C-3-58, CalRecycle rejects these comments to the extent that the commenter suggests that CalRecycle does not have the authority to impose this requirement. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. Allowing redemption limits is designed to aid the statutory objective of increasing consumer convenience and provide flexibility of standards for dealer members to comply with their legal obligations. The provision is reasonable because it allows dealer cooperatives to provide a redemption opportunity in a location and manner that it would not be able to do if it was required to redeem all beverage container material types. It does not conflict with or contradict any statutory provision within the Act.

In regard to comment I-4-8, CalRecycle rejects this comment in part to the extent that it proposes requiring each redemption location to accept 80% of materials sold by dealer members. This could potentially require over-redundancy of capacity at multiple redemption locations instead of allowing a dealer cooperative to balance redemption availability according to anticipated volume at a particular redemption location.

#### *CalRecycle Response 61: Daily Redemption Limits*

*Comment Codes I-4-9, O-3-6, O-3-7, O-3-10, and C-3-48.*

**Comment:** CalRecycle received five comments suggesting daily redemption limits in the regulations be changed or deleted. Comments C-3-48 and O-3-10 recommend deleting the provision allowing daily redemption limits. Comments I-4-9, O-3-6, and O-3-7 express concern regarding redemption limits for innovative methods of redemption.

**Response:** CalRecycle rejects these comments because CalRecycle disagrees with the policy these comments suggest. The provision allowing redemption limits is necessary to provide flexibility of standards for dealer members to comply with their

legal obligations and allow flexibility for redemption sites to use methods of redemption that have physical storage limits, while also maintaining the objective of comparable consumer convenience. Regarding innovative methods of redemption specifically, as addressed by comments I-4-9, O-3-6, and O-3-7, the provisions have been changed to delete the requirement that dealer cooperatives must utilize one innovative method of redemption; however, CalRecycle still anticipates dealer cooperatives to use this technology, so redemption limits are necessary to include as an option for dealer cooperatives and will likely be set based on technological capabilities.

*CalRecycle Response 62: Daily Redemption Limits Clarification*

*Comment Code C-3-50.*

**Comment:** CalRecycle received one comment claiming section 2375.1(b)(7)(A) contradicts section 2375.1(b)(6) regarding daily redemption limits.

**Response:** CalRecycle rejects this comment. No response is required because the comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

The daily redemption limits permitted in section 2375.1(b)(6) and (b)(8)(B) refer to physical load limits and are not limiting beverage containers and materials based on where they were sold. Redemption limits are necessary to allow flexibility for redemption sites to use methods of redemption that have physical storage limits, while also maintaining the objective of comparable consumer convenience.

*CalRecycle Response 63: Redemption Limits of Material Types*

*Comment Codes O-3-3, O-3-9, O-5-4, O-6-17, and O-8-5.*

**Comment:** CalRecycle received five comments expressing concern regarding the provision in section 2375.1(b)(7)(E) that not all redemption sites must redeem all beverage container material types.

**Response:** CalRecycle accepts these comments and added clarification that at least one redemption location in each unserved convenience zone shall redeem all beverage container material types.

*CalRecycle Response 64: Redemption Limits for Redemption Locations Employing Innovative Methods of Redemption*

*Comment Codes O-5-5 and O-8-7.*

**Comment:** CalRecycle received two comments expressing concern over redemption limits by redemption locations with innovative methods of redemption, including reverse vending machines.

**Response:** CalRecycle accepts these comments and added clarification that at least one redemption location in each unserved convenience zone covered by the stewardship plan shall redeem all beverage container material types.

## **5.2 Dealer Membership (Fees, Termination, and Sign-Ups)**

*CalRecycle Response 65: Dealer Membership Termination from Dealer Cooperative  
Comment Code I-3-25.*

**Comment:** CalRecycle received one comment that dealer membership termination lacks clarity or is duplicative of section 2372.

**Response:** CalRecycle rejects this comment. The purpose of section 2373(a) of the regulations is to determine when a dealer must resume its responsibilities under PRC section 14578(a).

*CalRecycle Response 66: Dealer Notification Requirements  
Comment Code C-3-25.*

**Comment:** CalRecycle received one comment that section 2372(a)-(e) lacked clarity.

**Response:** CalRecycle rejects this comment. No response is required because the comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

Section 2372 of the proposed regulations details dealer notification requirements and the new registration requirements by dealers, while section 2373 outlines empty beverage container redemption requirements of dealers and specifies qualifying events for when a dealer would be required to redeem in-store based upon their dealer cooperative membership status. These sections and their respective requirements are not duplicative.

*CalRecycle Response 67: Dealer Member Termination and In-store Redemption  
Requirement Clarification  
Comment Code I-8-4.*

**Comment:** CalRecycle received one comment expressing concern regarding the termination of a dealer member from a dealer cooperative and the dealer's subsequent requirement to redeem in-store.

**Response:** CalRecycle rejects this comment. No response is required because the comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.



To the extent that dealer cooperatives must notify CalRecycle before making any changes to the list of dealer members, pursuant to section 2378(a)(1), CalRecycle will be aware of any and all dealer members who are terminated from their previous dealer cooperatives. Dealer members who have been terminated from a dealer cooperative must fulfil their statutory obligation pursuant to PRC section 14578 to either redeem empty beverage containers in-store or join/form a dealer cooperative.

*CalRecycle Response 68: Forming, Joining, and Operating Dealer Cooperatives*

*Comment Code C-3-2.*

**Comment:** CalRecycle received one comment expressing general concern that the proposed regulations make “forming, joining, and operating” dealer cooperatives difficult and costly for dealer members.

**Response:** CalRecycle rejects this comment. No response is required because the comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

To the extent that the proposed regulations will deter dealers from participating in a dealer cooperative or fulfill their legal obligation to redeem in-store, reducing the requirements of the dealer cooperative stewardship plan in section 2375.1 would be contrary to the goals and objectives of SB 1013. SB 1013 specifically added dealer cooperatives as a new recycling entity to the BCRP to bolster recycling rates, create more opportunities for consumer redemption, and provide access to redemption for all consumers.

*CalRecycle Response 69: 80% Redemption Rate*

*Comment Code O-6-16.*

**Comment:** CalRecycle received one comment expressing concern and confusion regarding the 80% redemption rate.

**Response:** CalRecycle rejects this comment. No response is required because the comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

To the extent that the commentor is requesting that dealer cooperatives not be able to exclude others from the dealer cooperative, CalRecycle rejects this recommendation because dealer cooperatives are a voluntary option for dealers in unserved convenience zones designed to aid the statutory objective of increasing consumer convenience in convenience zones that are unserved by a certified recycling center. Section 2382(f) allows for multiple dealer cooperatives to exist within an unserved convenience zone.

### *CalRecycle Response 70: Dealer Discrimination*

*Comment Codes O-6-3, O-6-4, and O-8-1.*

**Comment:** CalRecycle received three comments expressing concern about potential discrimination against non-member dealers trying to join an existing dealer cooperative.

**Response:** CalRecycle rejects these comments. Allowing dealer cooperatives the ability to select their own membership (as addressed by comments O-6-3 and O-8-1) and dealer membership fees (as addressed by comment O-6-4) is designed to aid the statutory objective of increasing consumer convenience and providing flexibility of standards for dealer members to comply with their legal obligations, as well as the flexibility to exclude dealer members that may not be beneficial to its redemption goals and the flexibility to make determinations of authority over finances.

### *CalRecycle Response 71: 80% Redemption Rate, Clarification*

*Comment Code O-8-6.*

**Comment:** CalRecycle received one comment regarding the 80% redemption rate performance standard for dealer cooperatives and suggesting that the standard as written is open to exploitation by single-dealer cooperatives where redeeming 80% of containers from their members is insufficient. The comment raises concerns about dealer cooperatives excluding dealers from joining and recommends changing the standard to 80% of beverage containers sold within the convenience zone.

**Response:** CalRecycle rejects this comment. The standard that requires a dealer cooperative to redeem a minimum amount of beverage containers equal to 80% of containers sold by dealer members is necessary because it is adaptable to the size of the dealer cooperative, as opposed to the comment's proposed standard of 80% of the containers sold within the convenience zone. Additionally, if a small dealer cooperative had to redeem 80% of containers in the convenience zone rather than 80% of the containers sold by its dealer members, this may overwhelm and overburden small dealer cooperatives, thereby making their operation impractical. To the extent that a dealer may form a single member dealer cooperative, the remaining dealers in that convenience zone would be able to form their own dealer cooperative and would be responsible for the remaining amount of beverage containers sold in that convenience zone.

## **5.3 GAAP Requirements**

### *CalRecycle Response 72: Deleting GAAP Requirements*

*Comment Codes I-3-12, C-3-20, C-3-60, and C-3-72.*

**Comment:** CalRecycle received four comments expressing concern for the GAAP (or generally accepted accounting principles adopted by the Federal Accounting Standards Advisory Board) requirements.

**Response:** CalRecycle accepts these commenters' suggestion to delete the definition of GAAP and has deleted all usage of "GAAP" from the regulation text. This change does not affect the scope of the regulatory text.

*CalRecycle Response 73: Deleting GAAP Requirements but not Duplicating Recycling Center Recordkeeping Requirements*

*Comment Code I-3-34.*

**Comment:** CalRecycle received one comment expressing concern for the GAAP requirements and suggested duplicating section 2525 for dealer cooperatives.

**Response:** CalRecycle accepts in part the commenter's suggestion to delete the definition of GAAP and has deleted all usage of "GAAP" from the regulation text. This change does not affect the scope of the regulatory text. However, CalRecycle rejects in part the comment requesting dealer cooperative record-keeping to be the same as recycling centers. Because a dealer cooperative is not limited to the recycling center model of redemption, simply referring to the same record-keeping requirements as recycling centers would preclude any other type of redemption offered by dealer cooperative other than as a stand-alone recycling center.

## 6. Education and Outreach

CalRecycle received six comments that related to education and outreach requirements for dealer cooperatives. These comments and CalRecycle's responses are summarized below under their respective subcategory.

*CalRecycle Response 74: Education and Outreach Requirements*

*Comment Codes I-3-30, O-2-8, O-6-10, and C-4-7.*

**Comment:** CalRecycle received four comments requesting CalRecycle amend the education and outreach requirements, electronic notification requirements, and web content requirements on the basis that these requirements are the responsibility of CalRecycle and that these standards are not equal to standards imposed on other recycling entities.

**Response:** CalRecycle rejects these comments. This requirement is necessary to effectuate PRC section 14578.5(c)(1) because the Act has placed the responsibility of providing convenience onto the dealer cooperatives, and for redemption opportunities to be considered convenient, consumers must be made aware. Requiring that the public be notified of submitted dealer cooperative stewardship plans on CalRecycle's website

or listserv is unnecessary and publishing the stewardship plan to a dealer cooperative website is sufficient for public review. Making dealer cooperative operation provisions the same as recycling center provisions is not necessary and is contrary to the intent of SB 1013. No rulemaking is necessary to authorize CalRecycle to promote all redemption locations on CalRecycle's website because CalRecycle already has this authority and could do so if it chooses.

#### *CalRecycle Response 75: Additional Website Requirements*

*Comment Code O-6-13.*

**Comment:** CalRecycle received one comment suggesting additional education and outreach requirements to include a mobile phone application.

**Response:** CalRecycle rejects this comment. With regard to requiring the education and outreach program to include a phone application, this is not necessary to achieve the consumer convenience standard for dealer cooperatives established in PRC section 14578.5(c)(1). Because it is not necessary to achieve the goals of SB 1013, such a requirement would be overly burdensome on dealer cooperatives.

#### *CalRecycle Response 76: Additional Signage Requirements*

*Comment Code O-6-14.*

**Comment:** CalRecycle received one comment suggesting additional education and outreach requirements to include more information on physical signage.

**Response:** CalRecycle accepts this comment regarding physical signage and has amended the proposed regulations to require signage for each dealer member containing redemption site and website information.

## **7. Legal Liability**

CalRecycle received two comments that expressed concerns on the legal liability of dealers within a dealer cooperative. These comments and CalRecycle's responses are summarized below under their respective subcategory.

#### *CalRecycle Response 77: Removing Legal Liability for Dealer Members*

*Comment Codes O-4-9 and C-2-5.*

**Comment:** CalRecycle received two comments suggesting removing the legal liability of dealers for the stewardship plans on the basis that this will disincentivize dealers from joining dealer cooperatives.

**Response:** CalRecycle accepts these comments. The framework for liability for violations of the Act and Regulations is established in PRC section 14591.2(a) and the

surrounding sections; therefore, this regulatory provision relating to liability is unnecessary. CalRecycle deleted proposed paragraph (2) of subdivision (b) of section 2375 in the proposed regulations that were released for the 15-day comment period.

## 8. Timelines

CalRecycle received 12 comments related to timelines, specifically regarding stewardship plan review and approval or disapproval, notifications to changes to a stewardship plan, dealer registration, five-year reviews, and requesting a hearing. These comments and CalRecycle's responses are summarized below under their respective subcategory.

### 8.1 Stewardship Plan Review and Approval or Disapproval

#### *CalRecycle Response 78: Stewardship Plan Review Timeline*

*Comment Code I-3-32.*

**Comment:** CalRecycle received one comment stating that the stewardship plan review and approval or disapproval process is “an excessively long time”.

**Response:** CalRecycle rejects this comment. No response is required because the comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

To the extent that a 90-day period is necessary as the amount of time needed for CalRecycle to complete a comprehensive review of a stewardship plan, this timeframe is reasonable and prompt. This timeframe was workshopped with the public on August 31, 2023, and initially presented as 120 days for CalRecycle to review a stewardship plan; however, in response to public feedback that this timeframe was too long, the review timeframe was reduced from 120 days to 90 days.

#### *CalRecycle Response 79: Timeline for Requesting Additional Information Regarding Stewardship Plan*

*Comment Code C-3-64.*

**Comment:** CalRecycle received one comment expressing concern regarding the timeline in the event that CalRecycle requests additional information for a stewardship plan.

**Response:** CalRecycle accepts this comment to the extent it requests a shortened timeline. CalRecycle has amended the proposed regulations to require additional information requested to be submitted within 10 days of CalRecycle's request.

#### *CalRecycle Response 80: Shortening the Timeline for Approving Stewardship Plans*

*Comment Code C-4-3.*

**Comment:** CalRecycle received one comment recommending that dealer cooperative plans or changes be approved within 30 days.

**Response:** CalRecycle rejects this comment. The deadline of 90 days for the review process of stewardship plans is necessary for CalRecycle to complete a comprehensive review of a stewardship plan and responsibly decide whether to approve or disapprove of the stewardship plan. Requiring less time for this process would not provide adequate time for CalRecycle to responsibly review and approve or disapprove of a stewardship plan, considering the numerous amount of dealers, and potentially dealer cooperatives, across the state.

*CalRecycle Response 81: Shortening the Timeline for Approving or Disapproving Changes to a Stewardship Plan*

*Comment Code O-4-13.*

**Comment:** CalRecycle received one comment recommending a deadline of 21 days to approve or disapprove changes to a stewardship plan.

**Response:** CalRecycle rejects this comment. PRC section 14578(a)(2)(A) identifies CalRecycle as the authoritative entity to approve or disapprove stewardship plans, which includes changes to the plan. Less time for such review would not provide adequate time for CalRecycle to communicate its findings of whether or not the proposed change helps increase consumer convenience and access for CRV redemption. In addition, 30 days, rather than 21 days, is consistent with other timeframes for review in the proposed regulations.

## **8.2 Notifications for Stewardship Plan Changes**

*CalRecycle Response 82: Notifications of General Changes to a Stewardship Plan*

*Comment Code C-3-71.*

**Comment:** CalRecycle received one comment requesting CalRecycle to rewrite regulations regarding the process for dealer cooperatives to notify CalRecycle of changes to a stewardship plan.

**Response:** CalRecycle accepts this comment. CalRecycle has made the following changes: changes to a stewardship plan require either a 30-day notice before the change, 30-day notice after the change, or proposed change submitted to CalRecycle for approval; the type of notification depends on the nature of the change, as outlined in section 2378.

*CalRecycle Response 83: Notifications of Changes to Stewardship Plan, Regarding Contact Information and Federal ID Number*

*Comment Code I-3-24.*

**Comment:** CalRecycle received one comment requesting that CalRecycle amend the provisions to require dealer cooperatives to notify CalRecycle of changes to their stewardship plan specified in section 2372(a) within a specified time limit after they occur.

**Response:** CalRecycle accepts this comment. CalRecycle amended the proposed text to require notification of a change in contact information in section 2372(a)(1) after the effective date of the change. However, it is reasonable for a dealer to know if they will be moving or have a change of federal ID number at least 30 days prior to the event occurring.

### **8.3 Dealer Registration, Enforcement, and Five-Year Stewardship Plan Review Timelines**

*CalRecycle Response 84: Dealer Registration Timeline*

*Comment Codes I-4-5, I-8-1, and I-4-3.*

**Comment:** CalRecycle received three comments expressing concern and confusion regarding the timeline for dealer registration.

**Response:** CalRecycle rejects these comments. The proposed regulations provide clear timelines for a dealer to register. The proposed regulation section 2371(a)(1) requires a dealer to register within 30 days of the effective date of these regulations. Additionally, section 2371(a)(2) establishes the ongoing timelines for the registration of dealers as new dealers open for business within convenience zones or if the area they are located becomes a convenience zone.

*CalRecycle Response 85: Increasing the Frequency of Stewardship Plan Reviews*

*Comment Codes O-6-19 and O-8-10.*

**Comment:** CalRecycle received two comments recommending that the review of stewardship plans be more often than every five years.

**Response:** CalRecycle rejects these comments. Five years is reasonable because it is a balanced approach between maintaining an up-to-date plan and not overburdening the dealer cooperative with frequent reviews. CalRecycle notes that a dealer cooperative may update its plan more often than every five years because the five years in section 2377(a) is just a minimum. Additionally, CalRecycle will receive notice of whether a dealer cooperative is operating smoothly through its quarterly reporting under section 2381 and any stewardship plan changes submitted under section 2378.

*CalRecycle Response 86: Timeline to Request a Hearing*

*Comment Code I-3-48.*

**Comment:** CalRecycle received one comment expressing concern regarding the timeline for a dealer cooperative to request a hearing.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that a change is needed with regard to the specified timeframe for dealer cooperatives to submit a request to CalRecycle for a hearing, as described in section 2385(d), because submitting the request within 30 days of receipt of the notice provides the dealer cooperative with a reasonable amount of time to review the notice and determine whether to request a hearing. Nothing prevents a dealer cooperative from submitting the request for a hearing sooner than within 30 days of receipt of the notice.

## 9. Definitions

CalRecycle received 18 comments that expressed concerns on current definitions outlined in sections 2000 and 2370, as well as terms used throughout the regulations. These comments and CalRecycle's responses are summarized below under their respective subcategory.

### *CalRecycle Response 87: Dealer Cooperative Operational Area*

*Comment Codes I-3-5, I-3-11, C-3-19, and I-3-18.*

**Comment:** CalRecycle received four comments suggesting clarification on terminology used to designate operational locations of dealer cooperatives and certified recycling entities.

**Response:** CalRecycle accepts these comments requesting a change to the phrasing for the following term. CalRecycle is replacing all usage of "dealer cooperative zone" with the phrasing "area covered by a dealer cooperative's stewardship plan" and the term "recycling facility" with "recycling center" for clarity. CalRecycle acknowledges that the meaning of the term "location" may be more generally understood and is replacing the term "sites" with "retail locations".

### *CalRecycle Response 88: Definition of Innovative Method of Redemption*

*Comment Codes C-11-1, C-7-4, and C-12-2.*

**Comment:** CalRecycle received three comments suggesting changes to the definition of "innovative methods of redemption". These comments requested both the inclusion and exclusion of "mobile collection programs".

**Response:** CalRecycle accepts these comments in part. CalRecycle removed "mobile collection programs in which beverage containers are picked up from consumers" and has added pickup service, defined as a service in which "empty beverage containers are redeemed at the consumer's address". CalRecycle rejects these comments in part



to the extent they suggest changing the definition of “innovative methods of redemption” to include or exclude “mobile collections services”. If a particular type of “mobile collection service” is not described in the “innovative method of redemption” definition, this does not prohibit a dealer cooperative from engaging in that type of “mobile collection service”. CalRecycle removed the requirement for dealer cooperatives to use an “innovative method of redemption” and therefore the definition's function is only to differentiate inspection and payment requirements under section 2382(m)-(n).

*Comment Code C-3-22.*

**Comment:** CalRecycle received one comment suggesting changing the definition of “innovative method of redemption” to remove the word “both” from mobile collection and bag drop on the basis that this lacks clarity.

**Response:** CalRecycle accepts the commenter’s suggestion to clarify the meaning of “both” in the definition of “innovative method of redemption” and has replaced “both” with “any”. This change does not affect the scope of the regulatory text.

#### *CalRecycle Response 89: Formally Defined Terms*

*Comment Codes I-3-9, I-3-16, I-3-61, I-3-67, I-7-4, and I-3-14.*

**Comment:** CalRecycle received six comments suggesting changes to terms that are formally defined in the definitions section of the regulations or in statute.

**Response:** CalRecycle rejects these comments. CalRecycle disagrees that clarification is needed regarding additions and changes of the definition of these terms because these terms are already formally defined in regulations and in statute. For comment I-3-14, a “redemption contractor” is not required to be a certified operator in order to act as a “redemption contractor” for a dealer cooperative. For comments I-3-9, I-3-16, I-3-61, I-3-67, and I-7-4, replacing references to the “Division of Recycling” with the “Department of Resources Recycling and Recovery” is necessary because Sen. Bill No. 353 (2023-2024 Reg. Sess., Chapter 868 of the Statutes of 2023) amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. All proposed definitions are consistent with statute.

#### *CalRecycle Response 90: Grandfathered Recycling Centers*

*Comment Codes I-3-3 and I-3-59.*

**Comment:** CalRecycle received two comments suggesting removing all references to “grandfathered recycling centers” on the basis that the term is obsolete and is no longer a possible definition for recycling centers.

**Response:** CalRecycle rejects these comments. To the extent that it is no longer possible to establish a “grandfathered recycling center”, “grandfathered recycling

centers” still exist in statute and CalRecycle is not able to delete this term as a classification of operation until the statute has been amended.

#### *CalRecycle Response 91: Reference to Statutory Authority*

*Comment Code I-3-17.*

**Comment:** CalRecycle received one comment expressing concern over the definition of “stewardship plan” lacking reference to PRC section 14578 as the formal authority.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees with referencing PRC section 14578 as authority in defining “stewardship plan”. PRC section 14578.5 is necessary to list as an authority in the regulation text, while PRC section 14578 is not necessary because it does not explicitly outline the requirements for “stewardship plan”.

#### *CalRecycle Response 92: Shipping Report Definition*

*Comment Code I-3-8.*

**Comment:** CalRecycle received one comment expressing concern over clarification on the use of the term dealer cooperative within the definition of “shipping report”.

**Response:** CalRecycle rejects this comment. This comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. CalRecycle must update existing regulations where all entities of the BCRP are referenced, including in the definition of “shipping reports”.

## 10. Unnecessary and Burdensome Requirements

CalRecycle received 16 comments that expressed concerns on CalRecycle imposing burdensome, unnecessary, and overly prescriptive regulations. These comments cover multiple sections of the regulations, including dealer registration, stewardship plan contents, and reporting. These comments and CalRecycle’s responses are summarized below under their respective subcategory.

### 10.1 Dealer Registration

#### *CalRecycle Response 93: Dealer Registration Is Burdensome*

*Comment Codes I-3-19, I-3-20, I-3-21, I-3-22, I-7-5, and O-4-5.*

**Comment:** CalRecycle received six comments expressing concern with the dealer registration section 2371 and the provisions within being overly burdensome and unnecessary.

