

Beverage Container Program Reform - Workshop #1 Capture - September 13, 2012
I.) Ensure Integrity of Program Payments Paid In / Out
I.A:) Topic: Strengthening requirements for becoming a certified entity in the program
I.A: 1.0) Require certified entities to post a security bond to protect Fund from fraudulent and/or unsubstantiated claims for reimbursement or payment of program funds.
I.A: 1.1) Bond requirement was originally intended to be applied to certified recycling centers
I.A: 1.2) Bonding requirement for certified recycler could cause a barrier for convenience zone recyclers
I.A: 1.3) Bond all recycling centers
I.A: 1.4) Bonding requirement will be a barrier to nonprofits and small recycling centers
I.A: 1.5) Bonding requirement was discontinued in place of putting payments on hold at the processor due to long lag time in payment
I.A: 1.6) Bonding requirement should also apply to the beverage manufacturers and distributors
I.A: 1.7) Bonding requirement will increase the cost of doing business for any business subject to the bonding requirement
I.A: 1.8) Bonding requirement could decrease the number of certified recycling centers and processors reducing convenience
I.A: 1.9) Standard cost for a bond ranges from 1.5% to 5% of the bond amount
I.A: 1.10) Implement a tiered structure for bonding based on volume and/or dollars, and/or length of time in program
I.A: 1.11) What is the variance between findings and collections? (This could be a criteria for determining need for bonding)
I.A: 1.12) What is the total amount of Notice of Violations (NOVs) in a given calendar year(s)? (This could be a criteria for determining need for bonding)
I.A: 1.13) Fraud needs to be defined in regulation and statute for the program and tied to a bonding requirement. (This could be a criteria for determining need for bonding)
I.A: 2.0) All certified entities must have a valid business license and all local agency permits in place at all times in order to maintain certification
I.A: 2.1) After certification proof of valid business license and local agency permits must be provided before being operational
I.A: 2.2) Local agency permitting may add additional time to the application process and may add additional complexity to systems
I.A: 2.3) If implemented, this idea would require merging/integrating the local and state process with the certification process/timelines to avoid conflicts that will negatively impact the applicant
I.A: 3.0) Establish criteria for geographical density of certified recycling centers
I.A: 3.1) Link handling fees to density criteria. (density of recycling centers in a given area would affect handling fee eligibility)
I.A: 3.2) Density could provide a baseline service convenience/recycling center distribution of services
I.A: 3.3) What is the density of Convenience Zone (CZ) recycling centers to non-CZ recycling centers in a given area?
I.A: 3.4) Density of recycling centers has been impacted by curbside services and must be considered in any density decisions
I.A: 3.5) CZ impact on recycling center density needs to be considered in view of CZ concept being implemented prior to establishment of registered curbside programs/services

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I.A: 3.6) CZ / recycling center density is partly a result of the \$2 million criteria for establishing a CZ
I.A: 3.7) Density criteria not necessary; need to pursue enforcement for unserved CZs
I.A: 3.8) Adjust operating hours - lowering the floor on the 30 hour criteria would help address density. This will create new recyclers in unserved CZs.
I.A: 3.9) Density criteria would help mitigate areas that have more recyclers than is financially supportable
I.A: 3.10) Coordinate CZ exemptions with local jurisdiction - coordinate serving unserved CZs with local jurisdictions
I.A: 3.11) Density criteria should provide preference for existing served CZs
I.A: 4.0) Administrative and Operational
I.A: 4.a.) Require certified entities to submit required reports using DORiis
I.A: 4.a.1) Allow or provide authority for electronic signature of consumer on logs and receipts at certified recycling centers
I.A: 4.a.2) Should charge a fee for submitting hard-copy documents (i.e outside of DORiis)
I.B:) Strengthening program enforcement and compliance efforts
I.B: 1.0) Establish CalRecycle authority to issue NOVs for underpaying and/or non-reporting distributors and beverage manufacturers
I.B: 1.1) Require Beverage Manufacturers and Distributors to post bond in addition to issuing NOVs
I.B: 1.2) Bonding requirement is potentially more efficient than issuing NOVs
I.B: 2.0) Eliminate ability for one Distributor and/or Beverage Manufacturer to CRV and/or processing fees 'on behalf of' of another distributor and/or beverage manufacturer.
I.B: 2.1) No comments
I.B: 3.0) Increase interest assessment percentage for underpayment & late payment of CRV and/or processing fees
I.B: 3.1) No comments
I.B: 4.0) Assess fees to recover costs associated with processing certification and registration applications and processing hardcopy reporting forms
I.B: 4.1) Fees should be reduced for long certified / registered program participants
I.B: 4.2) First-time fee and a renewal fee with a tier-down schedule
I.B: 5.0) Increase the maximum allowable penalty amount (currently \$5,000)
I.B: 5.1) No comments
I.B: 6.0) Establish a continuous appropriation to expend criminal penalties collected to fund/partially fund Interagency Agreement
I.B: 6.1) If the authority is provided the money should not be used to fund enforcement activity
I.B: 7.0) Administrative & Operational
I.B: 7.a.) Develop implementing regulations for PRC 14596(a) reporting and inspection authority
I.B: 7.a.1) PRC 14596, with or without AB1933 revisions, will not have any effect on the fraud coming through the program. PRC only applies to certified and registered program participants.
I.B: 7.a.2) Currently PRC statute only has administrative remedy not penal code remedy
I.B: 7.a.3) Formal administrative hearing judgment on individual that is not a CA resident is likely uncollectable
I.B: 7.b.) Establish requirement that all CRV purchases by certified recycling centers are reported according to the 'basis' (i.e., segregated by weight, commingled by weight, or by count) for which they were purchased.

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I.B: 7.b.1) Update current hardcopy shipping report form to match current reporting regulations, if DORiis mandate is not implemented
I.B: 7.b.2) This is a step towards electronic records management and reporting
I.B: 7.b.3) Mandating use of DORiis would recover approximately \$700K spent on processing hard-copy reports
I.B: 7.b.4) Pursuing mandate requiring use of DORiis is priority over basis reporting
I.B: 7.b.5) Reporting by basis will mitigate a "false-positive"
I.B: 7.c.) Implement Out-of-State Beverage Container Importation Monitoring Program with our partners at CDFA
I.B: 7.c.1) No comments
I.B: 7.d.) Implement regulatory changes to reduce the allowable daily load limit for consumer transactions
I.B: 7.d.1) Past experience does not demonstrate that this will be an effective limiter of fraud
I.B: 7.d.2) No public comment prior to putting the regulation package together
I.B: 7.d.3) There were 3 public workshops noticed to all certified operators
I.B: 7.d.4) Plastic and aluminum is reasonable, 1,000 lbs. for glass is unreasonable and would negatively impact collectors
I.B: 7.e.) Notify all registered distributors that failure to timely pay redemption payments, collected from Dealers, to the Department is seen an 'abuse of public funds' and potentially subject to criminal investigation.
I.B: 7.e.1) No comments
I.B: 7.f.) Refer most egregious cases of non-reporters/non-payers to DOJ for possible criminal investigation
I.B: 7.f.1) Examine model used by payroll taxes/ EDD tax/ BOE taxes for legal ramifications for non-payment. Are withholding payment of these taxes considered a criminal offense?
I.B: 7.f.2) Combine I.B.7. e and I.B.7.f, and comments above with bonding requirement to create a complete strategy
I.B: 7.f.3) The Department has statute in place that would facilitate imposing criminal penalties for lack of payment and/or underpayment