

Industry Proposal to Strengthen CRV Recycling

The Association of California Recycling Industries (ACRI) encourages the State Legislature to consider making carefully crafted structural changes to the Beverage Container Recycling Program (BCRP). Since passage in 1986, BCRP has been amended dozens of times, yet the program has never been fundamentally updated. While the closure of rePlanet is not primarily a result of the current BCRP law or CalRecycle's administration of the program, it does highlight the need for reform and modernization of the program.


Policy Change Recommendations

 Denotes a possible immediate/short-term solution

SCOPE OF MATERIALS IN THE PROGRAM

- Commingled glass should be incorporated back into the CRV program or wine and spirit containers should be included in the CRV Program
- Additional beverage containers should be incorporated into CRV Program (e.g., plastic, glass, and aluminum), including wine bottles, distilled spirit bottles, and large juice containers, but only after the BCRP has been updated and protections against fraud and abuse have been strengthened
- Beverage container material types that are not frequently recycled should have an increased redemption value (so the public can vote with their dollars) or should be eliminated from the program (e.g. plastics 3-7 are very costly to manage because of their rarity relative to other material types and their lack of marketability in certain markets)

CONTAINER PRODUCER RESPONSIBILITY

- Eliminate processing fee offsets which will effectively restore the requirement that beverage manufacturers completely cover the cost of recycling the beverage containers they sell in California in order to incentivize the use of packaging materials that are more economically viable to recycle
-  • Require a minimum content standard for beverage manufacturers in order to stimulate and accelerate domestic demand for recycled beverage containers
- Establish surcharges on beverages manufacturers who choose to use less recycled content (as a percentage of the total material in a container) in beverage containers or use difficult to recycle multi-material packaging (e.g. can with aluminum lid and plastic body, multi-layered plastic bottle, etc.)
- Create design for recyclability standards and provide incentives for those beverage manufacturers that design in accordance with these standards

ADMINISTRATION OF THE PROGRAM

A one-size-fits-all approach no longer works. Establish flexibility within the program to address the vast difference in geographic locations (e.g. Urban vs. Rural, etc.).

All program payments, subsidies and reimbursements, including Administrative Payments, Processing Payments, and Handling Fees must be re-evaluated to determine the following:

- the appropriate payment amounts necessary to accomplish program goals
- prevent unfair competition amongst recyclers and processors
- reflect a reasonably accurate average cost to provide the service on behalf of the state

ADMINISTRATIVE PAYMENTS

The Administrative Payments by CalRecycle should be adjusted to adequately cover the unique burdens that processors and recyclers bear to facilitate the State's CRV redemption program

- Statute currently provides for CalRecycle to pay processors 1.75% of refund value for administrative costs¹, but this fails to adequately compensate processors for the burdens imposed by the program
- Administrative Payments have effectively not changed in over 15 years
- Processors have experienced increases in administrative related costs, such as federal, state, and local mandated wages and benefits (e.g. minimum wage, sick leave requirements, Affordable Care Act), rents, and compliance costs
 - By January 1, 2020, California's minimum wage will have nearly doubled since 2004 when it was \$6.75 per hour
- Processors have significant obligations and burdens for which they are not being properly reimbursed, such as those listed below
 - Processors are required by statute to make immediate payment to recyclers and other certified entities, yet must wait about 30 days to receive reimbursement from CalRecycle, thereby effectively providing short-term bridge financing for the state
 - Processors bear the direct financial risks resulting from scrap market fluctuations
 - Processors are often larger operations and typically have more significant compliance costs
 - Processors often help finance the operations of recyclers and other program participants that cannot obtain working capital on reasonable terms through traditional credit channels
 - Processors effectively act as gatekeepers that help protect the Beverage Container Recycling Fund against fraud and abuse
 - Processors act as market makers and provide a vital link between recyclers and industrial users of CRV beverage container materials

¹ calculated as 2.5% of refund value minus 0.75% of refund value required to be paid for administrative costs to a certified recycling center, drop-off or collection program, or curbside program (see Pub. Res. Code §§ 14573 and 14573.5)

- Certified recycling centers, drop-off or collection programs, and curbside programs receive a mere 0.75% of refund value to cover administrative costs²
- 🕒 • Create a temporary supplemental administrative payment under Pub. Res. Code §§ 14573 and 14573.5 to better reimburse and support *processors* and *recyclers*
 - Supplemental Administrative Payment to *processors* at 3% of refund value so that the total Administrative Payment to processors equals 4.75% of refund value
 - Supplemental Administrative Payment to *recyclers* at 1.25% of refund value so that the total Administrative Payment to recyclers equals 2.00% of refund value