**Response:** CalRecycle rejects these comments. It is reasonable and necessary to require this section and its provisions to verify that dealers are in compliance with the

Act. The information required by section 2371 is the minimum information needed to identify and verify a dealer, to identify the people who can be contacted regarding the dealer, and to determine whether a dealer is exempt as defined in PRC section 14578.

#### *CalRecycle Response 94: Dealer Registration Informational Requirements*

*Comment Code I-3-23.*

**Comment:** CalRecycle received one comment asking for clarification of the information required in the application and that it be defined within the application itself. The comment stated that section 2371 is unnecessary and burdensome.

**Response:** CalRecycle accepts this comment. The required information is clearly stated in sections 2371(c)(1) and 2371(c)(2). Supporting information would only be necessary to verify eligibility for the exemption authorized under PRC section 14578(b)(1). CalRecycle clarified that supporting information will be limited to what is specified under sections 2371(c)(1) and 2371(c)(2) and added a timeline for dealer cooperative response of 15 working days to address concerns about delays imposed by CalRecycle.

#### *CalRecycle Response 95: Dealer Registration Is Unnecessary*

*Comment Code O-4-3.*

**Comment** CalRecycle received one comment requesting clarification on the necessity of dealer registration. The comment suggests a phased approach to dealer registration on the basis that it is burdensome to register all dealers within the state.

**Response:** CalRecycle rejects this comment. Section 2371(a) requires registration for dealers in convenience zones only, not all dealers in the state. Registering dealers in convenience zones prevents processing delays when a convenience zone becomes either served or unserved and ensures correct identification of exempt dealers.

## **10.2 Stewardship Plan Contents**

#### *CalRecycle Response 96: Removing Stewardship Plan Content Requirements*

*Comment Codes I-3-28, I-3-29, C-3-40, and C-4-4.*

**Comment:** CalRecycle received four comments stating that several provisions outlining stewardship plan content requirements are burdensome and unnecessary.

**Response:** CalRecycle rejects these comments. CalRecycle needs to know the information requested to make an informed determination on whether the dealer cooperative is eligible for program payments, can demonstrate its operational readiness, and that the submitted stewardship plan complies with the Act and its implementing regulations. This provision aids in the statutory objective of achieving a recycling rate of 80% as outlined in PRC section 14501(c). The stewardship plan

content requirements are necessary for a dealer cooperative to provide consumer convenience in accordance with PRC section 14578.5(c)(1).

*CalRecycle Response 97: Stewardship Plan Contents Are Costly and Burdensome*  
*Comment Code C-2-6.*

**Comment:** CalRecycle received one comment stating that section 2375.1 Stewardship Plan Substantive Contents are overly prescriptive and inflexible for dealer cooperatives. The comment expressed concerns over unnecessary costs to dealer cooperatives to comply with the requirements of this section.

**Response:** CalRecycle rejects this comment. To the extent that the regulations are overly prescriptive and inflexible, the dealer cooperative is a voluntary option for dealers that enables them to receive program payments for redeemed beverage containers. Section 2375.1 is necessary for a dealer cooperative to provide consumer convenience in accordance with PRC section 14578.5(c)(1) and to achieve the 80% recycling rate goal established in PRC section 14501(c). Flexibility is accorded to dealer cooperatives when possible, such as establishing their own performance standards in the stewardship plan.

*Comment Code C-3-5.*

**Comment:** CalRecycle received one comment that the existing statutory and regulatory requirements, and the economic model for certified recycling centers and processors is not financially profitable due to poor scrap value payments and limited CalRecycle program payments; the additional regulatory requirements placed on dealer cooperatives, with the same economic model, in the commenter's opinion is not feasible.

**Response:** CalRecycle rejects this comment. The commenter did not provide any evidence to support these claims and did not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. Reducing the requirements of the dealer cooperative stewardship plan in section 2375.1, or any other requirements proposed in these regulations for dealer cooperatives, would be contrary to the goals and objectives of SB 1013. SB 1013 amended dealer obligations to provide convenient consumer redemption with the option to form or join a dealer cooperative, which replaces the previous option to pay \$100 per day to CalRecycle to not redeem in-store. Dealer cooperatives are a new recycling entity to bolster recycling rates, increase access, and expand opportunities for consumer redemption. The incentive for a dealer to form a dealer cooperative rather than to redeem in store is that a dealer cooperative is eligible for program payments for redeemed containers, whereas a dealer redeeming in store under PRC section 14578(a)(1) is not.

*Comment Code O-7-2.*

**Comment:** CalRecycle received one comment expressing concern that section 2375.1 Stewardship Plan Substantive Contents are overly prescriptive and place a costly burden on dealers to form and join dealer cooperatives which are not comparable to other program participants.

**Response:** CalRecycle rejects this comment. The stewardship plan content requirements are necessary for a dealer cooperative to provide consumer convenience in accordance with PRC section 14578.5(c)(1). Reducing the requirements of the dealer cooperative stewardship plan in section 2375.1, such as education and outreach materials, performance standards, redemption methods and types of materials redeemed, dispute resolution, and community input, are essential to the dealer cooperative regulatory framework to meet the goals of SB 1013. The proposed regulations are prescriptive because dealer cooperatives are a new recycling entity to bolster recycling rates, increase access, and expand opportunities for consumer redemption. SB 1013 amended dealer obligations to provide convenient consumer redemption with the option to form or join a dealer cooperative, which replaces the previous option to pay \$100 per day to CalRecycle to not redeem in-store. The incentive for a dealer in an unserved convenience zone to form a dealer cooperative rather than to redeem in store is that a dealer cooperative is eligible for program payments for redeemed containers, whereas a dealer redeeming in store under PRC section 14578(a)(1) is not.

### 10.3 Reporting Requirements

*CalRecycle Response 98: Reporting Requirements for Notices of Violation*

*Comment Code C-3-81.*

**Comment:** CalRecycle received one comment expressing concern over the reporting requirements for Notices of Violations. The comment states that requiring dealer cooperatives to report that they received a violation is unnecessary and burdensome.

**Response:** CalRecycle rejects this comment. Requiring dealer cooperatives to report the receipt of a Notice of Violation, along with how the dealer cooperative plans to correct, or has already corrected, the underlying behavior for which the Notice of Violation was issued, is necessary to ensure a dealer cooperative is operating in compliance with the Act and regulations. This reporting action allows CalRecycle to assess whether the dealer cooperative is addressing the problems affecting its compliance with the Act and regulations and whether the dealer cooperative is operating according to its approved stewardship plan.

## 11. Out-of-Rulemaking Scope

CalRecycle received 22 comments that suggested regulatory changes that were outside the scope of this rulemaking effort. These comments and CalRecycle's responses are summarized below under their respective subcategory.

*CalRecycle Response 99: Criteria for a Convenience Zone*

*Comment Codes C-6-1 and C-12-1.*

**Comment:** CalRecycle received two comments about the status of a convenience zone if a certified recycling center operating bag drop services or reverse vending machines operates in the zone.

**Response:** CalRecycle rejects these two comments because they are out of scope for this rulemaking. The scope of this rulemaking is limited to dealer registration and dealer cooperatives.

For comment C-6-1 to answer the commenter's questions would require more details about the specific facts involved. It sounds like the commenter may be referring to the operation of a certified "bag drop recycling center", which is a type of recycling center certified under PRC section 14538 and which may or may not serve a convenience zone depending on the specific operation of that bag drop recycling center. The bag drop regulations are still in the process of being developed and have not yet been noticed, therefore the scenario presented by the commenter could not occur until those regulations are approved.

*CalRecycle Response 100: Processor Load Inspection Requirements*

*Comment Code C-2-11.*

**Comment:** CalRecycle received one comment to broaden load inspection requirements for processors.

**Response:** CalRecycle rejects this comment because it is out of scope for this rulemaking. The scope of this rulemaking is limited to dealer registration and dealer cooperatives.

*CalRecycle Response 101: CRV Reimbursement Methodology*

*Comment Codes C-2-13 and C-7-11.*

**Comment:** CalRecycle received two comments about CalRecycle's methodology for CRV reimbursement.

**Response:** CalRecycle rejects these two comments because they are out of scope for this rulemaking. The scope of this rulemaking is limited to dealer registration and dealer cooperatives.

*CalRecycle Response 102: Certified Recycling Center Load Inspection Requirements*  
*Comment Codes I-3-57 and I-3-58.*

**Comment:** CalRecycle received two comments to remove “line breakage” load inspection requirements for certified recycling centers.

**Response:** CalRecycle rejects these two comments because they are out of scope for this rulemaking. The scope of this rulemaking is limited to dealer registration and dealer cooperatives.

*CalRecycle Response 103: Reverse Vending Machine Technological Capabilities*  
*Comment Code I-3-65.*

**Comment:** CalRecycle received one comment about the technological capabilities of reverse vending machines to distinguish from CRV eligible containers and ineligible containers.

**Response:** CalRecycle rejects this comment because it is out of scope for this rulemaking. The scope of this rulemaking is limited to dealer registration and dealer cooperatives.

*CalRecycle Response 104: Additional Restrictive Requirements for New Dealer Cooperatives and Recycling Centers*

*Comment Codes I-5-1, I-6-1, C-1-1, C-8-1, C-9-1, and C-10-1.*

**Comment:** CalRecycle received six comments to add location-based restrictions on new dealer cooperatives and recycling centers near existing recycling centers.

**Response:** CalRecycle rejects these six comments because they are out of scope for this rulemaking. The scope of this rulemaking is limited to dealer registration and dealer cooperatives.

*CalRecycle Response 105: Donation-only Redemption Sites*

*Comment Codes O-6-6, O-8-3, O-8-11, and O-8-12.*

**Comment:** CalRecycle received four comments on donation-only program and the use of the term “redemption” in these programs.

**Response:** CalRecycle rejects these comments because they are out of scope for this rulemaking. The scope of this rulemaking is limited to dealer registration and dealer cooperatives.

*CalRecycle Response 106: Further Regulations on Dealers Not Part of Dealer Cooperatives Is Beyond the Scope of This Rulemaking*

*Comment Codes C-3-26 and C-4-6.*

**Comment:** CalRecycle received two comments requesting more regulations for dealers not part of a dealer cooperative to operate under comparable requirements as dealer cooperatives and recycling centers.

**Response:** CalRecycle rejects these comments. The scope of this rulemaking is limited to dealer registration and dealer cooperatives. PRC section 14578(a)(1)(A) requires that dealers within an unserved convenience zone redeem all empty beverage container types on the dealer's premises if not a member of a dealer cooperative, and PRC section 14578.5(b) requires CalRecycle to adopt regulations with the registration process for dealers; further regulation on dealers not included in dealer cooperatives is beyond the scope of this rulemaking.

*CalRecycle Response 107: Dealers Redeeming In-Store Are Ineligible for Program Payments*

*Comment Code C-3-31.*

**Comment:** CalRecycle received one comment requesting clarification regarding dealers that are not members of dealer cooperatives being ineligible for payments made by CalRecycle.

**Response:** CalRecycle rejects this comment. The scope of this rulemaking is limited to dealer registration and dealer cooperatives. The Act makes it clear that dealers redeeming in store are ineligible for program payments; therefore, it would be outside of the scope of this rulemaking and also duplicative of statute to include such a provision in these regulations.

*CalRecycle Response 108: Requiring Dealers Not Participating in a Dealer Cooperative to Utilize Innovative Methods of Redemption Is Beyond the Scope of This Rulemaking*

*Comment Code C-7-8.*

**Comment:** CalRecycle received one comment proposing regulations that would require dealers not participating in a dealer cooperative to offer an innovative method of redemption.

**Response:** CalRecycle rejects this comment. The scope of this rulemaking is limited to dealer registration and dealer cooperatives. PRC section 14578(a)(1) establishes the requirements for a dealer to redeem in an unserved convenience zone. The requested change is not included in the dealer requirements under PRC section 14578(a)(1) and, therefore, is outside the scope of this rulemaking.

## 12. Outside of CalRecycle's Authority to Implement



CalRecycle received 9 comments that suggested changes to the regulations or to statutes that are outside of CalRecycle's authority to implement. These comments and CalRecycle's responses are summarized below under their respective subcategory.

*CalRecycle Response 109: Recycling Center Minimum Operating Hours*

*Comment Code C-7-3.*

**Comment:** CalRecycle received one comment on expanding the minimum number of operating hours for certified recycling centers.

**Response:** CalRecycle rejects this comment because it is out of scope for this rulemaking. The scope of this rulemaking is limited to dealer registration and dealer cooperatives.

*CalRecycle Response 110: Convenience Zone Size*

*Comment Codes C-3-10 and O-4-12.*

**Comment:** CalRecycle received two comments on redefining the size of convenience zones to achieve increased consumer convenience.

**Response:** CalRecycle rejects these comments. At this time, CalRecycle does not have the statutory authority to redefine consumer convenience and limit the use of convenience zones.

*CalRecycle Response 111: CRV Reimbursements for In-store Redeeming Dealers*

*Comment Code O-7-5.*

**Comment:** CalRecycle received one comment on extending CRV reimbursement eligibility to dealers who voluntarily choose to redeem empty beverage containers in-store instead of joining a dealer cooperative.

**Response:** CalRecycle rejects this comment. At this time, CalRecycle does not have the statutory authority to redefine eligibility for CRV reimbursement.

*CalRecycle Response 112: Dealer Cooperative and Recycling Center Certification*

*Comment Code I-3-56.*

**Comment:** CalRecycle received one comment on applying the recycling center certification procedures to dealer cooperatives.

**Response:** CalRecycle rejects this comment. At this time, CalRecycle does not have the statutory authority to certify dealer cooperatives.

*CalRecycle Response 113: Convenience Zones, Reverse Vending Machine Recycling Centers, Mandating Supermarkets to Install Reverse Vending Machines or Redeem In-Store*

*Comment Code I-2-1.*

**Comment:** CalRecycle received one comment suggesting reverse vending machines should not be designated as "certified recycling centers" and to enable or mandate every supermarket to install at least one reverse vending machine or redeem manually.

**Response:** CalRecycle rejects this comment. CalRecycle does not have the authority to mandate that every supermarket install at least one reverse vending machine or redeem beverage containers in-store, which would conflict with the option established in PRC section 14578 for a dealer in an unserved convenience zone to either redeem in store or join a dealer cooperative. CalRecycle does not have the authority to change statute, which would be required to implement the changes suggested in the comment. The goal of this rulemaking is to implement the law as enacted pursuant to SB 1013 .

*CalRecycle Response 114: Handling Fees for Dealer Cooperatives*

*Comment Code C-2-10.*

**Comment:** CalRecycle received one comment suggesting expanding handling fee eligibility for dealer cooperatives to include served convenience zones in which they operate.

**Response:** CalRecycle rejects this comment. CalRecycle does not have the statutory authority to allow dealer cooperatives to receive handling fee payments for beverage containers redeemed in served convenience zones. The operation of dealer cooperatives is limited to unserved convenience zones under PRC sections 14578 and 14578.5, with PRC section 14578.5(d)(1) stating that a dealer cooperative is only eligible for handling fees if no recycling center operates in the same convenience zone. Therefore, CalRecycle does not have the authority to make handling fee payments to dealer cooperatives in served zones.

*CalRecycle Response 115: Handling Fees for Recycling Centers*

*Comment Code C-5-1.*

**Comment:** CalRecycle received one comment expressing concern that dealer cooperatives will affect the handling fee eligibility of certified recycling centers on the basis that this will impede recycling center operation.

**Response:** CalRecycle rejects this comment. With regard to handling fee eligibility for existing certified recycling centers, CalRecycle need not make the suggested change because dealer cooperatives are statutorily limited to operating only in unserved convenience zones pursuant to PRC sections 14578 and 14578.5. Therefore, a dealer

cooperative will not make any existing recycling center ineligible for handling fees. Additionally, dealer cooperatives are only eligible for handling fee payments if there is not a certified recycling center operating in the same zone pursuant to PRC section 14578.5(d)(1).

#### *CalRecycle Response 116: Expanding Convenience Zone Size*

*Comment Code I-1-1.*

**Comment:** CalRecycle received one comment suggesting CalRecycle expand the radius of convenience zones to allow existing certified recycling centers to obtain handling fees on the basis that the current regulations for handling fee eligibility for certified recycling centers are too burdensome.

**Response:** CalRecycle rejects this comment. With regard to expanding the size of convenience zones and changing the requirements for recycling centers to increase recycling center handling fee eligibility, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. Regarding which entities are eligible for handling fees and the size of convenience zones, CalRecycle does not have the authority to change statute, which would be required to implement the changes suggested in the comment. The goal of this rulemaking is to implement the law as enacted pursuant to SB 1013.

### 13. CalRecycle Rejects Comment with No Specific Change

CalRecycle received 14 comments that were unrelated to any above categories and rejected on the basis that they proposed no specific changes to the proposed regulations. These comments cover multiple sections of the regulations, including handling fee eligibility, dealer cooperative operation, and stewardship plan revocation and enforcement as well as the rulemaking process and other various topics. These comments and CalRecycle's responses are summarized below under their respective subcategory.

#### *CalRecycle Response 117: No Specific Change*

*Comment Codes I-3-68, O-2-9, O-2-10, O-3-2, O-5-2, O-6-5, O-8-14 and C-3-4.*

**Comment:** CalRecycle received six comments expressing concern on various topics without offering a specific change to the proposed regulations. Comment O-8-14 expressed concern with the handling fee eligibility for grant funded redemption locations offering donation only as repayment for empty beverage container redemption. Comment I-3-68 expressed concern with the proposed regulations on the basis that CalRecycle staff is unqualified to draft proposed regulations about dealer cooperatives. Comment C-3-4 expressed concern with the proposed regulations on the basis that the regulations are an overreach of legislative intent. Comment O-2-9 expressed concern

with the current resources on CalRecycle's website for finding certified recycling centers and in-store redemption sites on the basis that these resources are insufficient. Comment O-2-10 expressed concern with the lack of resources on CalRecycle's website for viewing convenience zones in a map format. Comment O-3-2 expressed generalized concern that the proposed regulations fall short of legislative expectations and will create confusion and opportunity to the detriment of consumers. Comment O-5-2 expressed concern with the proposed regulations on the basis that the regulations as drafted fail to meet the requirements of the Act. Comment O-6-5 expressed concern with grant funded redemption locations offering donation only as repayment for empty beverage container redemption on the basis that these locations do not offer immediate cash repayment to consumers and thus do not offer comparable service to certified recycling centers.

**Response:** CalRecycle rejects these comments. These comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

*CalRecycle Response 118: No Specific Change: Dealer Cooperatives in Unserved Convenience Zones*

*Comment Code I-3-43.*

**Comment:** CalRecycle received one comment expressing confusion with the provision stating that dealer cooperatives do not serve an unserved convenience zone, and that the status of the zone remains unchanged.

**Response:** CalRecycle rejects this comment. With regard to convenience zones remaining classified as unserved with an operational redemption location, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that this section lacks clarity, this provision is necessary to clarify that a dealer cooperative does not satisfy the requirements for a convenience zone to be "served" under PRC section 14571(a). A dealer cooperative is permitted to operate in unserved convenience zones. If a dealer cooperative changed the convenience zone status to served, then the statutory obligation for a dealer to choose to redeem in-store or to join a dealer cooperative would cease and undermine the intent of SB 1013.

*CalRecycle Response 119: No Specific Change: Model Stewardship Plans*

*Comment Codes O-2-5 and C-3-86.*

**Comment:** CalRecycle received two comments expressing concern with CalRecycle's obligation to provide a model stewardship plan for dealer cooperatives on the basis that CalRecycle has yet to provide one.

**Response:** CalRecycle rejects these comments. With regard to CalRecycle's development of a model template plan, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. CalRecycle will release a final model plan once the regulations are final to aid dealer cooperatives with plan development.

*CalRecycle Response 120: No Specific Change: Stewardship Plan Revocation and Enforcement*

*Comment Code I-3-45.*

**Comment:** CalRecycle received one comment expressing concern with section 2385 Stewardship Plan Revocation; Enforcement Mechanisms on the basis that these provisions are written on the assumption that non-compliance is the result of the stewardship plan.

**Response:** CalRecycle rejects this comment because this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that noncompliant dealer cooperatives will require corrective action, that may involve approval of a resubmitted stewardship plan or additional reporting. If a dealer cooperative fails to comply with the required corrective action or implement its approved stewardship plan, the stewardship plan and registration number will be revoked.

*CalRecycle Response 121: No Specific Change: Handling Fee Eligibility within an Unserved Convenience Zone*

*Comment Code I-3-60.*

**Comment:** CalRecycle received one comment suggesting changing the provision in section 2516(g) that states any dealer cooperative with a fully operational approved stewardship plan is eligible for handling fees regardless of their location within the unserved convenience zone to “may operate anywhere in the zone to be eligible for handling fee payments”.

**Response:** CalRecycle rejects this comment. With regard to clarifying the operation of dealer cooperatives anywhere in an unserved zone for purposes of handling fee eligibility, the comment's proposed language does not meaningfully add any clarity to the statutorily-consistent CalRecycle-proposed language.

*CalRecycle Response 122: No Specific Change: Handling Fee Eligibility within a Served Convenience Zone*

*Comment Code C-3-42.*

**Comment:** CalRecycle received one comment suggesting that CalRecycle has the statutory authority to offer handling fees and other program payments to dealer cooperatives within served convenience zones.

**Response:** CalRecycle rejects this comment. With regard to handling fee payments, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. The proposed regulatory text is necessary to implement PRC section 14578.5(d)(1), which states that a dealer cooperative is only eligible for handling fees if no recycling center operates in the same convenience zone.

*CalRecycle Response 123: No Specific Change: Issues with Timeline for Rulemaking Process*

*Comment Code C-3-3.*

**Comment:** CalRecycle received one comment expressing concern with CalRecycle having yet to provide a model stewardship plan and the timelines for the public comment period and release of the proposed regulations.

**Response:** CalRecycle rejects this comment. This comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. CalRecycle is currently working on preparing a model plan to assist dealer cooperatives with stewardship plan development. Additionally, CalRecycle held public workshops relating to dealer cooperatives on the following dates: April 25, 2023, August 10, 2023, August 31, 2023, and April 30, 2024. Lastly, CalRecycle complied with all time periods for notice and public comments established by Government Code sections 11346.4, 11346.45, 11346.5, and 11346.8.

## 14. CalRecycle Disagrees with Policy Suggested

CalRecycle received four comments unrelated to any categories above that CalRecycle disagreed with the policy suggested by the comments. These comments and CalRecycle's responses are summarized below under their respective subcategory.

*CalRecycle Response 124: Performance Standards Provide Flexible Standards*

*Comment Code O-2-6.*

**Comment:** CalRecycle received one comment requesting CalRecycle provide a set number of containers that each member of a dealer cooperative should redeem on a monthly basis to meet the minimum required 80% rate performance standard. The commenter recommends achieving this number by dividing 80% of the overall number of CRV containers sold in the state by the number of dealers.

**Response:** CalRecycle rejects this comment. The provision requiring an 80% redemption rate of containers sold within the dealer cooperative is necessary to accomplish the goal of 80% beverage container recycling rate. PRC section 14501(c) establishes an 80% recycling rate and the provisions requiring a 100% capacity with an 80% performance standard is necessary to effectuate this statutory provision because they provide flexible standards that are achievable for dealer cooperatives of varying sizes. The proposed method of quantifying targets based on dividing overall container beverages sold assumes equal distribution of dealers per dealer cooperative and does not take into account the limitations of smaller or more rural cooperatives that have lower sales of beverage containers compared to other high-volume dealers.

*CalRecycle Response 125: Capacity to Redeem 100% of Beverage Containers Sold by Dealer Members Is Reasonable*

*Comment Code O-3-8.*

**Comment:** CalRecycle received one comment requesting the removal of the requirement of dealer cooperatives to have the capacity to redeem 100% of the beverage containers sold by dealer members into the convenience zones in which any of the dealer members operate.

**Response:** CalRecycle rejects this comment. The stewardship plan requirement to describe their capacity to redeem 100% of beverage containers sold is necessary to increase consumer convenience. PRC section 14501(c) establishes an 80% recycling rate. The stewardship plan requirement for the dealer cooperative to describe how redemption sites will meet a minimum of 100% capacity of beverage containers sold by its dealer members is necessary to effectuate this statutory provision because it increases the efficiency and effectiveness of recycling efforts. The quantified standard ensures that the dealer members provide stewardship of the containers they sell from the point of purchase at the dealer store, to the redemption through the dealer cooperative, and ultimately to be cancelled at a processor.

*CalRecycle Response 126: Performance Standards Are Clear and Reasonable*

*Comment Code O-6-12.*

**Comment:** CalRecycle received one comment recommending that stewardship plans should provide a high level of customer service and sufficient storage and transportation capacity during busiest days of the week, busiest times of the day, busiest months of the year, and seasonal variations. The commenter also recommended that stewardship plans demonstrate the capacity to accommodate approximately 897 containers per person, based off of data provided by the commenter regarding beverage containers sold in the state and California's population.

**Response:** CalRecycle rejects this comment. With regard to requiring the stewardship plans to demonstrate the ability to provide a high level of customer service and sufficient

storage and transportation capacity during the busiest times, an average wait time is adequate to achieve this since an average wait time includes both busy times and slow times. With regard to imposing a requirement to accept 897 containers per person per year, this proposed method of quantifying targets does not take into account the limitations of smaller or more rural cooperatives that have lower sales of beverage containers compared to other high-volume dealers and does not provide enough flexibility for dealer cooperatives to adapt to the particular situations of the unserved convenience zones in which they operate.

*CalRecycle Response 127: Regulation Regarding Employing Non-Dealer Staff Is Clear and Reasonable*

*Comment Code O-4-16.*

**Comment:** CalRecycle received one comment that section 2382(e)(1) (which states those a dealer cooperative may contract with, consult with, or employ persons) is “not necessary and should be deleted”.

**Response:** CalRecycle rejects this comment. Based on interested party feedback at workshops held for these regulations, the public was unclear about the extent to which dealer cooperatives could employ non-dealer staff. This provision clarifies that dealer cooperatives may employ other persons outside of their dealer members and is necessary to provide flexibility of standards for dealer members to comply with their legal obligations. PRC section 14578.5(c)(3)(B) allows the dealer cooperative redemption program to hire contractors as part of the redemption services. The proposed requirement clarifies the statute allowing this option.

## 15. CalRecycle Disagrees Clarity is Needed

CalRecycle received three comments unrelated to any categories above that CalRecycle disagreed with the commenter that clarity was needed in the regulations. These comments and CalRecycle’s responses are summarized below under their respective subcategory.

*CalRecycle Response 128: Clarification Regarding “Electronically in Writing” Is Not Necessary*

*Comment Code O-4-14.*

**Comment:** CalRecycle received one comment expressing confusion regarding section 2381(a)(2) stating reports should be submitted electronically in writing.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to the phrase “submitted electronically in writing” because the deletion of “in writing” would permit notification electronically in mediums other than



written form, such as voicemail. Submitting the reports electronically in writing is necessary to provide a standardized, efficient, and verifiable method of submittal.

*CalRecycle Response 129: Renumbering Provisions Is Necessary for Consistency*

*Comment Codes I-3-53 and I-3-55.*

**Comment:** CalRecycle received two comments requesting that the amendments made to specific sections be reversed. Comment I-3-53 requested the amendments to section 2425(h)(1)(B) should be reversed for clarity and consistency. Comment I-3-55 requested the amendment to section 2430(b)(2)(A) be reversed to remain consistent.

**Response:** CalRecycle rejects these comments. The revision to renumber the provisions is necessary to make conforming changes for consistency in numbering within these regulations.

## 16. CalRecycle Accepts Comment Non-Substantial Change

CalRecycle received two comments unrelated to any categories above that CalRecycle agreed that a non-substantial change was needed in the regulations. These comments and CalRecycle's responses are summarized below.

*CalRecycle Response 130: Clarification Regarding Section 2535 Is Reasonable*

*Comment Codes O-6-21 and O-8-16.*

**Comment:** CalRecycle received two comments requesting clarification regarding the language "for every empty beverage container not donated to the dealer cooperative" in section 2535(a)(2).

**Response:** CalRecycle accepts these comments. CalRecycle agrees with the commenters' suggestion to clarify containers not donated to the dealer cooperative. The new revised text can be found in section 2382(n)(1)(A). Dealer cooperatives have been deleted from section 2535, and section 2535 is no longer being amended in this regulation package. This change does not affect the scope of the regulatory text.

## 17. CalRecycle Accepts Comment Requiring Substantial Change

CalRecycle received four comments unrelated to any categories above that CalRecycle agreed that a substantial change was needed in the regulations. These comments and CalRecycle's responses are summarized below under their respective subcategory.

*CalRecycle Response 131: Clarification Regarding Dealer Proof of Registration Is Reasonable*

*Comment Code O-4-4.*

**Comment:** CalRecycle received one comment requesting clarification regarding whether dealers will receive proof of registration upon completion of the online registration.

**Response:** CalRecycle accepts this comment. When a dealer submits the electronic form to start the registration process, the system will generate an acknowledgement with a unique number. This proof of submittal indicates the dealer has initiated the registration process, but it does not satisfy the requirement for a dealer to be registered until the registration has been completed and a registration number is issued by CalRecycle to the dealer. To clarify at what point in the registration process the dealer has been registered, CalRecycle will make amendments to the proposed section 2371(d) to specify that CalRecycle providing the registering dealer with a dealer registration number confirms that registration was successful.

*CalRecycle Response 132: Clarification Regarding Section 2375.1(b)(7)(A) Is Reasonable*

*Comment Code O-3-4.*

**Comment:** CalRecycle received one comment requesting clarification regarding provisions in section 2375.1(b)(7)(A), especially clarification regarding how a dealer cooperative will have the capability to redeem all material types as well as 100% of beverage containers sold by dealer members and that the dealer cooperative will not refuse beverage containers on the basis that the material type or specific beverage type is not sold by a member of the dealer cooperative.

**Response:** CalRecycle accepts this comment. Based on interested party feedback, CalRecycle agrees clarification is necessary and will add clarification that the dealer cooperative must have the capacity to redeem an amount of beverage containers equal to 100% of the beverage containers sold by dealer members, not 100% of the actual beverage containers sold by its dealer members. With this clarification, the provision is necessary to retain to ensure that small dealer cooperatives are not overwhelmed with a requirement to redeem an amount of beverage containers that far exceeds the amount of beverage containers sold by its dealer members.

*CalRecycle Response 133: Clarification Regarding Processor Payments and Shipping Reports Is Reasonable*

*Comment Code I-3-54.*

**Comment:** CalRecycle received one comment requesting clarification regarding regulations related to processors and shipping reports in sections 2420 and 2430.

**Response:** CalRecycle accepts this comment. Based on interested party feedback, CalRecycle agrees that clarification is needed with regard to processor payments and shipping reports. The following change has been made: section 2430(a)(1) has been

amended to require processors to complete the entire shipping report after inspecting the load received from dealer cooperatives.

*CalRecycle Response 134: Clarification Regarding Section 2501 Is Reasonable*

*Comment Code C-2-12.*

**Comment:** CalRecycle received one comment suggesting the deletion of section 2501(a)(3) because it could prevent a bag drop redemption method from offering an immediate payment option to consumers.

**Response:** CalRecycle accepts this comment. Based on interested party feedback, CalRecycle agrees that clarification is needed with regard to this provision. Section 2501(a)(3) has been deleted and section 2501 is no longer being amended in this rulemaking package.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE FIRST 15-DAY COMMENT PERIOD**

**Summary of Comments Received**

Written comments were received by CalRecycle during the first 15-day comment period which began on August 19, 2024, and ended on September 3, 2024.

The comments received during the first 15-day comment period are displayed on the attached 15-Day Comment Period Matrix, which shows the corresponding comment code, the CCR section that the comment is in reference to (if applicable), the commenter's name, their organization, and CalRecycle's response to the comment, and is incorporated by reference. Please refer to the first 15-Day Comment Period Matrix for the list of 203 total comments received during the first 15-day comment period. Please note that 9 of the 203 total comments received contain the full comment submissions that were broken out and responded to as discrete comments. Thus, I-1-1, O-1-1, O-2-1, O-3-1, O-4-1, C-1-1, C-2-1, C-3-1, and C-5-1, do not have corresponding responses in the comment matrix, as the content of each submission was responded to starting with comment codes I-1-2, C-1-2, etc. The 15-Day Comment Period Matrix contains a key of comment codes of all 203 comments. In both this FSOR and the 15-Day Comment Period Matrix, I = a comment from an Individual, C = a comment from a Company, and O = a comment from an Organization.

CalRecycle has sorted the total 203 comments into the following three categories of comments with specified subcategories based upon the underlying regulatory concepts that the comments relate to, along with the corresponding page number in this FSOR:

**1. Comments in Support..... 116**

**2. Comments on Revised Provisions for 15-Day Public Comment Period..... 117**

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<b>3. Comments Outside of Scope of 15-Day Notice Changes .....</b>	<b>146</b>
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## **CalRecycle’s Response to First 15-Day Comments Received**

CalRecycle would like to express its appreciation to the numerous organizations, companies, and individuals that participated in the first 15-day comment period. CalRecycle concluded that changes were necessary to the first 15-day comment period regulations and withdrew the rulemaking from the Office of Administrative Law as confirmed on February 24, 2025. The updates to the proposed regulations were noticed in a second 15-day comment period, which lasted from February 24, 2025, and ended on March 11, 2025. The changes are summarized in the purpose and necessity section of this FSOR.

The 15-Day Comment Period Matrix that includes CalRecycle’s responses is posted on the [SB 1013 Dealer Registration and Dealer Cooperatives Permanent Regulations website](#), and is incorporated by reference. The original comment letters received during the 15-day comment period are available for public inspection during normal business hours at 1001 I Street, 24<sup>th</sup> Floor, Sacramento, CA 95814. To schedule a time to inspect these documents, please contact Csilla Richmond at [regulations@calrecycle.ca.gov](mailto:regulations@calrecycle.ca.gov).

## **1. Comments in Support**

CalRecycle received general support from two organizations and interested parties. The following eight comments support the objectives and goals of the SB 1013 Dealer Registration and Dealer Cooperatives Permanent Rulemaking:

*Comment Codes O-4-2, O-4-3, O-4-4, O-4-5, O-4-6, O-4-7, C-4-1, and C-4-3.*

**CalRecycle's response to all comments in support:** CalRecycle thanks these commenters for their participation in the 15-day public comment period. No changes were made to the proposed regulations as these comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

## 2. Comments on Revised Provisions for 15-Day Public Comment Period

### 2.1 Definitions

CalRecycle received 17 comments that expressed concerns on current definitions outlined in section 2370, as well as terms used throughout the regulations, including definitions related to consumer convenience and innovative methods of redemption. These comments and CalRecycle's responses are summarized below under their respective subcategory.

#### *CalRecycle Response 1: Definitions of Reverse Vending Machines*

*Comment Codes C-1-10 and C-5-8.*

**Comment:** CalRecycle received two comments expressing concerns that the technological limitations of reverse vending machines' volume of redemption do not offer comparable consumer convenience equivalent to certified recycling centers.

**Response:** CalRecycle rejects these comments. The scope of this rulemaking is limited to dealer registration and dealer cooperatives. At this time, CalRecycle does not have the statutory authority to alter the requirements for recycling centers or pilot projects operating in served convenience zones. PRC section 14578.5(b)(1) requires that CalRecycle develop regulations that include the registration process for dealers, the application and registration process for dealer cooperatives, and the process for updating information after registration as needed, and other regulations necessary for the implementation and enforcement of this subdivision. To the extent that reverse vending machines do not match the scale of redemption offered by certified recycling centers, these regulations require dealer cooperatives to offer comparable consumer convenience pursuant to 2370(a). The regulations acknowledge the limitations of innovative methods of redemption, such as reverse vending machines, compared to recycling centers and has proposed performance standards, such as a minimum redemption rate of 80% and minimum capacity design of 100% as outlined in section 2375.6. The supporting statement provided in the comment compares a single recycling center to the operation of a single reverse vending machine. This is not an accurate comparison as it relates to dealer cooperatives, because dealer cooperatives will need to strategically create possibly many redemption locations using a wide selection of methods of redemption to meet these two performance requirements.

### 2.1.1 Consumer Convenience

*CalRecycle Response 2: The Definition for Consumer Convenience Is Not Duplicative*  
*Comment Codes C-1-11 and C-1-12.*

**Comment:** CalRecycle received two comments that the restated definition for “consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” in section 2370(a) lacks clarity. Both comments asserted this definition was duplicative of PRC section 14571(c)(1). Comment C-1-12 also asserted this definition was duplicative of PRC section 14571(b) and recommended this definition be deleted.

**Response:** CalRecycle rejects these comments. CalRecycle defined this phrase in the proposed regulatory text to be consistent with PRC section 14578.5(c)(1), and because CalRecycle received feedback from interested parties during the 45-day comment period to define the phrase more clearly. Defining “Consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” is not duplicative of PRC section 14571(b) or 14571(c)(1) because dealer cooperatives are not recycling centers. Defining this phrase for dealer cooperatives is also necessary to effectuate this statutory provision.

Additionally, in response to comment C-1-12, this provision provides specific definitions unique to this new beverage container recycling entity and is necessary to increase consumer awareness and provide flexibility of standards for dealer members to comply with their legal obligations. PRC section 14578.5(c)(1) requires that the dealer cooperative redemption program include sufficient redemption opportunities for consumers that have comparable consumer convenience to recycling centers and pilot projects. While the statute is specific that the redemption plan should be comparable, it is not required that dealer cooperatives operate in the exact same manner as recycling centers.

*CalRecycle Response 3: CalRecycle Has Authority to Define Consumer Convenience*  
*Comment Code C-1-13.*

**Comment:** CalRecycle received one comment that section 2370(a)(2) lacked clarity and could be interpreted as authorization for dealer cooperatives to operate one day per week. This comment also asserted that CalRecycle lacked authority.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. Section 2370(a)(2) is designed to aid the statutory objective of

dealer cooperative stewardship programs offering comparable consumer convenience, as required by PRC section 14578.5. The provision is reasonable because it defines “Consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act” by specifying the days and hours the dealer cooperative stewardship programs may operate to meet minimum requirements. To the extent that this comment suggests a dealer cooperative could operate only one day a week, this conclusion is inconsistent with the requirement in section 2030(a)(1) that requires redemption to occur a minimum of 30 hours a week. This provision does not conflict with or contradict any statutory provision within the Act.

*CalRecycle Response 4: The Requirements for Consumer Convenience Do Not Need to Be Expanded*

*Comment Code C-4-6.*

**Comment:** CalRecycle received one comment requesting that CalRecycle expand the requirements of consumer convenience to include more hours and a requirement to operate on Saturday and Sunday.

**Response:** CalRecycle rejects this comment. With regard to definitions of consumer convenience, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that CalRecycle should increase the minimum operating hours requirement for redemption locations, the amendments to these provisions are necessary to make more specific the requirement in PRC section 14578.5 that dealer cooperative stewardship programs offer comparable consumer convenience to PRC sections 14571 and 14571.9. This definition maintains a minimum standard of consumer convenience as it relates to certified recycling centers and pilot projects. While it is possible for dealer cooperatives to operate at these minimum hours of operation, they must demonstrate that these hours provide sufficient redemption opportunities that meet the performance standards specified in their approved stewardship plan. If offering redemption at the minimum operating hours is insufficient to redeem 80% of the beverage containers sold by dealer members, then dealer cooperatives will have to adjust to meet the needs of their community. To the extent that this comment suggests increased hours on Saturday and Sunday, section 2370(a)(1) and (2) both require a minimum number of weekend hours.

*CalRecycle Response 5: Clarification Is Not Necessary for Consumer Convenience and Hours of Operation for Innovative Methods of Redemption*

*Comment Codes O-1-2 and O-2-2.*

**Comment:** CalRecycle received two comments requesting clarification regarding comparable consumer convenience and hours of operation for innovative methods of redemption, such as reverse vending machines and bag drop.

**Response:** CalRecycle rejects these comments. To the extent that the dealer cooperative has the flexibility to determine the redemption method and operating hours for each redemption site, the dealer cooperative is responsible for explaining in their stewardship plan how they will redeem all beverage container material types, pursuant to section 2375.4, Stewardship Plan Substantive Contents. This definition does not act as a maximum standard for operational hours, but rather, CalRecycle expects dealer cooperatives will operate in excess of this definition. This is because this requirement in conjunction with performance standards, such as the 80% redemption requirement and 100% capacity design, creates a framework for dealer cooperatives to operate multiple redemption locations within the convenience zone for the hours it takes to meet these requirements. This revision was made in response to public comment received during the 45-day public comment period to make standards for dealer cooperatives that have comparable consumer convenience to recycling center and pilot project operating requirements.

*CalRecycle Response 6: Clarification Is Not Necessary for Consumer Convenience and Minimum Operating Requirements for Days of the Week*

*Comment Codes O-1-3 and O-2-3.*

**Comment:** CalRecycle received two comments requesting clarification regarding the definition of comparable convenience and minimum required operation for specific days of the week.

**Response:** CalRecycle rejects these comments. With regard to the definition for “Consumer convenience that is comparable to the requirements of section 14571 and section 14571.9 of the Act”, these comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that there are two options for the dealer cooperative to meet the comparable standard of consumer convenience defined in PRC sections 14571 and 14571.9, neither option restricts recycling operations to only weekdays. CalRecycle sets both options as a minimum standard for operational hours. This is because this requirement, in conjunction with performance standards such as the 80% redemption requirement and 100% capacity design, creates a framework for dealer cooperatives to operate multiple redemption locations within the convenience zone for the hours it takes to meet these requirements. This revision was made in response to public comment received during the 45-day public comment to address standards for dealer cooperatives to be made comparable consumer convenience to recycling center and pilot project operating requirements.

*CalRecycle Response 7: Consumer Convenience of Dealer Cooperatives Should be Comparable, and Does Not Have to Be Duplicative, of Recycling Centers*

*Comment Code O-4-12.*



**Comment:** CalRecycle received one comment requesting clarification regarding consumer convenience and to which methods of redemption the 30 hour per week minimum requirement applies. This comment also compared minimum hours of operation requirements of recycling centers employing innovative methods of redemption to that of dealer cooperatives.

**Response:** CalRecycle rejects this comment. This provision provides specific operation standards unique to this new beverage container recycling entity and is necessary to increase consumer awareness and provide flexibility of standards for dealer members to comply with their legal obligations. PRC section 14578.5(c)(1) requires that the dealer cooperative redemption program include sufficient redemption opportunities for consumers that have comparable consumer convenience to recycling centers and pilot projects. While the statute is specific that the redemption plan should be comparable, it is not required that dealer cooperative operate in the exact same manner as recycling centers. Making dealer cooperative operation provisions the same as recycling center provisions in PRC section 14571(e) is not necessary and is contrary to effectuate this statutory provision. Additionally, the performance standards outlined in section 2375.6 may influence the dealer cooperative to provide consumer convenience beyond the definition that is proposed in these regulations in order to meet the 80% minimum redemption rate performance standard.

## **2.1.2 Innovative Methods of Redemption**

*CalRecycle Response 8: Unauthorized Definition of Innovative Methods of Redemption  
Comment Code C-1-14.*

**Comment:** CalRecycle received one comment suggesting the removal of the definition of innovative methods of redemption on the basis that CalRecycle lacks the statutory authority to define this term.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. This regulatory provision, section 2370(f), is designed to aid the statutory objective of increasing consumer convenience and access for CRV redemption to increase California's recycling rates to 80% and reduce litter. The provision is reasonable because it defines and permits innovative methods of redemption, which increases access and opportunity for CRV redemption. It does not conflict with or contradict any statutory provision within the Act.

*CalRecycle Response 9: Unauthorized Definition of Pick-Up Service*

*Comment Code C-1-15.*

**Comment:** CalRecycle received one comment suggesting the deletion of the definition of a pick-up service on the basis that CalRecycle lacks the statutory authority to define this term.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. The definition for "innovative methods of redemption" is designed to aid the statutory objective of increasing consumer convenience and access for CRV redemption to increase California's recycling rates to 80% in areas where there is no recycling center available to consumers by allowing dealer cooperatives to use these newer types of redemption methods. The definition specifies that an innovative method of redemption includes "pickup service as part of which empty beverage containers are redeemed at the consumer's address", which is consistent with CCR, title 14, section 2750(a)(6). It does not conflict with or contradict any statutory provision within the Act, and a dealer cooperative may still use other kinds of mobile recycling that are not innovative methods of redemption.

*CalRecycle Response 10: Definition of Bag Drop Redemption*

*Comment Code C-2-2.*

**Comment:** CalRecycle received one comment suggesting changing the definition of a bag drop service to include "immediately paying the refund value after the bag is counted" for clarity.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to bag drop because bag drop is a type of innovative method of redemption and section 2382(n)(1)(B) provides that "[a] dealer cooperative redemption site that is an innovative method of redemption shall pay within three working days of delivery the refund value for every eligible empty beverage container delivered to the redemption site for redemption". This timeframe is consistent with PRC section 14537.

*CalRecycle Response 11: Redemption Method Definition for Reporting*

*Comment Code C-4-2.*

**Comment:** CalRecycle received one comment suggesting changing the use of the term "reverse vending machine or bag drop" to "innovative method of redemption" for the downtime reporting requirements, on the basis that attended collection services also should require reporting of any downtime.

**Response:** CalRecycle rejects this comment and disagrees that these provisions need to be amended. Section 2381(b)(1)(D) is designed to aid the statutory objective of providing convenient redemption opportunities and ensuring a dealer cooperative is operating in accordance with its stewardship plan. Changing the term from “innovative method of redemption” to “reverse vending machine or bag drop” in these provisions is reasonable because the definition of “innovative method of redemption” includes pickup service and other non-technology-based methods of redemption where operating time of the technology 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. Each method of redemption offered by a dealer cooperative is covered by the performance standards established pursuant to section 2375.6, therefore ensuring that excessive downtime of any redemption method must be compensated with alternative redemption. The performance standards of these regulations in total ensure that dealer cooperatives uphold the goals of Act, such as an 80% recycling rate (PRC section 14510(c)) and convenient access to redemption opportunities (PRC section 14578.5(c)(1)).

*CalRecycle Response 12: Definition Innovative Method of Redemption and Mobile Collection Programs*

*Comment Codes O-1-4 and O-2-4.*

**Comment:** CalRecycle received two comments expressing concern with the amended definition of “innovative method of redemption” that removed the reference to mobile collection service.

**Response:** CalRecycle rejects these comments. To the extent that the comments suggest the definition of “innovative method of redemption” and “redemption location” has been revised to exclude mobile recycling redemption from participating as a dealer cooperative redemption method, this is inaccurate. The language proposed in section 2370(h) and (f) allows for many types of redemption methods. The definition for “innovative method of redemption” means any of the following four technologies: pickup service where the redemption occurs at the consumer’s address, bag drop, reverse vending machine, and unstaffed methods of redemption. These methods of redemption are classified as “innovative methods of redemption” for purposes of determining payment because they do not require an attendant to be present and therefore, pursuant to section 2382(n)(1)(B), such sites must pay the refund value within three working days. While the term “mobile collection” was replaced with pickup service in the definition of “innovative method of redemption” as it specifically pertains to collection occurring at a consumer's address, nothing prohibits a dealer cooperative from using mobile recycling to fulfill the obligations in their stewardship plan. Mobile recycling is not expressly prohibited by the regulation text, and it can also be used in conjunction with innovative methods of redemption. Additionally, the definition for “redemption location” means “a place at which the beverage containers are redeemed including, but not

limited to, an innovative method of redemption,” emphasizing that the redemption could include additional unspecified types of redemption beyond innovative methods of redemption.