PROCESSING PAYMENTS

- Processing Payments (Pub. Res. Code § 14575) must more accurately reflect all costs of receiving, handling, and transacting CRV materials taking into account current market conditions and scrap values, and costs (e.g. operating, general and administrative, marketing, financing, etc.)
- Processing Payments must be updated no less than quarterly to keep pace with the fluid and dynamic economic realities facing program participants
- CalRecycle should be given clear authority to make quarterly adjustments, or more frequently if it deems necessary, to more timely adjust processing payments and reimburse program participants for the cost of receiving, handling, and transacting CRV materials
- 🕒 • Create a temporary supplemental Processing Payment that is be paid to recyclers alone
 - The temporary supplement Processing Payment is computed as a 25% increase over current processing payments to recyclers
 - Provide supplemental Processing Payments all recycling centers, except those Handling Fee sites receiving more than the statewide average Handling Fee subsidy per month (e.g. around \$5,000)
 - Exclude drop-off and collection programs or curbside programs because recycling centers provide the only opportunity for the public to receive full refund value

HANDLING FEES

If Processing Payments are adjusted to provide better support for all recyclers, then Handling Fees could be eliminated or specifically targeted to address unique challenges found in certain parts of the state.

If Handling Fees remain part of the program,

- 🕒 • Recyclers who receive a Handling Fee should be prohibited from paying more than CRV refund value for materials (i.e. cannot pay scrap value in addition to CRV refund value)
- Support all recyclers, not just those at supermarkets by decoupling Handling Fees from supermarkets and making Handling Fees available to all recyclers in a zone

² see Pub. Res. Code § 14573.5

- Expand size of Convenience Zones and provide a flat monthly amount that gets evenly divided by the number of recycling centers in a defined zone
- Handling Fees should be restructured to better subsidize low volume recycling centers and limit (using a per site cap) Handling Fee subsidies paid to higher volume recycling centers
- Handling Fees should be reduced or eliminated in areas once certain factors exist, such as a specified population density exists, minimum number of recycling centers is achieved, or minimum CRV material volume is achieved on per capita basis
- 🕒 • All Handling Fees paid to certified recyclers each month should be made public via the CalRecycle website along with CRV material volumes for each site, by month, in order to create greater transparency and better inform public policy

ELIMINATE INEFFECTIVE EXPENDITURES

- 🕒 • Eliminate payments to local government for curbside supplemental payments and quality incentive payments
- 🕒 • Eliminate Individual Commingled Rates found in Pub. Res. Code 14573.51(b)
- 🕒 • No funds should be allocated or paid to cities and counties that are unable to demonstrate active support for public redemption centers

PROTECTING THE BEVERAGE CONTAINER RECYCLING FUND

The program needs to maintain and enhance field investigations and audits of all certified operators and programs, including recyclers and processors.

- Include bale quality as part of program enforcement. For example, processors should only make a claim for payment against the Beverage Container Recycling Fund on CRV actually present in the finished bale +/- some reasonable tolerance (e.g. +/- 2%)

Anti-fraud and abuse efforts should have no less, and preferably higher, priority than the target recycling rate for CRV materials. Fraudulent recycling activity tends to:

- Create greater instability in the marketplace and competitive landscape
- Force law-abiding for-profit and non-profit organizations out of the BCRP because legitimate operators cannot compete with those that illegally or improperly receive funds from the BCRP to enhance their financial position in the marketplace
- Artificially inflate recycling rates and, by extension, distorts other BCRP data
- Create a false impression of how the BCRP is functioning (e.g. it masks genuine issues in the BCRP)

ADDITIONAL SUGGESTIONS

- 🕒 • A new class of certified recycler should be created specifically for supermarket sites that are taking back CRV materials in-store. As a certified operator, supermarket sites should be allowed to receive the same payments as a recycler (e.g. refund value, administrative and processing payments) and have similar training, material inspection, and reporting responsibilities

- 🕒 • Require CalRecycle to use the \$100/day fine paid by supermarkets that choose not to redeem in-store to be reinvested in the same community to support local recycling centers

We recommend not increasing the refund value for the following reasons:

- It will require additional working capital (e.g. an increase to 10¢ per container from 5¢, will require at least double the working capital) for already financially stretched recyclers and processors, and
- It tends to incentivize fraudulent activity and abuse of the BCRF

We believe urgent changes are needed so that the program can efficiently operate for the state, the public, beverage manufacturer, retailer, recycler, processor, and those that rely on a consistent supply of CRV beverage container material for their manufacturing process. If you have any questions or if ACRI can be of assistance in drafting and implementing these changes, please do not hesitate to contact Melinda Andrade at melinda@toddpriest.com. For information about the Association of California Recycling Industries please visit: www.acrinow.org.