## **2.2 Dealer Registration and Redemption Requirements**

CalRecycle received six comments related to dealer registration and redemption requirements. These comments and CalRecycle’s responses are summarized below under their respective subcategory.

### *CalRecycle Response 13 Clarification for Reporting Types of Beverages*

*Comment Code I-1-6.*

**Comment:** CalRecycle received one comment requesting clarity in section 2371 regarding what responses for the types of beverages will suffice. Specifically, this commenter asks if "soda, beer, wine, liquor" will suffice.

**Response:** CalRecycle rejects this comment. This comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. This provision serves to verify if the registering dealer sells beverages that are included in the BCRP; specifically, requiring information on the beverage types, container material types, and container sizes offered for sale. The types of beverages will be sufficient.

### *CalRecycle Response 14: Clarification Regarding the “Additional Information” for Dealer Registration, Mentioned in Section 2371(c), Is Not Necessary*

*Comment Code I-1-7.*

**Comment:** CalRecycle received one comment requesting clarification regarding whether “additional information” will be defined in regulation.

**Response:** CalRecycle rejects this comment. With regard to additional requested information for dealer registration this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that the additional information requested will be defined in regulation, CalRecycle has clarified what additional information it may request in the following subparagraphs 2371(c)(1) and (2).

### *CalRecycle Response 15: Clarification Regarding Redemption Requirements of Non-Member Dealers Is Not Necessary*

*Comment Code I-1-11.*

**Comment:** CalRecycle received one comment claiming sections 2373 lacked clarity. The commenter recommended this language be used instead: “Any dealer that is not a member of a cooperative shall redeem containers”.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to requiring non-member dealers in an unserved convenience zone to redeem beverage containers in store because the addition of the language the commenter suggests does not adequately establish the requirements of non-member dealers in an unserved convenience zone. The regulatory provision as written specifies all the requirements formally established in PRC section 14578(a)(1). The language the commenter suggests would change the meaning of the regulatory provision to include dealers within served zones and dealers that are excluded from complying with PRC section 14578(a)(1) pursuant to PRC section 14578(b)(1), which would be inaccurate and contrary to SB 1013.

*CalRecycle Response 16: Clarification Regarding In-Store Redemption Requirements Are Not Necessary*

*Comment Code I-1-13.*

**Comment:** CalRecycle received one comment requesting clarification regarding dealer in-store redemption requirements.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to requiring dealers to redeem in store because the provision as written explicitly states that members of a dealer cooperative must redeem in store until the dealer cooperative's stewardship plan is approved and fully operational. The provision as written specifies all the requirements formally defined in PRC section 14578(a)(1).

*CalRecycle Response 17: Previously Proposed Section 2374 Will Not Be Reinstated*

*Comment Codes O-1-7 and O-2-7.*

**Comment:** CalRecycle received two comments positing that the deletion of previously proposed section 2374 and the currently proposed requirement for dealer cooperatives that are not yet fully operational to redeem in-store “will not be cost effective for many dealers and will create a significant hardship on the dealer cooperative from the onset”. These comments requested that CalRecycle reinstate section 2374 or, at a minimum, “refrain from imposing upon willing dealers the requirement to redeem on premises while a Stewardship Plan approval process is underway”.

**Response:** CalRecycle rejects these comments. CalRecycle determined that the previously proposed regulatory provision that gave dealer cooperatives 120 days to submit a stewardship plan in which their dealer members did not have to redeem in store is contrary to the goal of increasing consumer convenience and access for CRV

redemption to increase California's beverage container recycling rates to 80%, as specific in PRC section 14501(c). PRC section 14578(a)(2)(A) requires that a stewardship plan be approved by CalRecycle and operational in order for a dealer to be in compliance with PRC section 14578 under PRC section 14578(a)(2), therefore if a stewardship plan is not approved and operational a dealer in an unserved zone must comply with the alternative requirements to redeem in store under PRC section 14578(a)(1). Eliminating section 2374 of the regulatory text is necessary to effectuate this statutory provision because CalRecycle determined that while this is within the enforcement discretion of CalRecycle, 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. This is necessary 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.

### **2.3 Stewardship Plans**

CalRecycle received 21 comments related to stewardship plan submission, contents, review, and changes and CalRecycle's responses are summarized below under their respective subcategories.

#### *CalRecycle Response 18: Including References in the Stewardship Plan Submission Section*

*Comment Code I-1-14.*

**Comment:** CalRecycle received one comment stating that section 2375 Stewardship Plan Submission lacks clarity because certain requirements are included as references to other sections of regulations or the Act rather than stated in text.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to stating the requirements of the section in text rather than by reference because the addition of in text requirements is unnecessary and using citations comprehensively references the regulations and the Act without the burden of repeating whole sections within the text. This format ensures clarity and consistency.

#### *CalRecycle Response 19: Effects of Dealer Cooperatives Outside of a Convenience Zone*

*Comment Code I-1-29.*

**Comment:** CalRecycle received one comment expressing concern with the level of effect a dealer cooperative would have outside of their convenience zone.

**Response:** CalRecycle rejects this comment. With regard to dealer cooperatives within a zone affecting other zones this comment does not suggest any specific changes to

the proposed regulations or raise issues related to the rulemaking process. If a dealer cooperative consists of the dealers within a single unserved convenience zone, the effect of that dealer cooperative is limited to the zone it operates within and does not apply to surrounding convenience zones. Without additional clarity or context to the comment, CalRecycle is unable to further respond.

*CalRecycle Response 20: Stewardship Plan Information Is Burdensome and Unnecessary*

*Comment Code I-1-30.*

**Comment:** CalRecycle received one comment expressing concern that the requirements in section 2375.2 Stewardship Plan Informational Contents are burdensome and unnecessary.

**Response:** CalRecycle rejects this comment. With regard to informational requirements for stewardship plans this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that the informational requirements in this section are burdensome and unnecessary, the provisions in this section are necessary to ensure that all relevant information is provided for effective oversight and management of the stewardship program, facilitating transparency and accountability in the beverage container redemption process. Section 2375.2 is designed to aid the statutory objective of increasing recycling rates to 80% and providing increased consumer access to redemption opportunities. Without additional clarity or context to the comment, CalRecycle is unable to further respond.

*CalRecycle Response 21: Additional Information for Stewardship Plan Approval*

*Comment Code I-1-34.*

**Comment:** CalRecycle received one comment asking if the additional information that CalRecycle may request will be added to the regulations.

**Response:** CalRecycle rejects this comment. With regard to CalRecycle requesting additional information for stewardship plan review and approval, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. Regarding whether additional information will be specified in an adopted regulation, CalRecycle cannot reasonably specify what information it may request in the regulations because the scope of the information is too broad and depends on the context of the information provided. CalRecycle will require only the necessary information to clarify or corroborate the contents of the stewardship plan, as required under section 2376(a), and therefore not specifying in an adopted regulation the additional information that may be required is reasonable.

*CalRecycle Response 22: Timeframe For Review of Stewardship Plans Is Reasonable*  
*Comment Code I-1-35.*

**Comment:** CalRecycle received one comment suggesting that review of stewardship plans should be done in 60 days, like that of the review period for certification of recycling centers.

**Response:** CalRecycle rejects this comment. The deadline of 90 days for the review process of stewardship plans is necessary for CalRecycle to complete a comprehensive review of a stewardship plan and responsibly decide whether to approve or disapprove of the stewardship plan. Requiring 60 days for this process would not provide adequate time for CalRecycle to responsibly review and approve or disapprove of a stewardship plan, considering the numerous amount of dealers, and potentially dealer cooperatives, across the state. A 90-day period balances the need to give CalRecycle enough time to review a stewardship plan with the necessity to give dealer cooperatives a response on whether their stewardship plan is approved or disapproved within a reasonable timeframe.

*CalRecycle Response 23: Stewardship Plan Approval Burdensome*  
*Comment Code I-1-36.*

**Comment:** CalRecycle received one comment expressing concern on stewardship plan approval timelines. The comment stated that a 120-day timeline is excessively burdensome.

**Response:** CalRecycle rejects this comment. With regard to a 120-day timeframe, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that 120-day timeframes have been proposed in this rulemaking, this was previously the review period for submitted stewardship plans in draft regulations workshopped on August 31, 2023, which has been amended in the final regulations to a 90-day timeframe. If the commenter is referring to the total timeframe of a disapproved stewardship plan which includes the 90-day review and written notice within 30 days of disapproval, this timeframe is necessary for CalRecycle to complete a comprehensive review of a stewardship plan and responsibly decide whether to approve or disapprove of the stewardship plan. A 90-day period balances the need to give CalRecycle enough time to review a stewardship plan with the necessity to give dealer cooperatives a response on whether their stewardship plan is approved or disapproved within a reasonable timeframe. Thirty days' notice of disapproval is necessary because it provides CalRecycle with enough time to explain why the proposed stewardship plan does not comply with the Act and regulations. Providing less time for such notice would not provide adequate time for CalRecycle to communicate its findings considering the numerous amount of dealers, and potentially dealer cooperatives, across the state that CalRecycle regulates.



*CalRecycle Response 24: List of Processors Is Unnecessary and Unauthorized*

*Comment Codes I-1-39 and C-1-34.*

**Comment:** CalRecycle received two comments expressing concern with the requirement of a list of processors and recyclers for the notice of stewardship plan approval. The comments suggested the deletion of this provision on the basis that it is unnecessary and lacks statutory authority.

**Response:** CalRecycle rejects these comments. The requirement to submit to CalRecycle as part of the operational notice a list of processors and recycling centers not included in the stewardship plan is necessary for CalRecycle to be kept aware of the processors and recycling centers to which dealer cooperatives ship empty beverage containers. The requirement to submit this information at the time of stewardship plan submission is necessary for CalRecycle to complete a comprehensive review of a stewardship plan and responsibly decide whether to approve or disapprove of the stewardship plan. However, the operational notice must also list this information because the dealer cooperative may not have known all of the recycling centers and processors it will ship to at the time of stewardship plan submission. For comment I-3-39, requiring this information is necessary because it provides CalRecycle with current and complete information about the stewardship plan's operational aspects and allows CalRecycle to ensure that the empty beverage containers are shipped to certified facilities according to the Act and regulations. For comment C-1-34, imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. Additionally, requiring this information is reasonable even though a violation of this requirement would result in a violation of the regulations by a dealer cooperative. It is not duplicative of the information CalRecycle receives in the Division of Recycling Integrated Information System (DORIIS) because DORIIS information is submitted after the fact, whereas the operational notice informs CalRecycle prospectively of the recycling centers and processors ahead of time, thereby allowing CalRecycle to responsibly administer and enforce the dealer cooperative program.

*CalRecycle Response 25: 30-Day Operational Notice for Redemption Sites*

*Comment Code I-1-41.*

**Comment:** CalRecycle received one comment expressing concern with the 30-day operational notice for redemption sites and redemption contractors beginning or ceasing operation. The comment suggests this notification is unnecessary.

**Response:** CalRecycle rejects this comment. The 30-day prior notification requirement, now located in section 2378 in the 15-day public comment period regulation text, for

redemption contractor or redemption sites becoming operational or ceasing operation is necessary to ensure dealer cooperatives provide comparable consumer convenience and sufficient redemption opportunities. The 30-day notification of redemption site or contractor operational changes is necessary to effectuate SB 1013 because CalRecycle must be informed of operational changes within the stewardship program to allow for timely adjustments in monitoring and enforcement to ensure ongoing compliance and program effectiveness. Because redemption contractors of a stewardship program do not need to be certified, CalRecycle must be notified by a dealer cooperative when redemption access changes for the unserved convenience zone.

*CalRecycle Response 26: Including References in Stewardship Plan Review and Approval or Disapproval*

*Comment Code I-1-42.*

**Comment:** CalRecycle received one comment stating that section 2376 Stewardship Plan Review and Approval or Disapproval; Operational Notice lacks clarity because certain requirements are included as references to other sections of the regulations or the Act rather than stated in text.

**Response:** CalRecycle rejects this comment. With regard to stewardship plan approval or disapproval, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. The provision the commenter is referring to, section 2376(g), does not exist within section 2376 of the 45-day public comment period version or 15-day public comment period version of the regulations. CalRecycle disagrees that clarification is needed with regard to stating the requirements of the section solely in text rather than by reference because the addition of in-text requirements is unnecessary and using cross-referencing citations comprehensively and most accurately references the relevant provision of the Act or regulations without the burden of repeating whole sections within the text. Without additional clarity or context to the comment, CalRecycle is unable to further respond.

*CalRecycle Response 27: Stewardship Plan Changes and Notification Unclear and Unauthorized*

*Comment Codes I-1-46 and C-1-38.*

**Comment:** CalRecycle received two comments suggesting changes or removal to section 2378 Stewardship Plan Changes and Notification on the basis that this section lacks clarity and statutory authority.

**Response:** CalRecycle rejects these comments. CalRecycle disagrees that this section needs to be rewritten for clarity. The section as written is reasonable because it is necessary to ensure that, as a default, all stewardship plan changes are thoroughly reviewed and vetted for compliance with statutory and regulatory standards before they are implemented, thereby safeguarding the integrity of stewardship plan efforts and

aligning them with the statutory objective of SB 1013 to increase consumer beverage container redemption. It is necessary to prohibit substantial changes to the stewardship plan from being implemented by a dealer cooperative before CalRecycle has reviewed the change because this would be the equivalent of a dealer cooperative operating an unapproved stewardship plan. This section does not conflict with or contradict any statutory provision within the Act. For comment I-1-46, CalRecycle notes that section 2378 was rewritten in the 15-day public comment period version of the proposed regulations to increase clarity by specifying the particular stewardship plan changes that are subject to different notification and approval requirements. For comment C-1-38, CalRecycle disagrees that clarification is needed regarding stewardship plan change and notification timelines because the time periods for different kinds of changes and notifications are formally defined in sections 2378(a) through (c)(2). Notifying CalRecycle within a “reasonable” time as the comment suggests would not comply with the clarity standard of the Administrative Procedure Act because what is “reasonable” is not clear and must be specifically described. Therefore, this section is necessary and reasonable even though a violation of this section by a dealer cooperative would be a violation of the regulations.

*CalRecycle Response 28: Stewardship Plans Are Costly*

*Comment Code C-3-5.*

**Comment:** CalRecycle received one comment expressing concern with the requirements in Article 3 Stewardship Plan on the basis that creating and implementing stewardship plans are prohibitively expensive for dealer cooperatives.

**Response:** CalRecycle rejects this comment. With regard to financial barriers surrounding the stewardship plan development and submittal, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that the comment identifies a financial barrier to start a dealer cooperative, small businesses that may have limited funding are exempt from dealer cooperative requirements and their financial investments pursuant to PRC section 14578(b)(1). To the extent that there is a financial investment required of a dealer to start a dealer cooperative, CalRecycle has taken this into consideration in the Economic and Fiscal Impact Statement Supplemental Information and Form STD 399 and calculated an estimated financial benefit to dealer cooperatives that far outweighs the estimated financial cost. The financial benefit of dealer cooperatives is that they are eligible for reimbursement of CRV funds paid to consumers, processing payments, handling fees, and administrative fees, unlike dealers who choose to redeem in store. Dealer cooperatives are non-profit organizations funded by one or more dealers who have voluntarily opted into this obligation over redeeming beverage containers in-store and will collect membership fees from the dealer members in order to fund the initial and ongoing operation. A particular dealer that finds it is more cost effective in their

specific circumstance to redeem in store than join a dealer cooperative is lawfully free to do so under PRC section 14578(a)(1).

*CalRecycle Response 29: Stewardship Plan Five-Year Review: No Specific Change*  
*Comment Code C-3-10.*

**Comment:** CalRecycle received one comment that stated “Section 2377 – Five-Year Review:” without further details.

**Response:** CalRecycle rejects this comment. With regard to dealer cooperative stewardship plan five-year review and updates, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process.

*CalRecycle Response 30: Prioritizing Stewardship Plan Approval*  
*Comment Code C-4-4.*

**Comment:** CalRecycle received one comment expressing concern with the time between the regulations going into effect and stewardship plan approval. The comment suggests CalRecycle prioritize approval of stewardship plans to allow dealer cooperatives to meet the January 1<sup>st</sup>, 2025, start date.

**Response:** CalRecycle rejects this comment. With regard to stewardship plan review and approval or disapproval, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that CalRecycle should prioritize the review process for dealer cooperative stewardship plans, CalRecycle is cognizant of the dealer obligation to meet the requirements of the Act that begin January 1, 2025, and will review stewardship applications within the timeframe established pursuant to section 2376.

*CalRecycle Response 31: Education and Outreach Translation Requirements*  
*Comment Codes O-1-8 and O-2-8.*

**Comment:** CalRecycle received two comments expressing concern with the requirement for dealer cooperatives to provide education and outreach materials translated into each language that 5% or more of the non-English speaking people speak within the unserved convenience zone. The comments are concerned that this requirement will be impossible or impractical for dealer cooperatives to comply with.

**Response:** CalRecycle rejects these comments. The regulation requirement in section 2375.4(b)(2) is necessary to increase consumer convenience and access for CRV redemption to increase California's recycling rates to 80%. PRC section 14578.5(c)(1) requires that a dealer cooperative must offer a redemption program that includes sufficient redemption opportunities for consumers that have comparable consumer

convenience to the requirements of section 14571, and requiring a dealer cooperative to identify the specific languages in which their education and outreach materials must be translated is necessary to effectuate this statutory provision because the redemption opportunities for consumers cannot be convenient as required by the Act if consumers are not aware of the opportunities, which they may not be if the education and outreach is not in a language they can understand. It is necessary that the dealer cooperative provide education and outreach in languages of the targeted audience within the unserved zone it intends to operate in to maximize consumer utilization of the dealer cooperative redemption locations. The comment states that a dealer cooperative does not have access to this data without support as to why the dealer cooperative could not obtain the data. Additionally, CalRecycle has supported this provision with the inclusion of the data in the 'Documents Relied Upon' section of the rulemaking package. This language microdata is available for free on the California Department of Finance Demographic Research Unit's website: <https://dru-data-portal-cacensus.hub.arcgis.com/>.

*CalRecycle Response 32: Education and Outreach Translation Material Is Costly*

*Comment Codes O-1-9 and O-2-9.*

**Comment:** CalRecycle received two comments expressing concern with the requirement for dealer cooperatives to provide education and outreach materials translated into each language that 5% or more of the non-English speaking people speak within the unserved convenience zone. The comments are concerned that this requirement is an overreach on the basis that this material is not provided by CalRecycle.

**Response:** CalRecycle rejects these comments. With regard to providing materials for all non-English speaking people, these comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that dealer cooperatives will have to provide education and outreach materials to promote redemption sites in languages in addition to English in areas where 5% or more of the population speaks such a language, it is the responsibility of dealer cooperatives to advertise its redemption locations to non-English speakers so that the dealer cooperative can reach the required 80% minimum performance standard for redemption of containers sold by dealer members. Additionally, the statement that CalRecycle currently only offers materials for dealers and recyclers in Spanish and English is inaccurate. CalRecycle provides translated materials, such as standardized signage, in non-English languages such as Spanish, and provides translated standardized materials in additionally required languages, upon request of any Californian utilizing services provided by CalRecycle.

*CalRecycle Response 33: Redemption Location Minimum Operational Hours*

*Comment Code O-3-2.*

**Comment:** CalRecycle received one comment expressing concern that the requirement for at least one redemption location in an unserved convenience zone to accept all material types is insufficient. The comment suggests that the minimum required operating hours for this redemption location is not comparable to the consumer convenience requirements of a certified recycling center.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to the requirements for redemption locations accepting all material types because the addition of increased minimum hours of operation for at least one location that accepts all material types does not apply to the material type redemption requirements formally defined in PRC section 14578.5(c)(3)(A) which only requires dealer cooperatives to redeem all material types. It is not necessary to make these minimum operating hours the same as certified recycling centers pursuant to PRC section 14571(a) because certified recycling centers act as standalone redemption locations while dealer cooperatives offer multiple redemption opportunities throughout the unserved convenience zone. While it is possible for dealer cooperatives to operate at these minimum hours of operation, they must demonstrate that these hours provide sufficient redemption opportunities that meet the performance standards specified in their approved stewardship plan. If offering redemption for all material types at the minimum operating hours is insufficient to redeem 80% of the beverage containers sold by dealer members, then dealer cooperatives will have to adjust to meet the needs of their community.

#### *CalRecycle Response 34: Consumer Daily Redemption Limits*

##### *Comment Code O-3-3.*

**Comment:** CalRecycle received one comment expressing concern that the requirement allowing dealer cooperatives to establish daily redemption limits would provide insufficient redemption access and would be costly for consumers to redeem. The comment suggests increasing the minimum required operating hours for the one redemption location in an unserved zone that is required to have no redemption limits.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to allowing dealer cooperatives to establish redemption limits or the basis for approval or disapproval of stewardship plans because the addition of establishing a minimum daily load limit is not necessary to effectuate the statutory provision of providing comparable consumer convenience to the requirements of PRC sections 14571 and 14571.9. Section 2376 establishes CalRecycle may approve or disapprove the stewardship plan within 90 days of receipt and shall approve a stewardship plan if it meets the applicable requirements of the Act and regulations. The stewardship plan requirements outlined in regulation will be considered comprehensively when CalRecycle evaluates the plans concerning consumer convenience. Paragraph 2375.4(e) requires that dealer cooperatives must describe how they will address factors affecting consumer convenience, which may include the

distance consumers must travel to access redemption opportunities. Any proposed redemption limits must not inhibit the dealer cooperative's ability to meet the performance standards established in their stewardship plan under section 2375.6, otherwise their stewardship plan will not be approved.

## **2.4 Recordkeeping, Reporting, and Operation**

CalRecycle received 14 comments related to recordkeeping, reporting, and operation. These comments and CalRecycle's responses are summarized below under their respective subcategory.

### *CalRecycle Response 35: Dealer Cooperative Requirements, Including That of Quarterly Reports, are to Be Comparable Not Duplicative of Recycling Centers*

*Comment Code I-1-55.*

**Comment:** CalRecycle received one comment that section 2381(b), which outlines the requirements of quarterly reports, is unnecessary and the requirements exceed that of recycling centers.

**Response:** CalRecycle rejects this comment. This provision provides specific reporting standards unique to this new beverage container recycling entity and is necessary to ensure that the dealer cooperatives are complying with requirements of the Act and regulations. PRC section 14578.5(c)(3)(A) requires that stewardship programs redeem all material types and offer one or more redemption locations within the dealer cooperative zone. While PRC section 14578.5(c)(1) is specific that the process of beverage container redemption should be comparable to recycling centers, it is not required that dealer cooperatives operate in the exact same manner as recycling centers. Making dealer cooperative operation provisions, including not requiring quarterly reports, the same as recycling center provisions is not necessary and is contrary to effectuate this statutory provision.

### *CalRecycle Response 36: CalRecycle Has Authority to Impose Requirements Described in Section 2382*

*Comment Code I-1-56.*

**Comment:** CalRecycle received one comment that section 2382 lacked authority and clarity.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. Requiring dealer cooperatives to operate in accordance with

their approved stewardship plan is necessary to fulfill the requirements of PRC section 14578.5(c)(4) mandating that dealer cooperatives be operational and fully implement the approved redemption plan. The provision is reasonable because it establishes that a dealer cooperative's noncompliance with the substantive provisions of its approved stewardship plan is equivalent to a violation of law. Specifying that a dealer cooperative shall operate in accordance with all provisions of the Act and regulations would be unnecessary and duplicative because a dealer cooperative is already subject to the Act and regulations without reiteration. This provision does not conflict with or contradict any statutory provision within the Act.

*CalRecycle Response 37: Clarification Regarding Those Who Are Ineligible to Operate as a Redemption Contractor or Dealer Cooperative Is Not Necessary*

*Comment Codes I-1-57 and C-1-51.*

**Comment:** CalRecycle received two comments regarding section 2382(d), which details those who are ineligible to operate as a redemption contractor or dealer cooperative. Comment I-1-57 recommended that this provision be deleted unless CalRecycle provides a list of entities that are declared ineligible. Comment C-1-51 asserted this provision lacks legislative authority and is not comparable to other program participants.

**Response:** CalRecycle rejects these comments. This provision is an operation standard to identify who may participate and is necessary to prevent persons who have committed certain unlawful activity from participating in the BCRP as a dealer cooperative or as a redemption contractor. PRC section 14578.5(c)(3)(B) allows the dealer cooperative redemption program to hire contractors as part of the redemption services. However, this provision is necessary to prevent persons who have had a certification or registration revoked within the past five years or who have ever been found to have committed fraud in violation of PRC section 14597 from participating as a redemption contractor or dealer cooperative. Because dealer cooperatives are a new program entity, this provision prevents persons interested in taking advantage of the program by committing unlawful activity. If a dealer cooperative is unsure whether a person is disqualified under this provision, the dealer cooperative may reach out to CalRecycle to verify eligibility information. Additionally, in response to comment C-1-51, because dealer cooperatives and redemption contractors are new entities in the BCRP, prescribing more specific eligibility criteria is necessary to implement the new program than the discretionary eligibility criteria specified in 14 CCR section 2030.

*CalRecycle Response 38: Six-Month Notice of a Dealer Cooperative Dissolution or Cease of Operation Is Necessary*

*Comment Code I-1-59.*



**Comment:** CalRecycle received one comment claiming that the regulatory requirement to notify CalRecycle six months before ceasing operations is “burdensome and unreasonable”.

**Response:** CalRecycle rejects this comment. The minimum six-month notice prior to dealer cooperative dissolution or ceasing operation is designed to aid the statutory objective of preventing reduced redemption access and convenience for consumers. The provision is reasonable because the minimum six-month timeframe provides enough time for dealer members to join another dealer cooperative or redeem in store and gives CalRecycle enough time to review any stewardship plans responding to the upcoming dissolution. It is reasonable for a nonprofit corporation that receives dealer cooperative fees from its members to know at least six months in advance of when it will dissolve or cease operation to give the dealer members time to make alternate arrangements. Because the status of dealer cooperatives and their stewardship plans can affect the legal obligations of its dealer members and trigger immediate obligations on others should the dealer cooperative dissolve or cease operation, it is necessary for CalRecycle to be informed of that change of status at least six months in advance to provide adequate time for affected entities to prepare for the change in legal obligations.

*CalRecycle Response 39: Clarification for Handling Fees Is Not Necessary*

*Comment Codes I-1-60 and I-1-69.*

**Comment:** CalRecycle received two comments regarding handling fees and dealer cooperative eligibility. Comment I-1-60 stated that regulatory text for dealer cooperatives to apply for handling fees is missing. Comment I-1-69 stated that there is no regulatory text for dealer cooperatives to make handling fee claims.

**Response:** CalRecycle rejects these comments. With regard to dealer cooperative eligibility for handling fees, these comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that the regulations pertaining to the application of handling fees are missing (in response to comment I-1-60) and the regulations pertaining to dealer cooperatives making claims for handling fees are missing (in response to comment I-1-69), the requirements for the Handling Fee Application Form outlined in section 2530(h) are explicitly referenced as applying to dealer cooperatives in section 2382(o). Additionally, the criteria for dealer cooperatives to receive handling fees are specified in sections 2516(g), 2518, and 2519. Therefore, additional provisions relating to dealer cooperative application for handling fees are unnecessary.

*CalRecycle Response 40: CalRecycle Has Authority to Require Dealer Cooperatives to Prepare and Provide Certain Financial Records*

*Comment Code C-1-39.*

**Comment:** CalRecycle received one comment that section 2380(a)(1) and (2), regarding dealer cooperatives preparing and providing financial records, lack legislative authority, and is not comparable to other program participants. This commenter recommended deleting this section.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. This regulatory provision requiring dealer cooperatives that are required to prepare annual audited financial statements to submit those annual audited financial statements to CalRecycle is designed to aid the statutory objective of dealer cooperatives being transparent and accountable in utilizing dealer cooperative fees for the operation of the approved redemption model (PRC section 14578.5(f)). The provision is reasonable because it ensures clarity on what dealer cooperatives are obligated to provide to CalRecycle to ensure that financial transparency and accountability. Additionally, the provision is reasonable because it only subjects dealer cooperatives to this requirement if they are already required to prepare the annual audited financial statements under existing law, thereby not burdening smaller dealer cooperatives with a new requirement. The provision does not conflict with or contradict any statutory provision within the Act. This provision provides specific operation standards unique to this new beverage container recycling entity and, while PRC section 14578.5(c)(1) requires that the dealer cooperative redemption program include sufficient redemption opportunities for consumers that have comparable consumer convenience to recycling centers and pilot projects, it is not required that dealer cooperatives operate in the exact same manner as recycling centers. Making dealer cooperative operation provisions the same as recycling center provisions in this context is contrary to effectuate SB 1013 because CalRecycle is required to audit dealer cooperatives every two years, however there is no comparable requirement to audit recycling centers.

*CalRecycle Response 41: CalRecycle Has Authority to Require Dealer Cooperatives to Submit Quarterly Reports*

*Comment Code C-1-43.*

**Comment:** CalRecycle received one comment that section 2381(b)(1)(D), regarding the data a dealer cooperative is required to include in quarterly reports (including data regarding the stewardship program's collection methods implemented as part of the stewardship plan), lacks legislative authority and is not comparable to other program participants. This commenter recommended deleting this section.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's

standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. The regulatory provision outlined in section 2381(b)(1)(D) is designed to aid the statutory objective of increasing consumer convenience and access for CRV redemption to increase California's recycling rates to 80%, the recycling rate goal established in PRC section 14501(c). The provision is reasonable because it helps CalRecycle ensure that the dealer cooperative is operating in accordance with its approved redemption plan and achieving the quarterly performance standards, including those related to consumer convenience and redemption rates, established in its stewardship plan. It does not conflict with or contradict any statutory provision within the Act. Furthermore, this provision provides specific operation standards unique to this new beverage container recycling entity and is necessary to increase consumer convenience for beverage container recycling. PRC section 14578.5(c)(1) requires that the dealer cooperative redemption program include sufficient redemption opportunities for consumers that have comparable consumer convenience to recycling centers and pilot projects. While the statute is specific that the redemption plan should be comparable, it is not required that dealer cooperatives operate in the exact same manner as recycling centers. Not imposing the reporting requirements of section 2381(b)(1)(D) on dealer cooperatives for the sole reason that they are not imposed on recycling centers is unreasonable in this instance because CalRecycle is tasked with ensuring dealer cooperatives are operating in accordance with their stewardship plan, however CalRecycle has no comparable oversight of recycling centers since recycling centers are not required by statute to have stewardship plans.

*CalRecycle Response 42: Dealer Cooperative Operation Standards Should be Comparable, Not Duplicative, of Recycling Center Operation Standards*

*Comment Code C-1-49.*

**Comment:** CalRecycle received one comment that section 2382(a) should be comparable to provisions that address operation standards for recycling centers and recommending section 2382(a) be deleted.

**Response:** CalRecycle rejects this comment. Section 2382 provides specific operation standards unique to this new beverage container recycling entity and is necessary to increase consumer awareness and provide flexibility of standards for dealer members to comply with their legal obligations. PRC section 14578.5(c)(1) requires that the dealer cooperative redemption program include sufficient redemption opportunities redemption opportunities for consumers that have comparable consumer convenience to recycling centers and pilot projects. While the statute is specific that the redemption plan should be comparable, it is not required that dealer cooperative operate in the exact same manner as recycling centers. Making dealer cooperative operation provisions the same as recycling center provisions in section 2500 is not necessary and is contrary to

effectuate this statutory provision. Additionally, requiring dealer cooperatives to operate in accordance with their approved stewardship plan is necessary to fulfill the requirements of PRC section 14578.5(c)(4) mandating that dealer cooperatives be operational and fully implement the approved redemption plan. The provision is reasonable because it establishes that a dealer cooperative's noncompliance with particular provisions of its approved stewardship plan is equivalent to a violation of law. This provision therefore increases the clarity of what is equivalent to a violation of law rather than opening the matter up to interpretation.

*CalRecycle Response 43: Bag Drop Material Reporting*

*Comment Code C-2-4.*

**Comment:** CalRecycle received one comment recommending that bag drop material counts should be done according to glass, metal, and plastic per bag and that daily counts should detail specific material types in aggregate numbers.

**Response:** CalRecycle rejects this comment. Sections 2381(b)(1)(A) through (D) are necessary to aid the statutory goal of fraud prevention. PRC section 14578.5(c)(6) requires that dealer cooperatives provide reports as required by CalRecycle, which may include, but are not limited to, the amount of empty beverage containers, by material type and weight of container or material, redeemed in the past month. CalRecycle needs to have the reported information as outlined in sections 2381(b)(1)(A) through (D) broken down by redemption site for each calendar month because in the instance that an investigation takes place, CalRecycle needs to be able to trace how many containers were redeemed at which redemption sites in a given calendar month to determine whether any fraudulent activity took place. Breaking down the information by calendar month also serves to connect the quarterly report to the monthly reporting threshold suggested in PRC section 14578.5(c)(6). Reporting the information by bag for purposes of bag drop is not sufficient because the size of a bag may vary, and therefore this would not provide standardized information to CalRecycle across dealer cooperatives. Requiring this information to be reported by calendar day would be too burdensome on a dealer cooperative and duplicative to the information reported through shipping reports in DORIIS. This information is necessary for CalRecycle to determine whether the dealer cooperative is achieving the quarterly performance standards it established in its stewardship plan and providing convenient redemption to consumers as required by the Act.

*CalRecycle Response 44: Clarification Regarding Redemption Contractors Is Not Necessary*

*Comment Code C-2-5.*

**Comment:** CalRecycle received one comment recommending that parties other than redemption contractors should be able to contract with both dealer cooperatives and

redemption contractors to fulfill redemption services without becoming certified as recycling centers or redemption contractors.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to entities that dealer cooperatives may contract with as specified in section 2382(e). A bag drop provider that is in contract with a dealer cooperative and redeems empty beverage containers from consumers as part of the dealer cooperative's stewardship plan would be considered a redemption contractor under the definition of a "redemption contractor" in section 2370(g): "a person redeeming empty beverage containers from consumers pursuant to a stewardship plan on behalf of a dealer cooperative". Redemption contractors are not required to be certified as the comment suggests, as specified in section 2370(h).

*CalRecycle Response 45: Financial Statements Outlined in Section 2380(a)(1) and (2) Are Not Necessarily Required to Be Public*

*Comment Code C-5-10.*

**Comment:** CalRecycle received one comment expressing concern regarding section 2380(a)(1) and (2) and the requirement for dealer cooperatives to submit financial statements. This comment expressed concern that these statements would become public data.

**Response:** CalRecycle rejects this comment. This regulatory provision requiring dealer cooperatives that are required to prepare annual audited financial statements to submit those annual audited financial statements to CalRecycle is designed to aid the statutory objective of dealer cooperatives being transparent and accountable in utilizing dealer cooperative fees for the operation of the approved redemption model (PRC section 14578.5(f)). The provision is reasonable because it ensures clarity on what dealer cooperatives are obligated to provide to CalRecycle to ensure financial transparency and accountability. Additionally, the provision is reasonable because it only subjects dealer cooperatives to this requirement if they are already required to prepare the annual audited financial statements under existing law, thereby not burdening smaller dealer cooperatives with gross fiscal year revenue of less than \$2,000,000 with a new requirement. CalRecycle disagrees that this provision unduly makes public private financial information of dealer cooperatives, because a dealer cooperative is only required to submit this information to CalRecycle and not post it publicly. Additionally, under PRC section 14554, CalRecycle is required to protect any privileged, confidential, commercial, or financial information obtained while collecting information, therefore this regulatory provision does not compromise the privacy of dealer cooperatives or dealer members. Furthermore, nonprofits with annual gross receipts of over \$50,000 are already required to make their annual Form 990s publicly available and the Form 990s contain much of the same information.

*CalRecycle Response 46: Clarification for Delayed Payment of Innovative Methods of Redemption Is Not Necessary*

*Comment Code O-3-4.*

**Comment:** CalRecycle received one comment expressing concern regarding delayed payment for innovative methods of redemption. This comment recommended amending section 2382(n)(1)(B) as follows: “(B) A dealer cooperative redemption site that is an innovative method of redemption pursuant to Section 2370(f)(2) shall pay within three working days of delivery the refund value for every eligible empty beverage container delivered to the redemption site for refund”.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to requiring innovative methods of redemption to pay the refund value within three working days because the addition of a reference to section 2370(f)(2) restricting the allowance for three working days to just bag drop is not necessary to effectuate the statutory provisions of the Act or of providing comparable consumer convenience under PRC section 14578.5(c)(1) to recycling centers and pilot projects. This provision, as written, does not conflict with the Act, because provisions of the Act explicitly applicable to recycling centers as certified entities are not automatically applicable to dealer cooperatives as registered entities. This provision provides specific operational standards unique to this new beverage container recycling entity and is necessary to increase consumer convenience and provide flexibility of standards for dealer members to comply with their legal obligations. Making dealer cooperative operational provisions the same as recycling center operational provisions is not necessary and is contrary to the intent of SB 1013 to create a new recycling entity to increase consumer redemption of beverage containers in California.

## **2.5 Enforcement**

CalRecycle received one comment related to stewardship plan enforcement. This comment and CalRecycle’s response are summarized below.

*CalRecycle Response 47: Review of Resubmitted Stewardship Plans*

*Comment Code C-1-56.*

**Comment:** CalRecycle received one comment suggesting deleting section 2385 Stewardship Plan Revocation; Enforcement Mechanisms on the basis that the provisions outlining the review of stewardship plan resubmittals are duplicative of section 2376 Stewardship Plan Review and Approval or Disapproval; Operational Notice and will cause confusion.

**Response:** CalRecycle rejects this comment. With regard to CalRecycle review of a stewardship plan resubmitted as part of a mandated corrective action, it is necessary for the regulations to specify that the resubmitted stewardship plan must be reviewed and

approved or disapproved in accordance with section 2376. The provisions of section 2376 establishing stewardship plan review procedures would not automatically apply to a stewardship plan resubmitted as part of a mandated corrective action. Therefore, it is necessary to specify the review procedures for a resubmitted stewardship plan to put dealer cooperatives on notice and also to comply with the clarity standard of the Administrative Procedure Act.

## **2.6 Processor Payments**

CalRecycle received two comments related to processor payments. These comments and CalRecycle's responses are summarized below under their respective subcategory.

### *CalRecycle Response 48: Payment Requirements*

*Comment Code I-1-68.*

**Comment:** CalRecycle received one comment expressing concern with section 2430 Payments on the basis that this section lacks clarity when dealer cooperatives are added to the provisions.

**Response:** CalRecycle rejects this comment. With regard to processor payments to recycling centers or dealer cooperatives, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that the comment asserts that dealer cooperatives were merely added to this section without clarification, this is inaccurate because the 15-day public comment period version of the regulations clarifies that a processor shall complete the entire shipping report for loads received from dealer cooperatives. Therefore, CalRecycle disagrees that this section needs additional amendment to increase clarity. Processor reporting and receiving requirements in regard to dealer cooperatives are sufficiently and clearly established in section 2430(a) and its subsequent subparagraphs.

### *CalRecycle Response 49: Payment by Count vs. Weight*

*Comment Code C-2-3.*

**Comment:** CalRecycle received one comment suggesting changing the method of reimbursement for the redemption contractor to count instead of weight for bag drop services because bag drop collection methods pay the consumer by count.

**Response:** CalRecycle rejects this comment. With regard to requiring that processors reimburse the CRV to dealer cooperative bag drop redemption locations based on count rather than weight, this comment is outside of the scope of this regulatory package, which relates to dealer registration and dealer cooperatives. Changing the method by which processors pay out CRV has broader implications that affect the entire BCRP and therefore is not appropriate to include in this regulatory package. CalRecycle continues

to engage with the interested public on count vs. weight feedback and suggestions in the larger scope of the BCRP.

## **2.7 Rulemaking Procedures and Regulations Lack Authority or Incentives**

CalRecycle received eight comments that could not be categorized under the other categories above. These comments and CalRecycle's responses are summarized below under their respective subcategory.

### *CalRecycle Response 50: Referencing Regulatory Requirements*

*Comment Code I-1-43.*

**Comment:** CalRecycle received one comment recommending that the regulations specify requirements that are outlined in other places of the regulations, rather than reference specific sections of the Act for clarity.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that clarification is needed with regard to stating the requirements of the section in text rather than by reference because the addition of in text requirements is unnecessary and using citation comprehensively references the regulations without the burden of repeating whole sections within the text. This format ensures clarity and consistency.

### *CalRecycle Response 51: Proposed Regulations Do Not Lack Legislative Authority*

*Comment Codes C-1-3, C-3-3, and C-5-3.*

**Comment:** CalRecycle received three comments that many proposed regulations lack authority. These comments reference the Loper Bright Enterprise v. Raimondo case as support that regulation must adhere strictly to legislation.

**Response:** CalRecycle rejects these comments. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. Additionally, Loper Bright Enterprises v. Raimondo, 603 U.S. (2024) is relevant to Federal judicial deference, and is not applicable to the State of California's rulemaking process. The dealer cooperatives rulemaking package is designed to aid the statutory objective of increasing consumer convenience and access for CRV redemption to increase California's recycling rates to 80% in areas where there is no recycling center available to consumers. The provisions are reasonable because the Legislature mandated that CalRecycle promulgate regulations that include the registration process for dealers, the application and registration process for the dealer cooperative, and the process for updating information after registration as needed, and



other regulations necessary for the implementation and enforcement of this subdivision. It does not conflict with or contradict any statutory provision within the Act.

*CalRecycle Response 52: Financial Barriers Surrounding Stewardship Plan Development and Submittal*

*Comment Codes C-1-7 and C-5-4.*

**Comment:** CalRecycle received two comments expressing concern regarding the financial costs associated with drafting and awaiting approval of stewardship plans to begin a dealer cooperative program. Comment C-5-4 also expressed concern for effects on small business dealers.

**Response:** CalRecycle rejects these comments. With regard to financial barriers surrounding the stewardship plan development and submittal, these comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that the comments identify a financial barrier to start a dealer cooperative for smaller organizations, small businesses are exempt from dealer cooperative requirements pursuant to PRC section 14578(b)(1). To the effect that there is a financial investment required of the dealer to start a dealer cooperative, CalRecycle has taken this into consideration in the STD 399 and calculated an estimated financial cost of \$1.7 million for the dealer cooperatives. CalRecycle has also calculated the annual financial benefit of \$9 million for dealer cooperatives pursuant to PRC section 14578.5(d)(1), which provides eligibility for fully operational dealer cooperatives to be reimbursed by CalRecycle for program payments. Lastly, dealer cooperatives are non-profit organizations funded by multiple dealers who have voluntarily opted into this obligation over redeeming beverage containers in-store and will collect membership fees from the dealers in order to fund the initial and ongoing operation, thus sharing the burden of the costs among multiple dealer members.

*CalRecycle Response 53: Clear and Supportive Regulatory Provisions*

*Comment Codes C-5-7 and C-5-11.*

**Comment:** CalRecycle received two comments recommending that regulations adopt a more “supportive approach”. These comments also requested clear and practical guidelines for operating a dealer cooperative.

**Response:** CalRecycle rejects these comments. With regard to providing clear and practical guidelines that reflect the operational realities of running a cooperative, these comments do not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that the comments suggest CalRecycle adopt a framework that is supportive and motivating for dealers who choose dealer cooperatives as their legal obligation pursuant to PRC section 14578(a) over redeeming empty beverage containers in-store to provide consumer convenience in the unserved convenience zone, PRC section 14578.5(d)(1) establishes incentives for

those dealers who voluntarily choose dealer cooperatives to encourage participation. Additionally, CalRecycle has proposed specific protections for dealer cooperatives such as section 2030 to prevent the certification of proposed recycling centers in the same zone as a dealer cooperative to support these programs, as well as proposed broad interpretive stewardship plan contents and performance standards to avoid the over-regulation of dealer cooperatives.

### 3. Comments Outside of Scope of 15-Day Notice Changes

#### 3.1 Nonrepeat Comments on Unrevised Provisions

CalRecycle received 56 comments addressing provisions in the initially proposed regulation text, that had not been revised for this first 15-day comment period, and that were not repeated or substantially similar to comments received during the 45-day public comment period. These comments and CalRecycle's responses are summarized below under their respective subcategory.

##### *CalRecycle Response 54: No Proposed Regulations for Dealer Registration Fee*

*Comment Code I-1-2.*

**Comment:** CalRecycle received one comment requesting clarification regarding a "dealer registration fee".

**Response:** CalRecycle rejects this comment. The scope of this rulemaking is limited to dealer registration and dealer cooperatives. There are no proposed regulations establishing a dealer registration fee as no registration fee will be charged.

##### *CalRecycle Response 55: Defining "Sales and Storage Area"*

*Comment Code I-1-4.*

**Comment:** CalRecycle received one comment that the term or definition of "sales and storage area" is "unnecessary and excessively burdensome".

**Response:** CalRecycle rejects this comment. The definition of "sales and storage area" in section 2370(i) identifies which parts of a dealer's business to include in the calculation of its square footage, which is necessary for a standard approach to verifying square footage exemption under PRC section 14578(b)(1).

##### *CalRecycle Response 56: Clarification Is Not Needed for Criteria Necessitating Submittal of New Dealer Registration*

*Comment Code I-1-9.*

**Comment:** CalRecycle received one comment regarding section 2372(b), which requires a dealer to submit a new dealer registration if a dealer's federal tax identification number or physical business address changes. The commenter states this section lacks clarity and poses two scenarios as the basis for the claim.

**Response:** CalRecycle rejects this comment. The first scenario posed regarding the federal tax identification number and the sale of the business is unclear and does not provide a suggestion to replace the proposed regulatory text. Relating to the second scenario regarding the relocation of the business and not requiring that business to submit a new dealer registration, it is necessary to update the dealer's address in case they move out of the convenience zone or move into another convenience zone so that their status regarding registration and other requirements associated with locating in a convenience zone can be updated.

*CalRecycle Response 57: Secondary Contact is Necessary*

*Comment Code I-1-10.*

**Comment:** CalRecycle received one comment advocating that a primary contact number for a dealer store "should be all that is required" in section 2372(c)(3).

**Response:** CalRecycle rejects this comment. A secondary contact is necessary in case the primary contact cannot be reached. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to requiring a dealer member's store manager's name, title, phone number, and email address, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 58: Beyond Scope of 15-Day Public Comment Period: Stewardship Plan Revocation/Termination*

*Comment Code I-1-12.*

**Comment:** CalRecycle received one comment requesting clarification regarding what causes a stewardship plan to be revoked or terminated.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text in section 2373(a)(1) and (2), which is outside the scope for the 15-day public comment period. With regard to mentioning termination and revocation of a stewardship plan in section 2373(a)(1) and (2), this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 59: Beyond Scope of 15-Day Public Comment Period:  
Stewardship Plan Submission*

*Comment Code I-1-15.*

**Comment:** CalRecycle received one comment recommending alternate methods of submission for a stewardship plan.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to electronic stewardship plan submission, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 60: Clarification for References to Sections of the Regulations  
and the Act Is Not Necessary*

*Comment Code I-1-18.*

**Comment:** CalRecycle received one comment requesting clarification regarding section 2375(b). This commenter suggested that this section should specify only the sections of the regulations and Act that are applicable.

**Response:** CalRecycle rejects this comment. First, this comment is outside the scope of the changes to the proposed regulations noticed to the public for at least 15 days. Further, CalRecycle disagrees that clarification is needed with regard to the submission of a stewardship plan constituting a declaration of the dealer cooperative and members being in compliance because the addition of specifying the sections of the regulations and the Act that a dealer cooperative and dealer member must be in compliance with is unnecessary and the provision as written references all applicable requirements without the burden of repeating whole sections within the text.

*CalRecycle Response 61: Beyond Scope of 15-Day Public Comment Period:  
Clarification Regarding Term Operator Is Not Necessary*

*Comment Code I-1-20.*

**Comment:** CalRecycle received one comment requesting clarification regarding whether the term “operator” equates to “certified operator”.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to stewardship plan informational requirements, this comment does not suggest any specific changes to the

proposed regulations or raise issues related to the rulemaking process. To the extent that the term “operator” equates to certified operator, this term does not apply to the contents of this section. “Redemption contractors” are formally defined in section 2370(g) as “a person redeeming empty beverage containers from consumers pursuant to a stewardship plan on behalf of a dealer cooperative”. These persons will be responsible for operating the redemption site or redemption location on behalf of the dealer cooperative. The term “operator” is formally defined in section 2000(a)(33) as a “person(s) or entity who has ultimate responsibility for a recycling center, dealer cooperative, processing facility, drop-off or collection program, or community service program”. In this case, a dealer cooperative is responsible for the operation of its entire stewardship plan. Dealer cooperatives may do business with operators of certified recycling centers and processors to ship their redeemed material to. Because recycling centers and processors are procedurally reviewed and certified by CalRecycle according to section 2030 and dealer cooperatives are not, it is not accurate to use the term “certified operator” when speaking about dealer cooperatives and its redemption contractors. These terms are not interchangeable in the context of dealer cooperatives.

*CalRecycle Response 62: Beyond Scope of 15-Day Public Comment Period: Dealer Cooperative Physical Address*

*Comment Code I-1-21.*

**Comment:** CalRecycle received one comment requesting clarification regarding how a dealer cooperative has a physical address.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to address information required in stewardship plan submissions, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process. This provision requires the mailing address of the individual(s) responsible for the stewardship plan to ensure CalRecycle can contact a person at the dealer cooperative knowledgeable about the stewardship plan. The mailing address specifically is required because certain legal documents CalRecycle may serve the dealer cooperative with are legally required to be sent through postal mail. Dealer cooperatives are not required to designate a physical address.

*CalRecycle Response 63: Beyond Scope of 15-Day Public Comment Period: Contact Information*

*Comment Code I-1-22.*

**Comment:** CalRecycle received one comment requesting clarification regarding whether the dealer cooperative contact needs to be a member of the dealer cooperative.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to contact informational requirements for stewardship plan submissions, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process. This provision requires the contact information for the individual(s) responsible for the stewardship plan on behalf of the dealer cooperative. This is necessary to verify that the person(s) submitting the stewardship plan are authorized by the dealer cooperative and to ensure accountability for the dealer cooperative of the submitted information within the stewardship plan. The provision does not specify that the contact must be a member of the dealer cooperative, which gives dealer cooperatives autonomy over who submits and oversees their stewardship plans.

*CalRecycle Response 64: Beyond Scope of 15-Day Public Comment Period: Board of Directors Contact Information*

*Comment Code I-1-23.*

**Comment:** CalRecycle received one comment requesting clarification regarding whether all names of members of a board of directors should be included in the stewardship plan.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to decision maker information required in stewardship plan submissions, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process. The provision requires the names and titles of any person who will make decisions on behalf of the dealer cooperative, including each member of the dealer cooperative's board of directors. If the commenter is implying that an external board is responsible for the submission and oversight of a stewardship plan, then the contact information for each board member would be required pursuant to 2375.2(b). If the board responsible for the stewardship plan makes decisions on behalf of the dealer cooperative, then the names and titles of each member would be required pursuant to 2375.2(c).

*CalRecycle Response 65: Beyond Scope of 15-Day Public Comment Period: Verification of Tax-Exempt Status*

*Comment Code I-1-25.*

**Comment:** CalRecycle received one comment requesting clarification regarding what happens if the Internal Revenue Service (IRS) fails to approve a dealer cooperative as a valid non-profit organization.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to verification of tax-exempt status, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process. This provision requires the verification of a dealer cooperative's tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 because it is statutorily required pursuant to PRC section 14510.2. To the extent this status cannot be verified, the stewardship plan will not be approved.

*CalRecycle Response 66: Beyond Scope of 15-Day Public Comment Period: Articles of Incorporation*

*Comment Code I-1-26.*

**Comment:** CalRecycle received one comment that stated “(10) Articles of Incorporation” without further details.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to verification of incorporated entities, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 67: Beyond Scope of 15-Day Public Comment Period: List of Dealers*

*Comment Code I-1-27.*

**Comment:** CalRecycle received one comment that stated “(11) List of dealers” without further details.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to dealer member informational requirements for stewardship plan submission, this comment does not

suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 68: Beyond Scope of 15-Day Public Comment Period: Dealer Cooperatives Will Provide Comparable Consumer Convenience*

*Comment Code I-1-31.*

**Comment:** CalRecycle received one comment requesting clarification regarding whether it is presumed that a dealer cooperative will act the same as a certified operator.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to informational requirements for stewardship plans this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that a dealer cooperative will act the same as a certified operator, PRC section 14578.5(c)(1) requires that the dealer cooperative redemption program include sufficient redemption opportunities for consumers that have comparable consumer convenience to recycling centers and pilot projects. While the statute is specific that the redemption plan should be comparable, it is not required that dealer cooperatives operate in the exact same manner as certified recycling centers. Without additional clarity or context to the comment, CalRecycle is unable to further respond.

*CalRecycle Response 69: Beyond Scope of 15-Day Public Comment Period: Dealer Cooperative Redemption Locations Do Not Make a Convenience Zone Served*

*Comment Code I-1-33.*

**Comment:** CalRecycle received one comment that section 2375.4(b) lacks both clarity and authority.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to dealer member informational requirements for stewardship plan submission, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process. To the extent that the existence of a redemption location makes the convenience zone served, section 2382(g) states that a dealer cooperative's stewardship program shall not make an unserved convenience zone served, as described in PRC section 14571(a). If dealer cooperative redemption locations were to make the zone served, then dealer



cooperatives would no longer be obligated to comply with the requirements of PRC section 14578(a).

*CalRecycle Response 70: Beyond Scope of 15-Day Public Comment Period:  
Registration Numbers*

*Comment Code I-1-37.*

**Comment:** CalRecycle received one comment that section 2376(d) lacks clarity and that issuance of the dealer cooperative registration numbers should be simplified.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to CalRecycle approval of the stewardship plan and issuing registration numbers, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 71: Beyond Scope of 15-Day Public Comment Period:  
Disapproval of Stewardship Plan Timeline*

*Comment Code I-1-38.*

**Comment:** CalRecycle received one comment on section 2376(2) recommending that the notice of disapproval of a stewardship plan should be made within 10 days.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to CalRecycle disapproval of the stewardship plan and notification, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 72: Beyond Scope of 15-Day Public Comment Period:  
Redemption Site Notification Requirements*

*Comment Code I-1-40.*

**Comment:** CalRecycle received one comment expressing concern with the provision requiring dealer cooperatives to include the certification numbers of any recycling center on the basis that this requirement is unnecessary.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside

the scope for the 15-day public comment period. Requiring the certification numbers of the processors and recycling centers to be submitted to CalRecycle as part of stewardship plan submission and the operational notice is necessary because recycling centers and processors may have identical or similar names. Therefore, it is necessary and reasonable to require the certification number to also be provided to enable CalRecycle to correctly identify which processors and recycling centers the dealer cooperative is shipping empty beverage containers to.

*CalRecycle Response 73: Beyond Scope of 15-Day Public Comment Period: Five-Year Reviews*

*Comment Code I-1-44.*

**Comment:** CalRecycle received one comment on section 2377 recommending that CalRecycle should notify dealer cooperatives in advance to determine whether there is need to update a stewardship plan, “instead of placing the burden on dealer cooperatives to remember to update their plans every five years”.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to five-year review and updates of stewardship plans, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 74: Beyond Scope of 15-Day Public Comment Period: Five-Year Review Updates*

*Comment Code I-1-45.*

**Comment:** CalRecycle received one comment on section 2377(c) recommending that CalRecycle should notify dealer cooperatives in advance if they should update their stewardship plan six months before the five-year update deadline.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to dealer cooperatives submitting stewardship plan updates, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 75: Beyond Scope of 15-Day Public Comment Period: Daily Customer Logs*

*Comment Code I-1-48.*

**Comment:** CalRecycle received one comment asserting that “daily customer logs” as outlined in section 2380(b) have no statutory authority.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to recordkeeping for beverage container transactions, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 76: Beyond Scope of 15-Day Public Comment Period: Recordkeeping for Material Which CRV Is Not Refunded*

*Comment Code I-1-49.*

**Comment:** CalRecycle received one comment that section 2380(c) copies the requirements of a certified operator.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to recordkeeping for material for which the CRV is not refunded, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 77: Consumer Redemption Logs and Material Management Recordkeeping are Unauthorized*

*Comment Codes I-1-50 and I-1-51.*

**Comment:** CalRecycle received two comments expressing concern with the provisions requiring dealer cooperatives to log individual consumer redemption information and how the material was sent to processors on the basis that requiring this information lacks statutory authority.

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to recordkeeping for beverage container redemption transactions, these comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 78: Beyond Scope of 15-Day Public Comment Period: Auditing Records*

*Comment Code I-1-52.*

**Comment:** CalRecycle received one comment regarding section 2380(f), recommending that records be audited on-site, not shipped to CalRecycle.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to requiring the transfer of any original record to CalRecycle upon request, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 79: Quarterly Reports are Unauthorized*

*Comment Codes I-1-53 and C-1-41.*

**Comment:** CalRecycle received two comments expressing concern with section 2381 Reporting requiring dealer cooperatives to submit quarterly reports to CalRecycle on the basis that requiring this information lacks statutory authority and the requirements should be comparable to certified recycling centers.

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to dealer cooperatives submitting quarterly reports to CalRecycle, these comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 80: Beyond Scope of 15-Day Public Comment Period: WCAG Requirements for Quarterly Reports are Unauthorized and Burdensome*

*Comment Code I-1-54 and C-1-42.*

**Comment:** CalRecycle received two comments requesting section 2381(a)(3) be deleted because “WCAG requirements are without necessity, authority and Government Code section 7405 pertains to employment”. The provision requires dealer cooperatives to submit their quarterly reports online using web accessibility standards.

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to requiring

quarterly reports to comply with section 7405 of the Government Code and the Web Content Accessibility Guidelines (WCAG), this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 81: Dealer Cooperative Membership Management*

*Comment Codes I-1-58 and C-1-53.*

**Comment:** CalRecycle received two comments expressing concern with the provision stating that dealer cooperatives have the authority to terminate members on the basis that this process should have adopted standards of due process.

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to section 2382(e) relating to the ability of dealer cooperatives to contract with business partners, these comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process. Additionally, with regard to termination of a dealer member as outlined in section 2382(h), these comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 82: Beyond Scope of 15-Day Public Comment Period: Causes for Enforcement or Stewardship Plan Revocation*

*Comment Code I-1-61.*

**Comment:** CalRecycle received one comment expressing concern with the provision that states that a failure to comply with the Act or regulations results in the enforcement measures described in the rest of section 2385 on the basis that this provision holds dealer cooperatives responsible for noncompliance due to reasons outside of their control.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. This provision provides a specific standard for corrective action for a dealer cooperative and its stewardship plan that is unique to this new beverage container recycling entity. PRC section 14578.5(b) requires CalRecycle to adopt regulations necessary for the enforcement of the dealer cooperative provisions, and CalRecycle has determined corrective action is necessary as an enforcement mechanism for dealer cooperatives because the status of dealer cooperatives can affect the legal obligations of its dealer members and the availability of

redemption opportunities within the entire unserved convenience zone. Other registered or certified entities do not trigger immediate obligations on BCRP participants should the status of those entities change, therefore corrective action is necessary as an enforcement mechanism to mitigate any violation of the Act or regulations undertaken by a dealer cooperative.

*CalRecycle Response 83: Beyond Scope of 15-Day Public Comment Period: Causes for Enforcement or Stewardship Plan Revocation*

*Comment Code I-1-63.*

**Comment:** CalRecycle received one comment expressing support with the provision explaining that violations of the Dealer and Dealer Cooperatives subchapter of the regulations and select sections of the Act warrant a Notice of Violation. The comment states that this provision is acceptable because it is consistent with enforcement standards imposed on certified recyclers.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. To the extent that the comment states section 2386(a) is acceptable, this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. To the extent that a hearing regarding a Notice of Violation should be conducted pursuant to Government Code section 11500, section 2386(c) already states that hearings shall be conducted in accordance with Government Code section 11500 et seq. for civil penalties sought by CalRecycle that exceed the dollar amount specified in PRC section 14591.1(a)(2). For civil penalties sought by CalRecycle that do not exceed that dollar amount, PRC section 14591.1(a)(2) explicitly authorizes CalRecycle to assess civil penalties using a Notice of Violation process established by regulation and to use an informal hearing process pursuant to Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. Therefore, revising this section to require all Notices of Violation to be heard through a formal hearing is unnecessary and contradictory to PRC section 14591.1.

*CalRecycle Response 84: “Readiness” Lacks Statutory Authority*

*Comment Code I-1-65.*

**Comment:** CalRecycle received one comment suggesting deleting the term “readiness” in section 2030(b) that requires CalRecycle to review and assess dealer applicants on the basis that this term is not defined in statute.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside

the scope for the 15-day public comment period. With regard to CalRecycle assessment of applicants and verification of application information, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 85: Processor Reporting Requirements Lack Clarity*

*Comment Code I-1-67.*

**Comment:** CalRecycle received one comment expressing concern with section 2425 Reporting that outlines the reporting requirements for processors term on the basis that adding dealer cooperatives to this section adds confusion.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to processor reporting requirements in section 2425, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 86: Beyond Scope of 15-Day Public Comment Period: Performance Standard of 80% Redemption Rate*

*Comment Code C-1-27.*

**Comment:** CalRecycle received one comment suggesting deleting the provision requiring dealer cooperatives to redeem 80% of beverage containers sold into the unserved convenience zones they operate in, on the basis that this lacks statutory authority and is not a comparable requirement to certified recycling centers.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. The provision requiring an 80% redemption rate of containers sold by dealer members into unserved convenience zones is necessary to accomplish the goal of 80% beverage container recycling rate. PRC section 14501(c) establishes an 80% recycling rate and the provision requiring an 80% redemption performance standard is reasonable to effectuate this statutory provision because it provides a flexible standard, as opposed to a set number of containers, that is achievable for dealer cooperatives of varying sizes. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. The provision requiring an 80%

redemption rate of containers sold by dealer members into unserved convenience zones does not conflict with or contradict any statutory provision within the Act.

*CalRecycle Response 87: Beyond Scope of 15-Day Public Comment Period: Stewardship Plan Review Timeline*

*Comment Code C-1-31.*

**Comment:** CalRecycle received one comment suggesting deleting the section 2376 Stewardship Plan Review and Approval or Disapproval; Operational Notice on the basis that the timeline for review and approval lacks statutory authority.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. The deadline of 90 days for the review process of stewardship plans is necessary for CalRecycle to complete a comprehensive review of a stewardship plan and responsibly decide whether to approve or disapprove the stewardship plan. Requiring less time for this process would not provide adequate time for CalRecycle to responsibly review and approve or disapprove a stewardship plan, considering the numerous amount of dealers, and potentially dealer cooperatives, across the state. A 90-day period balances the need to give CalRecycle enough time to review a stewardship plan with the necessity to give dealer cooperatives a response on whether their stewardship plan is approved or disapproved within a reasonable timeframe. CalRecycle does not have the authority to revise statute as suggested by the commenter. Rather, the Legislature has statutorily required CalRecycle to adopt regulations to implement SB 1013 as specified in PRC section 14578.5(b)(1).

*CalRecycle Response 88: Disapproval of Stewardship Plans is Unauthorized*

*Comment Code C-1-33.*

**Comment:** CalRecycle received one comment suggesting deleting CalRecycle's obligations regarding disapproval of stewardship plans in section 2376 on the basis that disapproval of stewardship plans is burdensome and lacks statutory authority.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to stewardship plan disapproval, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 89: Stewardship Plan 5-Year Updates are Unauthorized*



*Comment Code C-1-35.*

**Comment:** CalRecycle received one comment suggesting deleting section 2377 Stewardship Plan Five-Year Updates on the basis that dealer cooperative review of stewardship plans and re-submittal every five years lacks statutory authority.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to stewardship plan five-year updates, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 90: Recordkeeping of Scrap and Ineligible Material*

*Comment Code C-1-40.*

**Comment:** CalRecycle received one comment suggesting deleting the provisions in section 2380 requiring dealer cooperatives to keep records on all ineligible program material and scrap accepted from consumers on the basis that this requirement lacks statutory authority and seems to require dealers to accept non-program material.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to recordkeeping for material for which the CRV is not refunded, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 91: Quarterly Reporting of Education and Outreach Efforts*

*Comment Code C-1-44.*

**Comment:** CalRecycle received one comment suggesting deleting the provision in section 2381 requiring dealer cooperatives to submit quarterly reports detailing their education and outreach efforts on the basis that requiring this information is not comparable to other program participants and lacks statutory authority.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to requiring a dealer cooperative to report a description of education and outreach activities related to promoting the stewardship program, this comment does not suggest any specific

changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 92: Publicly Availability Requirements for Reports*

*Comment Code C-1-45.*

**Comment:** CalRecycle received one comment suggesting deleting the provision in section 2381 stating that the redemption information from their quarterly reports constitutes public record on the basis that this provision would require dealer cooperatives to release private and protected business information.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to specifying that the redemption component is a public record and shall be publicly disclosed upon request unless an exemption otherwise applies under existing law, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 93: Website Recording Requirements for Reports*

*Comment Code C-1-46.*

**Comment:** CalRecycle received one comment suggesting deleting the provision in section 2381 requiring dealer cooperatives to post their quarterly reports on a website identified in their stewardship plan on the basis that this provision lacks authority, is burdensome, and not required of private entities.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to requiring dealer cooperatives to post the redemption component of a quarterly report on an internet website, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 94: Incomplete Quarterly Reports*

*Comment Code C-1-48.*

**Comment:** CalRecycle received one comment suggesting changing the provision in section 2381 outlining the requirements and penalties for incomplete quarterly reports to

the phrase “monthly report submitted that is incomplete may be a violation of this section”, on the basis that this change more closely reflects the intent of the Act.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to specifying that submitting an incomplete quarterly report is a violation of law, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 95: Separation of Non-Program Material*

*Comment Code C-1-50.*

**Comment:** CalRecycle received one comment suggesting deleting the provision in section 2382 requiring dealer cooperatives to separate any non-program material and scrap that they receive from consumers from the eligible material on the basis that these requirements are burdensome and not comparable to standards imposed on certified recycling centers.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to section 2382(b) relating to the segregation of ineligible material, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 96: Quarterly Reporting of Education and Outreach Efforts*

*Comment Code C-3-9.*

**Comment:** CalRecycle received one comment expressing concern with the 90-day timeline for review and approval of stewardship plans in section 2376 on the basis that the timeline is excessive and lacks statutory authority.

**Response:** CalRecycle rejects this comment. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. This comment addresses unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to CalRecycle's 90-day review and approval or disapproval of stewardship plans, this comment does not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 97: Store Manager Contact Information for Dealer Registration*

*Comment Codes O-1-5 and O-2-5.*

**Comment:** CalRecycle received two comments expressing concern with the provision in section 2371 requiring dealers to include the store manager's name and contact information on their application on the basis that this information changes frequently. The comments suggested changing the language to state "the store manager's or other responsible party".

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to requiring a dealer member's store manager's name, title, phone number, and email address, these comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 98: Notification Requirements for Store Manager Contact Information*

*Comment Codes O-1-6 and O-2-6.*

**Comment:** CalRecycle received two comments expressing concern with the provision in section 2372 requiring dealers to notify CalRecycle 30 days prior to changes in the store manager's name and contact information on the basis that this information changes frequently. The comments suggested changing the language to state "the store manager's or other responsible party".

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to requiring a dealer member that is part of a dealer cooperative to notify CalRecycle electronically in writing within 30 days after a change in the store manager's or secondary contact's information, these comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process. Additionally, the website implementing this provision allows for a single user to manage multiple dealer accounts to allow the flexibility of a single person to manage the accounts of many in the instance of a larger chain of retail stores.

*CalRecycle Response 99: Recordkeeping Requirements for Redemption Transactions*

*Comment Codes O-1-10 and O-2-10.*

**Comment:** CalRecycle received two comments expressing concern with the provision in section 2380 requiring dealer cooperatives to maintain logs on all redemption

transactions on the basis that this information is burdensome for dealer cooperatives to maintain from the redemption contractors.

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. To the extent that these comments assert that this requirement would be infeasible for the dealer cooperative, the comment fails to acknowledge that section 2380(b) does not identify a specific entity in the dealer cooperative stewardship program. This was intentional to allow the dealer cooperative flexibility to delegate responsibility for recordkeeping requirements to a redemption contractor or other partner. These comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 100: Multiple Dealer Cooperatives in an Unserved Convenience Zone*

*Comment Codes O-1-11, O-2-11, and C-1-52.*

**Comment:** CalRecycle received three comments expressing concern with the provision in section 2382 allowing multiple dealer cooperatives to operate within an unserved convenience zone on the basis that this will cause dealer cooperatives to cease being economically viable.

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to section 2382(f) allowing more than one dealer cooperative to operate in a single unserved convenience zone, these comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

### **3.2 Repeat Comments on Unrevised Provisions**

CalRecycle received 61 comments addressing provisions in the initially proposed regulation text, that had not been revised for this 15-day public comment period, and that were repeated or substantially similar to comments received during the 45-day comment period. These comments and CalRecycle's responses are summarized below under their respective subcategory.

*CalRecycle Response 101: Outside of Scope for 15-Day Comment Period: Accepted GAAP Removal*

*Comment Code I-1-3.*

**Comment:** CalRecycle received one comment requesting clarification regarding the GAAP requirement in section 2370.

**Response:** CalRecycle has accepted this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments I-3-12 and C-3-20.

*CalRecycle Response 102: Contact Information*

*Comment Code I-1-5.*

**Comment:** CalRecycle received one comment regarding section 2371 that requesting the names, titles, and phone numbers of dealer cooperative personnel is “excessive and burdensome”.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments I-3-19, I-7-5, and O-4-5.

*CalRecycle Response 103: Notification of Changes to Stewardship Plan Timeline Is Reasonable*

*Comment Code I-1-8.*

**Comment:** CalRecycle received one comment that the requirement in section 2372(a) to notify CalRecycle 30 days prior to specified changes is “burdensome and unrealistic”. The commenter recommends 10 days as opposed to 30 days.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment I-3-24.

*CalRecycle Response 104: Website Requirement in Section 2375(a)(3)*

*Comment Code I-1-16.*

**Comment:** CalRecycle received one comment that website requirements as outlined in section 2375(a)(3) do not have statutory authority.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment

period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments I-3-26 and C-3-39.

*CalRecycle Response 105: Website Requirement and Standards*

*Comment Codes I-1-17 and C-1-19.*

**Comment:** CalRecycle received two comments that the website requirements and standards in section 2375(a)(4) lack authority and are burdensome.

**Response:** CalRecycle rejects these comments. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to these comments by reviewing the comment matrix for the 45-day public comment period for comment C-3-39. Additionally, in response to comment I-1-17, please see another response to this comment by reviewing the comment matrix for the 45-day public comment period for comment I-3-27.

Additionally, for comment C-1-19, the comment misstates that dealer cooperatives do not receive public funds. In fact, the receipt of public funds from CalRecycle is what enables dealer cooperatives to maintain financial solvency.

Regardless of whether section 7405 of the Government Code applies to dealer cooperatives based on the explicit language of that section, imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating new requirements through regulation in addition to those laid out in statute is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision.

This regulatory provision, section 2375(a)(4)(A), which requires a stewardship plan to be consistent with the accessibility standards set forth in section 7405 of the Government Code, is designed to aid the statutory objective of increasing consumer convenience and access for CRV redemption to increase California's recycling rates to 80% and reduce litter. The provision is reasonable because the accessibility requirements of section 7405 of the Government Code imposed upon dealer cooperatives for submitted stewardship plans ensure that the published information is accessible to all individuals, including those with disabilities, particularly blind, visually impaired, deaf, and hard-of-hearing persons. This promotes inclusivity and community access to information regarding redemption of CRV containers. Furthermore, section 2375(a)(4)(B) states that a dealer cooperative's failure to comply with subparagraph (A) shall not be a basis for disapproval of the stewardship plan.

This regulatory provision need not be comparable to requirements for other participants in the BCRP, such as recycling centers, because this requirement is for the new type of

recycling entity, dealer cooperatives, and tailored to the unique attributes of dealer cooperatives. This regulatory provision does not conflict with or contradict any statutory provision within the California Beverage Container Recycling and Litter Reduction Act.

*CalRecycle Response 106: Clarification for Legal Liability Is Not Necessary*

*Comment Code I-1-19.*

**Comment:** CalRecycle received one comment requesting clarification regarding dealer members being “legally liable beyond their participation in the corporation”.

**Response:** CalRecycle rejects this comment. With regard to dealer member legal liability this comment does not suggest any specific changes to the proposed regulations or raise issues related to the rulemaking process. As stated in response to the 45-day rulemaking comments O-4-9 and C-2-5, the provision establishing legal liability for dealer members was deleted because the framework for liability for violations of the Act and Regulations is established in PRC section 14591.2(a) and the surrounding sections; therefore, this regulatory provision relating to liability is unnecessary.

*CalRecycle Response 107: Website Requirement in Section 2375.4*

*Comment Code I-1-24.*

**Comment:** CalRecycle received one comment regarding section 2375.4 that statute does not require an Internet website for dealer cooperatives.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment I-3-26.

*CalRecycle Response 108: Maps are Not Required by Regulations*

*Comment Code I-1-28.*

**Comment:** CalRecycle received one comment that a map requirement in section 2375.2 is “burdensome and unnecessary”.

**Response:** CalRecycle rejects this comment. The proposed regulatory text does not include a map requirement. To the extent section 2375.2(f)-(h) requests information (lists) that could be provided in the form of a map, this comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-40.



*CalRecycle Response 109: Educational Outreach Requirements Do Not Lack Statutory Authority*

*Comment Code I-1-32.*

**Comment:** CalRecycle received one comment that section 2375.4(b) is “excessively burdensome and educational outreach lacks authority”.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments I-3-30, O-2-8, C-3-45, and C-4-7.

*CalRecycle Response 110: CalRecycle Has Authority for Recordkeeping Requirements*  
*Comment Code I-1-47.*

**Comment:** CalRecycle received one comment asserting the financial recordkeeping requirements in section 2380 are unauthorized and present the same problems as the GAAP requirements this commenter raised in other comments.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. This regulatory provision requiring dealer cooperatives that are required to prepare annual audited financial statements to submit those annual audited financial statements to CalRecycle is designed to aid the statutory objective of dealer cooperatives being transparent and accountable in utilizing dealer cooperative fees for the operation of the approved redemption model (PRC section 14578.5(f)). The provision is reasonable because it ensures clarity on what dealer cooperatives are obligated to provide to CalRecycle to ensure that financial transparency and accountability. Additionally, the provision is reasonable because it only subjects dealer cooperatives to this requirement if they are already required to prepare the annual audited financial statements under existing law, thereby not burdening smaller dealer cooperatives with a new requirement. The provision does not conflict with or contradict any statutory provision within the Act.

*CalRecycle Response 111: Timeframe to Submit Request for Informal Hearing Is Reasonable*

*Comment Code I-1-62.*

**Comment:** CalRecycle received one comment requesting that hearings should be conducted within 20 days.

**Response:** CalRecycle rejects this comment. CalRecycle disagrees that a change is needed with regard to the specified timeframe for dealer cooperatives to submit a request to CalRecycle for a hearing, as described in section 2385(d), because submitting the request within 30 days of receipt of the notice provides the dealer cooperative with a reasonable amount of time to review the notice and determine whether to request a hearing. This is necessary to ensure fairness and to allow the dealer cooperative an opportunity to present evidence before CalRecycle issues a final decision on the matter. Nothing prevents a dealer cooperative from submitting the request for a hearing sooner than within 30 days of receipt of the notice. An informal rather than formal hearing is necessary to ensure dealers have a right to be heard in a timely manner. PRC section 14578.5(b) requires that CalRecycle adopt regulations “necessary for the implementation and enforcement of this subdivision” but does not specify the governing hearing procedures to be used in those regulations. Because the governing hearing procedure is not specified in the Act or regulations, Gov. Code section 11415.10 authorizes CalRecycle to conduct enforcement actions taken under proposed section 2385 of the regulations as informal hearings under the Administrative Procedure Act set forth in Article 10 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Gov. Code. Establishing these hearings under the informal hearing provisions of the Administrative Procedure Act rather than the formal hearing provisions is necessary to effectuate this statutory provision because it allows efficient resolution of enforcement actions informally within CalRecycle, rather than requiring all enforcement actions to be heard before the Office of Administrative Hearings as formal hearings. The provisions allowing for the request of an informal hearing within 30 days of receiving notice of the proposed revocation of a stewardship plan provides ample due process to dealer cooperatives for the reasons described above.

*CalRecycle Response 112: Department Is the Correct Term*

*Comment Code I-1-64.*

**Comment:** CalRecycle received one comment that “Division” should replace “Department” and that the amendment should be reversed in section 2030.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment I-3-9.

*CalRecycle Response 113: Recycling Center Applications Will Be Denied in Unserved Convenience Zones in Which a Dealer Cooperative Operates*

*Comment Code I-1-66.*

**Comment:** CalRecycle received one comment on section 2030(g)(9) asserting there is no statutory authority to deny the application of a recycling center in an unserved convenience zone in which a dealer cooperative is in operation.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments I-3-10, C-3-15, C-3-16, C-3-18, and C-4-2.

*CalRecycle Response 114: No Specific Change Recommended*

*Comment Code C-1-2.*

**Comment:** CalRecycle received one comment that the proposed regulations “still make forming, joining, and operating dealer cooperatives (coops) very difficult and costly”.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-2.

*CalRecycle Response 115: Dealer Cooperatives Have Comparable, Not Duplicative, Provisions to That of Recycling Centers*

*Comment Code C-1-4.*

**Comment:** CalRecycle received one comment that the “proposed regulations go against the written intent of the legislation in section 14501(f), 14571.2, and 14571.3 that address recycling centers”.

**Response:** CalRecycle rejects this comment. The proposed regulations provide specific operation standards unique to this new beverage container recycling entity and are necessary to increase consumer awareness and provide flexibility of standards for dealer members to comply with their legal obligations. PRC section 14578.5(c)(1) requires that the dealer cooperative redemption program include sufficient redemption opportunities for consumers that have comparable consumer convenience to recycling centers and pilot projects. While the statute is specific that the redemption plan should be comparable, it is not required that dealer cooperative operate in the exact same manner as recycling centers. Making dealer cooperative operation provisions the same as recycling center provisions is not necessary and is contrary to effectuate this statutory provision.

*CalRecycle Response 116: No Specific Suggested Change*

*Comment Code C-1-5.*

**Comment:** CalRecycle received one comment that the proposed regulations are “more in line with a request for proposal (RFP) for a multiyear, multimillion dollar exclusive solid waste franchise agreement”.

**Response:** CalRecycle rejects this comment. This comment or substantially similar comments were submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments C-3-7, C-3-10, C-3-45, C-3-46, C-3-52, C-3-57, C-3-61, C-3-63, C-3-76, and C-3-91.

*CalRecycle Response 117: No Specific Suggested Change*

*Comment Code C-1-6.*

**Comment:** CalRecycle received one comment asserting there is an “excessive burden” of requests for information placed on dealer cooperatives that are unnecessary and not required by other program participants.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-7.

*CalRecycle Response 118: Defining Comparable and Sufficient*

*Comment Codes C-1-8 and C-1-9.*

**Comment:** CalRecycle received two comments asserting that the regulations have failed to define two key terms mentioned in statute: “comparable” and “sufficient”. Comment C-1-8 complains that the regulations do not define “comparable”, and comment C-1-9 complains that the regulations do not define “sufficient”.

**Response:** CalRecycle rejects these comments and will not make further changes to the regulation text than what has already been provided for in the first 15-day comment period. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-9. CalRecycle's language in the first 15-day comment period complies with statute.

*CalRecycle Response 119: CalRecycle Has Authority to Define “Stewardship Plan”*

*Comment Code C-1-16.*

**Comment:** CalRecycle received one comment that CalRecycle does not have authority to change the name of the dealer cooperative “redemption plan” to a “stewardship plan”.

**Response:** CalRecycle rejects this comment. This comment or substantially similar comments were submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle’s response to this comment by reviewing the comment matrix for the 45-day public comment period for comments C-3-23 and C-3-24.

*CalRecycle Response 120: Dealers Have the Option to Redeem In-Store or Join a Dealer Cooperative*

*Comment Code C-1-17.*

**Comment:** CalRecycle received one comment that dealer redemption requirements specified in section 2373(a) lack clarity and should be comparable to provisions in sections 2500, 2501, and 2525.

**Response:** CalRecycle rejects this comment. PRC section 14578 gives dealers the option of either redeeming in store or joining a dealer cooperative. PRC section 14578(a)(1) describes the requirements for dealers who choose to redeem in store. Dealers who redeem in store are ineligible for payments therefore do not have the same standards set for dealer cooperatives. The requirements for dealer cooperatives under PRC section 14578.5 include reporting and other requirements. Imposing the same standards for dealers who redeem in store with dealer cooperatives would be inconsistent with the statutes being implemented by these regulations.

*CalRecycle Response 121: Name of Stewardship Plan*

*Comment Codes C-1-18 and C-3-6.*

**Comment:** CalRecycle received two comments asserting that there is no statutory authority to change the term “redemption plan” to “stewardship plan” in regulatory text. This commenter recommended the term redemption plan be used in regulations.

**Response:** CalRecycle rejects these comments. The scope of the 15-day public comment period is limited to regulation text changes made subsequent to the 45-day public comment period. These comments address unchanged regulation text, which is outside the scope for the 15-day public comment period. With regard to the title of Article 3 being “Stewardship Plan” and the terms “stewardship plan” and “stewardship program” used instead of “redemption plan” and “redemption program”, these comments do not suggest any specific changes to the new 15-day public comment period proposed regulations or raise new issues related to the rulemaking process.

*CalRecycle Response 122: Requiring a List of Convenience Zones in a Dealer Cooperative Stewardship Plan Is Reasonable*

*Comment Code C-1-20.*

**Comment:** CalRecycle received one comment asserting that the provision in section 2375.2(g) requiring a stewardship plan to include a list of unserved convenience zones in which the dealer cooperative will provide redemption in the stewardship plan is unnecessary. This commenter also recommends deleting this provision.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-40.

*CalRecycle Response 123: Requiring a List of Processors and Recycling Centers in a Dealer Cooperative Stewardship Plan Is Reasonable*

*Comment Code C-1-21.*

**Comment:** CalRecycle received one comment asserting that the provision in section 2375.2(h) requiring a stewardship plan to include a list of processors and recycling centers to which the dealer cooperative will ship beverage containers is unnecessary and overreaches statutory authority. This commenter also recommends deleting this provision.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-44.

*CalRecycle Response 124: Requiring an Education and Outreach Program in a Dealer Cooperative Stewardship Plan Is Reasonable*

*Comment Code C-1-22.*

**Comment:** CalRecycle received one comment asserting that the provision in section 2375.4 requiring a stewardship plan to include an education and outreach program is an overreach of statutory authority, burdensome, costly, and not comparable to requirements of other program participants. This commenter also recommends deleting this provision.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-45.

*CalRecycle Response 125: Requiring Descriptions of Opportunities for Community Input in a Dealer Cooperative Stewardship Plan Is Reasonable*

*Comment Code C-1-23.*

**Comment:** CalRecycle received one comment asserting that the provision in section 2375.4(d) requiring a stewardship plan to include community input opportunities regarding collecting empty beverage containers is an overreach of statutory authority, burdensome, costly, and not comparable to requirements of other program participants. This commenter also recommends deleting this provision.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-46.

*CalRecycle Response 126: Requiring 100% Redemption Capacity Is Reasonable*

*Comment Code C-1-24.*

**Comment:** CalRecycle received one comment asserting that the provision in section 2375.4(f)(2) requiring dealer cooperatives to have the capacity to redeem an amount of beverage containers equal to 100% of the beverage containers sold by dealer members is an overreach of statutory authority. This commenter also recommends deleting this provision.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-49.

*CalRecycle Response 127: Requiring Performance Standards of Dealer Cooperatives Is Reasonable*

*Comment Code C-1-25.*

**Comment:** CalRecycle received one comment asserting that the provisions in section 2375.6 requiring dealer cooperatives to follow performance standards are an overreach of statutory authority and are not comparable to requirements of other program participants. This commenter also recommends deleting this provision.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment

by reviewing the comment matrix for the 45-day public comment period for comment C-3-54.

*CalRecycle Response 128: Performance Standards Regarding Geographic Spread Are Reasonable*

*Comment Code C-1-26.*

**Comment:** CalRecycle received one comment asserting that the provision in section 2375.6(a) requiring dealer cooperatives to include performance standards related to geographic spread is an overreach of statutory authority, is unnecessary, and lacks clarity.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-55.

*CalRecycle Response 129: Performance Standard of Wait Times Is Unauthorized*

*Comment Code C-1-28.*

**Comment:** CalRecycle received one comment suggesting removing the provision requiring stewardship plans include a performance standard outlining the wait times for redemption on the basis that this requirement lacks statutory authority and is not a comparable standard to certified recycling centers.

**Response:** CalRecycle rejects this comment. Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision. These regulatory provisions in sections 2375.6(d)(1) and (2) establishing a performance standard of consumer wait time are designed to aid the statutory objective of increasing consumer convenience. The provision is reasonable because wait time is one of the most important factors that determines whether a redemption opportunity is convenient for a consumer; therefore, a dealer cooperative must consider this factor and provide a numerical average wait time in its stewardship plan. The provision is also reasonable because it provides flexibility of standards for dealer members to comply with their legal obligations by allowing a dealer cooperative to establish a wait time based on its own circumstances rather than prescribing a uniform wait time for all dealer cooperatives. The wait-time performance standard does not conflict with or contradict any statutory provision within the Act.



*CalRecycle Response 130: CalRecycle Approval of Stewardship Plans Are Burdensome*

*Comment Code C-1-29.*

**Comment:** CalRecycle received one comment expressing concern with the stewardship plan review and approval or disapproval process outlined in section 2376 Stewardship Plan Review and Approval or Disapproval; Operational Notice. The comment states that the information required in this section lacks authority, is over burdensome, and will disincentivize dealers from joining a dealer cooperative.

**Response:** CalRecycle rejects this comment, which misinterprets the words “shall be approved” in PRC section 14578(a)(2) as requiring mandatory approval by CalRecycle. Rather, the phrase “shall be approved” refers to the obligations a dealer cooperative must meet in order to be in compliance with that section. Specifically, a dealer cooperative is not in compliance with the law unless it is operating under an approved plan. Requiring CalRecycle to approve all stewardship plans, regardless of whether a stewardship plan met the requirements set forth in SB 1013, would not further the goals or requirements of SB 1013. Therefore, it's necessary and appropriate to have “approval or disapproval” in the title of section 2376. Additionally, it is necessary to change the “may” to “shall” in section 2376(a) in the 15-day public comment period version of the regulation text to comply with the clarity standard under the Administrative Procedure Act. Specifying that CalRecycle “may” require additional information was not sufficiently clear to put the dealer cooperatives on notice regarding the criteria when CalRecycle would require that information. Therefore, it was necessary to require the additional information under the specific circumstance that the information is necessary to corroborate or clarify the information provided.

*CalRecycle Response 131: CalRecycle Approval of Stewardship Plans Are Unauthorized*

*Comment Code C-1-30.*

**Comment:** CalRecycle received one comment expressing concern with the stewardship plan review and approval or disapproval process outlined in section 2376 Stewardship Plan Review and Approval or Disapproval; Operational Notice. The comment states that CalRecycle lacks the statutory authority to disapprove stewardship plans.

**Response:** CalRecycle rejects this comment, which misinterprets the words “shall be approved” in PRC section 14578(a)(2) as requiring mandatory approval by CalRecycle. Rather, the phrase “shall be approved” refers to the obligations a dealer cooperative must meet in order to be in compliance with that section. Specifically, a dealer cooperative is not in compliance with the law unless it is operating under an approved plan. Requiring CalRecycle to approve all stewardship plans, regardless of whether a stewardship plan met the requirements set forth in SB 1013, would not further the goals or requirements of SB 1013. Therefore, it's necessary and appropriate to have “approval

or disapproval” in the title of section 2376. Additionally, the deadline of 90 days for the review process of stewardship plans is necessary for CalRecycle to complete a comprehensive review of a stewardship plan and responsibly decide whether to approve or disapprove of the stewardship plan. Requiring less time for this process would not provide adequate time for CalRecycle to responsibly review and approve or disapprove of a stewardship plan, considering the numerous amount of dealers, and potentially dealer cooperatives, across the state. A 90-day period balances the need to give CalRecycle enough time to review a stewardship plan with the necessity to give dealer cooperatives a response on whether their stewardship plan is approved or disapproved within a reasonable timeframe. CalRecycle does not have the authority to revise statute as suggested by the commenter. Rather, the Legislature has statutorily required CalRecycle to adopt regulations to implement SB 1013 as specified in PRC section 14578.5(b)(1).

*CalRecycle Response 132: Stewardship Plan Review Public Comment Period*

*Comment Code C-1-32.*

**Comment:** CalRecycle received one comment suggesting deleting the provision in section 2376(b)(2) requiring stewardship plans to undergo public review and comment as part of the approval process on the basis that this requirement is not comparable to other program participants and causes a delay in the review process.

**Response:** CalRecycle accepts this comment. CalRecycle removed the provision establishing a public comment component to stewardship plan approval by deleting subsection (b)(2) of section 2376 as noticed in the second 15-day comment period.

*CalRecycle Response 133: Stewardship Plan Five-Year Update Disapproval*

*Comment Code C-1-36.*

**Comment:** CalRecycle received one comment suggesting deleting the provision in section 2377(b)(2) stating that CalRecycle may reject updated stewardship plans on the basis that disapproval of plans lacks statutory authority.

**Response:** CalRecycle rejects this comment. This comment or substantially similar comments were submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle’s response to this comment by reviewing the comment matrix for the 45-day public comment period for comments C-3-66 and C-3-67.

*CalRecycle Response 134: Stewardship Plan Five-Year Updates: Six Month Notice*

*Comment Code C-1-37.*

**Comment:** CalRecycle received one comment suggesting deleting the provision in section 2377 requiring dealer cooperatives to submit their updated stewardship plans to CalRecycle six months prior to the review deadline on the basis that this requirement lacks statutory authority.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-69.

#### *CalRecycle Response 135: Operational Reports*

##### *Comment Code C-1-47.*

**Comment:** CalRecycle received one comment suggesting deleting the quarterly reporting requirements for dealer cooperatives on the basis that requesting this information is not authorized in statute and not required of certified recycling centers.

**Response:** CalRecycle rejects this comment. Section 2381(c)(1)-(6) is necessary to increase consumer convenience and access for CRV redemption to increase California's recycling rates to 80%, the recycling rate goal established in PRC section 14501(c). PRC section 14578.5(c)(6) requires that the dealer cooperative provide reports such as the amount of empty beverage containers and any other relevant information in the form and manner prescribed by CalRecycle. PRC section 14578.5(f) also requires CalRecycle to conduct audits of each dealer cooperative every 24 months to ensure payments to consumers and fees from dealers are being utilized for the operation of the approved stewardship plan. Requiring dealer cooperatives to report information such as expenditures and revenues is necessary to effectuate these statutory provisions because it will allow CalRecycle to accurately conduct audits on all dealer cooperatives to ensure that dealer cooperative funds are lawfully being utilized on the approved stewardship plan. Not imposing the reporting requirements of section 2381(c)(1)-(6) on dealer cooperatives for the sole reason that they are not imposed on recycling centers is unreasonable in this instance because CalRecycle is tasked with ensuring dealer cooperatives are operating in accordance with their stewardship plan and with auditing dealer cooperatives every 24 months, however CalRecycle has no comparable oversight of recycling centers since recycling centers are not required by statute to have stewardship plans or to be audited by CalRecycle every 24 months.

#### *CalRecycle Response 136: Six-Month Notice for Dealer Cooperative Dissolution*

##### *Comment Code C-1-54.*

**Comment:** CalRecycle received one comment suggesting deleting the required six-month notice prior to a dealer cooperative dissolution in section 2382 on the basis that six months' notice is burdensome and impractical for dealers.

**Response:** CalRecycle rejects this comment. The minimum six-month notice prior to dealer cooperative dissolution or ceasing operation is designed to aid the statutory objective of preventing reduced redemption access and convenience for consumers. The provision is reasonable because the minimum six-month timeframe provides enough time for dealer members to join another dealer cooperative or redeem in store and gives CalRecycle enough time to review any stewardship plans responding to the upcoming dissolution. It is reasonable for a nonprofit corporation that receives dealer cooperative fees from its members to know at least six months in advance of when it will dissolve or cease operation to give the dealer members time to make alternate arrangements. Because the status of dealer cooperatives and their stewardship plans can affect the legal obligations of its dealer members and trigger immediate obligations on others should the dealer cooperative dissolve or cease operation, it is necessary for CalRecycle to be informed of that change of status at least six months in advance to provide adequate time for affected entities to prepare for the change in legal obligations.

*CalRecycle Response 137: Dealer Cooperatives May Reject Non-Program Material  
Comment Code C-1-55.*

**Comment:** CalRecycle received one comment expressing concern with the provision in section 2382(j) stating dealer cooperatives are not required to accept non-program material from consumers on the basis that this requirement lacks authority and contradicts other provisions in the proposed regulations text.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-92.

*CalRecycle Response 138: General Concerns with Burdensome Requirements  
Comment Code C-3-2.*

**Comment:** CalRecycle received one comment expressing concern with the proposed regulations on the basis that the requirements in the text make forming a dealer cooperative burdensome and costly.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-2.

*CalRecycle Response 139: General Concerns with Unnecessary Requirements*

*Comment Code C-3-4.*

**Comment:** CalRecycle received one comment expressing concern with the proposed regulations on the basis that the requirements in the text are unnecessary and are an overreach of the Act.

**Response:** CalRecycle rejects this comment. This comment or substantially similar comments were submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments C-3-10, C-3-45, C-3-46, C-3-52, C-3-57, C-3-61, C-3-63, C-3-76, and C-3-91.

*CalRecycle Response 140: Web Accessibility Requirements for Stewardship Plans*

*Comment Code C-3-7.*

**Comment:** CalRecycle received one comment expressing concern with the provision requiring dealer cooperatives to post their stewardship plan to a website following web accessibility standards on the basis that this requirement lacks statutory authority.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-39.

*CalRecycle Response 141: Education and Outreach, Community Input, and Capacity Requirements for Stewardship Plans*

*Comment Code C-3-8.*

**Comment:** CalRecycle received one comment expressing concern with the requirements in section 2375.4 for dealer cooperative stewardship plans to include education and outreach, community input, and a redemption capacity of 100% of containers sold by dealer members on the basis that these requirements lack statutory authority and are over burdensome.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment I-3-30.

*CalRecycle Response 142: Payment by Count vs. Weight*

*Comment Code C-4-5.*

**Comment:** CalRecycle received one comment on section 2430 Payments suggesting changing the method of reimbursement for the redemption contractor to count instead of weight for innovative methods of redemption because these collection methods pay the consumer by count.

**Response:** CalRecycle rejects this comment. With regard to requiring that processors reimburse the CRV based on count rather than weight to innovative methods of redemption contemplated by the proposed regulations and funded through the Redemption Innovation Grant Program, such as bag drops and reverse vending machines, this comment is outside of the scope of this regulatory package, which relates to dealer registration and dealer cooperatives. Changing the method by which processors pay out CRV has broader implications that affect the entire BCRP and therefore is not appropriate to include in this regulatory package. CalRecycle continues to engage with the interested public on count vs. weight feedback and suggestions in the larger scope of the BCRP.

*CalRecycle Response 143: Proposed Regulations are Unnecessary and Overcomplicated*

*Comment Code C-5-2.*

**Comment:** CalRecycle received one comment expressing concern with the changes to the proposed regulations on the basis that these changes and the regulations are unnecessary and should be simplified.

**Response:** CalRecycle rejects this comment. This comment or substantially similar comments were submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments O-4-5, C-2-6, C-4-3, and C-4-4.

*CalRecycle Response 144: Proposed Regulations Are an Overreach of Statutory Authority*

*Comment Code C-5-5.*

**Comment:** CalRecycle received one comment expressing concern with the proposed regulations on the basis that the regulations are unnecessarily complex and are an overreach of the intent of the Act.

**Response:** CalRecycle rejects this comment. This comment or substantially similar comments were submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments C-3-10, C-3-45, C-3-46, C-3-52, C-3-57, C-3-61, C-3-63, C-3-76, and C-3-91.

*CalRecycle Response 145: Proposed Regulations Cause Adversarial Enforcement*  
*Comment Code C-5-6.*

**Comment:** CalRecycle received one comment expressing concern with the proposed regulations on the basis that the regulations impose stringent enforcement that would cause an adversarial relationship between CalRecycle and dealer cooperatives.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment C-3-7.

*CalRecycle Response 146: Redemption Requirements for In-Store Dealers*  
*Comment Code C-5-9.*

**Comment:** CalRecycle received one comment suggesting changing the dealer redemption requirements for dealers that redeem in-store to match the requirements of certified operators on the basis that these standards must be comparable for all program participants.

**Response:** CalRecycle rejects this comment. PRC section 14578 gives dealers the option of either redeeming in store or joining a dealer cooperative. PRC section 14578(a)(1) describes the requirements for dealers who choose to redeem in store. Dealers who redeem in store are ineligible for payments therefore do not have the same standards set for dealer cooperatives. The requirements for dealer cooperatives under PRC section 14578.5 include reporting and other requirements. Imposing the same standards for dealers who redeem in store with dealer cooperatives would be inconsistent with the statutes being implemented by these regulations.

*CalRecycle Response 147: Requiring Anticompetitive Practices*  
*Comment Code O-4-8.*

**Comment:** CalRecycle received one comment expressing concern with the proposed regulations on the basis that the regulations lack language to disallow anticompetitive practices for dealer cooperatives.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-3.

*CalRecycle Response 148: Requirements for Dealer Cooperative Fees and Anticompetitive Behavior*

*Comment Codes O-4-9 and O-4-10.*

**Comment:** CalRecycle received two comments expressing concern with the proposed regulations on the basis that the regulations lack clarity regarding dealer cooperative fees and other anticompetitive behavior which may be used to disallow certain dealers from joining a dealer cooperative.

**Response:** CalRecycle rejects these comments. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-4.

*CalRecycle Response 149: Issues with Donation Only Sites*

*Comment Code O-4-11.*

**Comment:** CalRecycle received one comment expressing concern with grant-funded redemption locations offering donation only as repayment for empty beverage container redemption on the basis that these locations do not offer immediate cash repayment to consumers and thus do not offer comparable service to certified recycling centers.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comments O-6-5 and O-6-6.

*CalRecycle Response 150: Notification on CalRecycle's Websites for Submitted and Approved Stewardship Plans*

*Comment Code O-4-13.*

**Comment:** CalRecycle received one comment suggesting that CalRecycle should notify the public of submitted and approved stewardship plans on CalRecycle's website and listservs on the basis that this will increase awareness for consumers.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-10.



*CalRecycle Response 151: Discrete Minimums for Dealer Cooperative Performance Standards*

*Comment Code O-4-14.*

**Comment:** CalRecycle received one comment suggesting that the performance standards of stewardship plans should set numerical minimums based on consumer data rather than allow dealer cooperatives to set the performance standards based on an 80% redemption rate and a 100% capacity.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-12.

*CalRecycle Response 152: Mobile Function Standards for Dealer Cooperative Websites*

*Comment Code O-4-15.*

**Comment:** CalRecycle received one comment suggesting changing the provision requiring dealer cooperatives to include a website in their stewardship plan to also include mobile phone functionality to these standards. This is based on mobile phone applications being more accessible to consumers.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-13.

*CalRecycle Response 153: Performance Standard of 80% Redemption Rate is Insufficient*

*Comment Code O-4-17.*

**Comment:** CalRecycle received one comment expressing concern with the provisions in section 2375.6(c) outlining the required performance standard of an 80% redemption rate for dealer cooperatives on the basis that this standard can be easily met for dealer cooperatives that consist of a single dealer while not offering sufficient redemption opportunities for consumers.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment

by reviewing the comment matrix for the 45-day public comment period for comment O-6-16.

*CalRecycle Response 154: Stewardship Plan Five-Year Review Frequency*

*Comment Code O-4-18.*

**Comment:** CalRecycle received one comment expressing concern with the provision in section 2377 requiring dealer cooperatives to review their stewardship plans every five years on the basis that this frequency is not sufficient to ensure dealer cooperative operation meets community needs. The comment suggests increasing the frequency of stewardship plan review to less than five years for the first few years that dealer cooperatives operate.

**Response:** CalRecycle rejects this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-19.

*CalRecycle Response 155: Outside of Scope for 15-Day Comment Period: Accepted Changes to Signage Requirements*

*Comment Code O-4-16.*

**Comment:** CalRecycle received one comment recommending changes to the requirements in section 2375.4 of physical signage at redemption sites.

**Response:** CalRecycle accepts this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-14.

*CalRecycle Response 156: Outside of Scope for 15-Day Comment Period: Accepted Delayed Payment for Bag Drop and Reverse Vending Machines*

*Comment Code O-4-19.*

**Comment:** CalRecycle received one comment regarding section 2535 requesting delayed payment for bag drop and reverse vending machines.

**Response:** CalRecycle accepts this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-20.

*CalRecycle Response 157: Outside of Scope for 15-Day Comment Period: Accepted Clarification of Language in Section 2535(a)*

*Comment Code O-4-20.*

**Comment:** CalRecycle received one comment requesting clarification regarding the language mentioning empty beverage containers not donated to a recycling center in section 2535(a).

**Response:** CalRecycle accepts this comment. This comment or a substantially similar comment was submitted to CalRecycle to consider during the 45-day public comment period for the proposed regulations. Please see CalRecycle's response to this comment by reviewing the comment matrix for the 45-day public comment period for comment O-6-21.

## **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE SECOND 15-DAY COMMENT PERIOD**

### **Summary of Comments Received**

Written comments were received by CalRecycle during the second 15-day comment period, which began on February 24, 2025, and ended on March 11, 2025.

The comments received during the second 15-day comment period are displayed on the attached Second 15-Day Comment Period Matrix, which shows the corresponding comment code, the CCR section that the comment is in reference to (if applicable), the commenter's name, their organization, CalRecycle's response to the comment, and is incorporated by reference. Please refer to the Second 15-Day Comment Period Matrix for the list of 32 total comments received during the second 15-day comment period. The Second 15-Day Comment Period Matrix contains a key of comment codes of all 32 comments. In both this FSOR and the Second 15-Day Comment Period Matrix, I = a comment from an Individual, C = a comment from a Company, and O = a comment from an Organization.

CalRecycle has sorted the total 32 comments into the following three categories of comments along with the corresponding page number in this FSOR:

- 1. Comments in Support or Neutral ..... Error! Bookmark not defined.**
- 2. Comments Not Specifically on Revised Provisions that Are Therefore Outside of Scope of Second 15-Day Notice Changes ..... Error! Bookmark not defined.**
- 3. Comments On Revised Provisions for Second 15-Day Public Comment Period ..... Error! Bookmark not defined.**

## CalRecycle's Response to Second 15-Day Public Comment Period Comments Received

CalRecycle would like to express its appreciation to the organizations, companies, and individuals that participated in the second 15-day comment period. CalRecycle concluded that no further substantial changes are necessary, and has made two non-substantial changes in response to the comments.

The Second 15-Day Comment Period Matrix that includes CalRecycle's responses is posted on the [SB 1013 Dealer Registration and Dealer Cooperatives Permanent Regulations website](#), and is incorporated by reference. The original comment letters received during the second 15-day comment period are available for public inspection during normal business hours at 1001 I Street, 24<sup>th</sup> Floor, Sacramento, CA 95814. To schedule a time to inspect these documents, please contact Csilla Richmond at [regulations@calrecycle.ca.gov](mailto:regulations@calrecycle.ca.gov).

### 1. Comments in Support or Neutral

CalRecycle received three comments expressing general support and one comment stating "No comments". The following four comments generally support the objectives and goals of the SB 1013 Dealer Registration and Dealer Cooperatives Permanent Rulemaking, or stated "No comments":

*CalRecycle Response 1: Not Specifically Addressing Changes Made During Second 15-Day Comment Period*

*Comment Codes C-1-1, C-2-3, I-1-2, and I-1-5.*

**CalRecycle's response to all comments in support or neutral:** CalRecycle rejects this comment as it does not offer any specific objection or recommendation to the changes in this version of the proposed regulation text, nor to the procedures used in noticing and offering for comment this version of the proposed regulation text.

### 2. Comments Not Specifically on Revised Provisions that Are Therefore Outside of Scope of Second 15-Day Notice Changes

CalRecycle received 18 comments addressing provisions in the proposed regulation text that had not been revised for this second 15-day public comment period including repeated or substantially similar comments received during the 45-day and/or first 15-day public comment period. CalRecycle's responses are summarized below.

*CalRecycle Response 1: Not Specifically Addressing Changes Made During Second 15-Day Comment Period*

*Comment Codes C-2-1, C-2-2, C-2-4, C-2-5, C-2-6, C-2-7, C-2-8, C-2-9, C-2-10, C-2-11, C-2-12, C-2-13, C-2-14, C-2-15, C-2-16, I-1-11, I-2-2, and I-2-3.*

**CalRecycle's response to all comments that do not specifically address the changes made in the proposed text noticed for the second 15-day public comment period:** CalRecycle rejects this comment as it does not offer any specific objection or recommendation to the changes in this version of the proposed regulation text, nor to the procedures used in noticing and offering for comment this version of the proposed regulation text.

### 3. Comments On Revised Provisions for Second 15-Day Public Comment Period

CalRecycle received 10 comments addressing provisions in the proposed regulation text that had been revised for this second 15-day public comment period. CalRecycle's responses are summarized below.

#### *CalRecycle Response 2: Inclusion of Website Address in Section 2375*

##### *Comment Code I-1-1.*

**Comment:** CalRecycle received a comment that says, "Section 2375 (a) (4) The renote adds additional requirements that are not authorized by statute. There is no requirement for websites or conditions imposed on those websites".

**Response:** CalRecycle rejects this comment. The comment misstates that the changed language in this version of the proposed regulation text adds an additional requirement relating to websites or conditions imposed on those websites. Adding the website address is a non-substantial change to the regulations without any change in regulatory effect. The requirement for a submitted stewardship plan to comply with the Web Content Accessibility Guidelines (WCAG) 2.0 published in 2008 by the World Wide Web Consortium has not been altered in any way. The only change being made in this version of the proposed regulation text is adding the website address to the regulation text, rather than just including the website address in the supporting rulemaking documents, to increase clarity for dealer cooperatives.

Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision.

Requiring a submitted stewardship plan posted online to comply with the Web Content Accessibility Guidelines (WCAG) 2.0 published in 2008 by the World Wide Web Consortium is designed to aid the statutory objective of increasing consumer convenience and access to CRV redemption to increase California's recycling rates to 80% and reduce litter. The provision is reasonable because accessibility will increase the number of consumers that can access the posted stewardship plan that contains information about the redemption offered by the dealer cooperative. It does not conflict with or contradict any statutory provision within the California Beverage Container Recycling and Litter Reduction Act.

### *CalRecycle Response 3: "May" to "Shall" Amendment in Section 2377*

#### *Comment Code I-1-3.*

**Comment:** CalRecycle received a comment that says, "Section 2377 By changing the words May to Shall the department has not clarified ambiguity, it has imposed a major change, which in my opinion, should require a 45-day renote. This affects the whole process of application and determination for rejection of the application. The standards imposed should be identical to those for the application of Certified Recycling Centers. We fail to find authority for this requirement".

**Response:** CalRecycle rejects this comment. The purpose of this amendment is to remove any ambiguity as to what action CalRecycle will take if it concludes that a dealer cooperative cannot implement the applicable requirements of the Act and regulations without updating a stewardship plan. In that instance, the department will reject a determination that a stewardship plan update is unnecessary.

Furthermore, the comment misstates when a 45-day public comment period is required. CalRecycle has noticed a 15-day public comment period for this version of the regulation text. 15-day public comment periods are permitted for substantial changes that are sufficiently related (1 CCR sections 40 and 42; Gov. Code section 11346.8). Changing "may" to "shall" regarding what action CalRecycle will take if CalRecycle concludes that a dealer cooperative cannot implement the applicable requirements of the Act and regulations without updating a stewardship plan is sufficiently related because "a reasonable member of the directly affected public could have determined from the notice that these changes to the regulation could have resulted" (1 CCR section 42). Specifically, a reasonable member of the directly affected public could have made this determination because the criteria for CalRecycle rejecting the decision not to update remains the same and is therefore foreseeable. The change is merely that CalRecycle's discretion to invoke the criteria is now mandatory rather than permissive.

This provision provides specific procedures for five-year updates to dealer cooperative stewardship plans that are unique to this new beverage container recycling entity. The provision is necessary to implement PRC section 14578.5(c)(1), which requires that the dealer cooperative redemption program be sufficient with redemption opportunities for consumers with comparable consumer convenience to recycling centers and pilot projects. While the statute is specific that the redemption plan should be comparable, it is not required that dealer cooperatives operate in the exact same manner as recycling centers. Making dealer cooperative provisions the same as recycling center provisions with regard to five-year updates to stewardship plans is contrary to the Act, because PRC sections 14578 and 14578.5 require a dealer cooperative to have a stewardship plan, whereas the Act does not require recycling centers to have stewardship plans.

Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision.

Five-year updates to stewardship plans are designed to aid the statutory objective of increasing consumer convenience and access to CRV redemption to increase California's recycling rates to 80% and reduce litter. The provision is reasonable because a stewardship plan that is never updated would not reflect the redemption needs of a changing populace within a convenience zone. It does not conflict with or contradict any statutory provision within the California Beverage Container Recycling and Litter Reduction Act.

#### *CalRecycle Response 4: Inclusion of Website Address in Section 2381*

*Comment Code I-1-4.*

**Comment:** CalRecycle received a comment that says, "Section 2381 There was no authority for the original proposed regulation therefore any modification still lacks authority".

**Response:** CalRecycle rejects this comment. The only change being made in section 2381 is adding the website address of the Web Content Accessibility Guidelines (WCAG) 2.0 published in 2008 by the World Wide Web Consortium. Adding the website address is a non-substantial change to the regulations without any change in regulatory effect. The requirement for a submitted quarterly report to comply with the Web Content Accessibility Guidelines (WCAG) 2.0 published in 2008 by the World Wide Web Consortium has not been altered in any way. The only change being made in this version of the proposed regulation text is adding the website address to the regulation text, rather than just including the website address in the supporting rulemaking documents, to increase clarity for dealer cooperatives.

Imposing requirements in regulation not set out in statute does not necessarily violate the Administrative Procedure Act's standard of consistency (Gov. Code section 11349(d)). Creating requirements through regulation is inherently part of the rulemaking process so long as the requirements are reasonably designed to aid a statutory objective and do not conflict with or contradict any statutory provision.

Requiring a submitted quarterly report that is posted online to comply with the Web Content Accessibility Guidelines (WCAG) 2.0 published in 2008 by the World Wide Web Consortium is designed to aid the statutory objective of increasing consumer convenience and access to CRV redemption to increase California's recycling rates to 80% and reduce litter. The provision is reasonable because accessibility will increase the number of consumers that can access the quarterly report that contains information about the redemption offered by the dealer cooperative. It does not conflict with or contradict any statutory provision within the California Beverage Container Recycling and Litter Reduction Act.

#### *CalRecycle Response 5: Grounds for Corrective Action in Section 2385*

*Comment Code I-1-6.*

**Comment:** CalRecycle received a comment that says, "Section 2385 I fail to see how this amendment promotes clarity, in fact, I believe it does just the opposite".

**Response:** CalRecycle rejects this comment. The regulatory language has been changed to specify that failing to comply with any applicable requirement of the Act or these regulations constitutes grounds for CalRecycle to require a dealer cooperative to take corrective action. This change promotes clarity by placing the regulated entity on notice that the consequence of noncompliance of a stewardship plan results in the imposition of corrective action.

#### *CalRecycle Response 6: Additional Reporting*

##### *Comment Code I-1-7.*

**Comment:** CalRecycle received a comment that says, “(A)(2)(b) Permits the Division to impose additional reporting without adopting those reporting requirements or stating the authority for them. It should be rejected”.

**Response:** CalRecycle accepts this comment and has made the following non-substantial change: the final proposed regulation text clarifies that the additional reporting requirements only include additional reporting of any of the components listed in section 2381. This provides clarity to dealer cooperatives by putting them on notice regarding what kinds of information can be required to be reported as part of corrective action. The statutory authority for this requirement is PRC section 14578.5(c)(6), which requires a dealer cooperative to “Provide reports as required by the department, which may include, but are not limited to, ... any other relevant information the department requests in the form and manner that the department may prescribe.” Including additional reporting of the components listed in section 2381 as part of corrective action is necessary for CalRecycle to verify the dealer cooperative’s compliance with any applicable provision of the Act or regulations.

This change is non-substantial because it clarifies, without materially altering, the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text (1 CCR section 40; Gov. Code section 11346.8). Specifically, it is non-substantial because it merely cross-references existing reporting components listed in section 2381, rather than creating any new type of reporting.

#### *CalRecycle Response 7: Revocation Hearing Procedures*

##### *Comment Code I-1-8.*

**Comment:** CalRecycle received a comment that says, “Section (b) states that failing to comply with the corrective action is grounds for revocation, all or in part, any allegation made by the department should be subject to adjudication before implementation of revocation. An allegation is not fact until it’s been adjudicated. No provisions have been proposed or adopted for this purpose”.

**Response:** CalRecycle rejects this comment. The comment misstates that no hearing provisions have been proposed for a revocation hearing. In proposed section 2385(c)-(f), the following revocation hearing procedures have been proposed to ensure due process: written notice to the dealer cooperative of intent to revoke a stewardship plan, ability for a dealer cooperative to request a hearing to contest the grounds for the



revocation, requiring a hearing to be conducted pursuant to the informal hearing provisions of the Administrative Procedure Act, and the timeframe in which the Director or the Director's designee must issue a written decision.

#### *CalRecycle Response 8: Revocation Hearing Standards*

*Comment Code I-1-9.*

**Comment:** CalRecycle received a comment that says, "Section (d) makes provisions for untimely requests for a hearing but fails to adopt standards allowing for their usual arbitrary determinations. Standards should be adopted as a part of this package".

**Response:** CalRecycle rejects this comment. The comment misstates that no hearing standards have been proposed for a revocation hearing. In proposed section 2385(c)-(f), the following revocation hearing standards have been proposed to ensure due process: written notice to the dealer cooperative of intent to revoke a stewardship plan, ability for a dealer cooperative to request a hearing to contest the grounds for the revocation, requiring a hearing to be conducted pursuant to the informal hearing provisions of the Administrative Procedure Act, and the timeframe in which the Director or the Director's designee must issue a written decision.

#### *CalRecycle Response 9: Specific Enforcement Standards Regarding Notices of Violation and Related Hearings*

*Comment Code I-1-10.*

**Comment:** CalRecycle received a comment that says, "Section 2386 refers to the right to a hearing and specifies conditions but those conditions do not match the standards adopted in section 2130. Therefore all standards referred to should not be adopted in this section but refer to section 2130 instead".

**Response:** CalRecycle rejects this comment. The Notice of Violation and related hearing provisions for dealers and dealer cooperatives provides specific enforcement standards unique to these beverage container recycling entities. This provision is necessary to implement PRC section 14578.5(b)(1), which requires CalRecycle to adopt regulations necessary for the implementation and enforcement of the dealer and dealer cooperative provisions. While PRC section 14578.5(c)(1) requires that the dealer cooperative redemption program be sufficient with redemption opportunities for consumers with comparable consumer convenience to recycling centers and pilot projects, it is not required that dealers and dealer cooperatives be enforced in the exact same manner as recycling centers. These enforcement procedures must be different since they are tailored to SB 1013's creation of a new beverage container recycling framework for dealers and dealer cooperatives. Making dealer and dealer cooperative enforcement provisions the same as recycling center enforcement provisions in section 2130 is therefore not necessary and is contrary to effectuating SB 1013's creation of a new beverage container recycling framework for dealers and dealer cooperatives.

#### *CalRecycle Response 10: Do Not Amend Section 2535 to Include Dealer Cooperatives*

*Comment Code I-1-12.*

**Comment:** CalRecycle received a comment that says, “Section 2535, Again this section is amended to include Dealer Cooperative which should be treated as a Recycling Center”.

**Response:** CalRecycle accepts this comment and has made the following non-substantial change: section 2535 has been removed from the final proposed regulation text. While section 2535 was included in the version of the proposed regulation text noticed on February 24, 2025, no changes were indicated in strikeout or underline because no revisions to existing section 2535 are proposed to be made.

This change is non-substantial because it clarifies, without materially altering, the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text (1 CCR section 40; Gov. Code section 11346.8). Specifically, it is non-substantial because it is only a typographical correction that removes plain text that had no regulatory effect.

*CalRecycle Response 11: Untimely Hearing Requests*

*Comment Code I-2-1.*

**Comment:** CalRecycle received a comment that says, “Thank you for the opportunity to provide feedback on the latest version of SB1013 Dealer Cooperative regulations. Enforcement Section 2385 - Changes to the regulations note “if a dealer demonstrates good cause for untimely hearing”. Please define ‘good cause’ as it relates to this section, ensuring that dealers are held accountable and not provided leniency without a clear demonstration of what ‘good cause’ may be. Specifically, how this legal definition would be addressed, “A substantial reason, taking into account the prejudice or irreparable harm a party will suffer if a hearing is not held”.

**Response:** CalRecycle rejects this comment. This amendment reduces the department’s discretion regarding when an untimely hearing request will result in the right to a hearing being deemed waived. Rather than giving the department total discretion by stating the right to a hearing “may” be waived by the department in the event there is an untimely hearing request, the language now states in the event of an untimely hearing request, the right to a hearing “shall” be deemed waived, unless the dealer cooperative demonstrates good cause for the untimely hearing request.

Codifying the comment’s suggested definition for “good cause” into regulation would unnecessarily constrain CalRecycle’s ability to allow a hearing to go forward in the event of an untimely hearing request. Public policy supports deciding cases on the merits rather than not allowing the case to be heard for procedural reasons, such as an untimely hearing request. Therefore, a flexible meaning of “good cause” is necessary. If a hearing request is only a few minutes untimely, then a non-substantial but valid reason may constitute good cause, whereas if the hearing request is a week late, then a more substantial reason would be necessary to constitute good cause.