



Rulemaking Archives

Recycling Center Daily Load Limits

The Office of Administrative Law (OAL) approved this regulatory action on December 17, 2013. This regulatory action becomes effective on January 1, 2014.

Description

Per Title 14 of the California Code of Regulations (CCR), Section 2535(f), certified recycling centers are restricted from paying or claiming California Redemption Value (CRV) for loads of aluminum and plastic beverage containers over 500 pounds per person per day. For glass beverage containers, the limit is 2,500 pounds per person, per day. Section 2530(i) requires certified recycling centers to report to the Division any loads of aluminum empty beverage containers over 250 lbs. purchased from consumers.

The Department of Resources Recycling and Recovery (CalRecycle) is proposing to amend the California Code of Regulations Sections 2530 and 2535 to lower the certified recycling center daily load limits for consumer redemption of California Redemption Value (CRV). CalRecycle proposes to reduce the daily load limits of empty beverage containers per person, per day from 500 pounds to 100 pounds each for aluminum and plastic, and from 2,500 pounds to 1,000 pounds for glass. In addition, the amendments would eliminate the requirement for certified recycling centers to report to CalRecycle all purchases of 250 pounds or more of aluminum empty beverage containers because this would no longer be applicable.

Affected Regulatory Code Sections

[California Code of Regulations, Title 14, Division 2, Chapter 5, Subchapter 6, Article 3, Sections 2530 and 2535](#)

Rulemaking History

- Preliminary public workshops were held by the Department on August 4, 2011, October 26, 2011 and January 30, 2012 for all interested parties, to present the proposed changes in regulations and allow the public to provide input into the development of the proposed rulemaking.
- On May 3, 2013, the notice of proposed action on regulations was published in the California Regulatory Notice Register by the Office of Administrative Law, initiating the 45-day comment period.
- The proposed rulemaking was opened for public comment from May 3, 2013 to June 17, 2013.
- The Office of Administrative Law approved this regulatory action on December 17, 2013. This regulatory action becomes effective on January 1, 2014.

Rulemaking Documents

If you require assistance in accessing these documents, contact CalRecycle's Public Affairs Office at (916) 341-6300.

• 45-Day Comment Period

- [Memo to Interested Parties](#). An announcement of the proposed rulemaking providing the time period for comments, who to contact and how to access the relevant documents.
- [Notice of Proposed Action \(NOPA\)](#). The notice of proposed adoption, amendment or repeal of regulation.
- [Initial Statement of Reasons \(ISOR\)](#). A statement of reasons for proposing the adoption amendment or repeal of a regulations. [Economic Impact Analysis/Assessment](#).
- [Proposed Text](#). The regulatory text that includes proposed additions or deletions to the current regulations.
- [Economic and Fiscal Impact Statement STD 399](#), and [Economic Impact Statement Narrative](#). Copy of the approved economic and fiscal impact statement form and supporting documentation.

• Final Documents

- [Office of Administrative Law Notice of Approval of Regulatory Action](#), December 17, 2013. Notice of approval of CalRecycle's Recycling Center Daily Load Limits.
- [Updated Informative Digest](#): Identifies the non-substantive changes that were made to the Final Proposed Regulatory

Text.

- [Final Text](#): The final proposed regulatory text with the most recent modification, as identified in the Updated Informative Digest, including the Notice Publication/Regulations Submission (Form 400) approved by OAL and the Secretary of State.
- [Final Statement of Reasons](#): A final statement of the specific purpose and rationale for the proposed changes to the program regulations.
- [Summary and Response to Comments](#): Contains a summary of the comments received during the 45-day public comment period and CalRecycle's response to those comments.

Underline *Proposed Permanent Additions*
~~Strikeout~~ Proposed Permanent Deletions

TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT OF CONSERVATION
CHAPTER 5 DIVISION OF RECYCLING
SUBCHAPTER 6. RECYCLING CENTERS

Article 3. Accounting and Reporting Requirements

§2530. REPORTING.

Recycling centers shall prepare and submit all of the following reports in accordance with the general requirements for reporting of section 2090 of these regulations.

(a) A shipping report for each delivery (of material subject to the Act) between:

(1) the recycling center and any other recycling center; or

(2) the recycling center and the processor; or

(3) the recycling center and a dropoff or collection program, community service program or curbside program, as provided in subdivision (f), below.

(b) The shipping recycling center shall indicate on the shipping report all information listed under subsection 2530(e)(1) through (6), provide the shipping report containing this information to the person receiving the shipment and shall retain a completed copy; the shipping report shall accompany the material shipped, except as noted in (1) below. For shipments to processors, the recycling center shall receive a copy of the completed shipping report from the processor upon payment, pursuant to section 2430(a)(1) of these regulations.

(1) In the case of glass, recyclers may add up the daily summaries until total weight is equal to received weight and claim the corresponding redemption weight and refund value. In such cases, a shipping report need not accompany the load.

(c) The shipping report shall be based upon any receipts or log entries prepared pursuant to section 2525 above, or any shipping reports for material received by recycling centers from other recycling centers.

(d) Copies of any shipping reports for material received by a recycling center from other recycling centers, dropoff or collection programs, community service programs, or curbside programs, shall be appended to the shipping report prepared pursuant to this section.

(e) Except as provided for in subsection (f) below, a separate shipping report shall be prepared for each material type and shall include all of the following information:

(1) The name, address, and certification number of the recycling center shipping the material as well as the name and telephone number of a contact person; and

(2) The name and certification number of the recycling center or processor receiving the material; and

(3) The period and the material type covered by the report; and

(4) The following information based upon the information contained in the receipts and logs and the received shipping reports:

(A) Total weight of empty beverage containers purchased by basis for refund value payment (e.g. segregated and weighed, commingled and weighed, segregated and counted).

(B) The redemption weight of the material.

(C) The total refund value.

(5) The number of attached shipping reports which pertain to material included in the shipment.

(6) The printed name, title and signature of an authorized representative of the recycling center and the date signed.

(f) For material received by the recycling center from a dropoff or collection program, community service program or curbside program, the recycling center shall prepare a separate shipping report for each material type and provide a copy of the completed shipping report to the shipping dropoff or collection program, community service program or curbside program. Shipping reports prepared pursuant to this subsection shall contain all of the following information:

(1) The name, certification or identification number for the entity shipping the material, as well as the name and telephone number of a contact person; and

(2) The name and certification number of the recycling center receiving the material; and

(3) The date the material was received and the material type covered by the report; and

(4) The received weight, excluding rejected containers, line breakage, and out-of-state containers; and

(5) The refund value paid; and

(6) The name and signature of the shipper or an authorized representative of the shipper and the date signed; and

(7) The name and signature of an authorized representative of the recycling center and the date signed; and

(8) The weight ticket date and weight ticket number; and

(9) The shrinkage deduction taken, if any.

(10) The redemption weight; and, for plastic, aluminum, and glass, collected by a curbside program, or a dropoff or collection program that meets the requirements of Section 2850, the registered curbside program or certified entity eligible for the quality incentive payment shall be identified as either the Shipper (S), or the Receiver (R) in the QIP (Quality Incentive Payment) Box.

(g) For material received by a recycling center from another recycling center, the receiving recycling center shall ensure that all the information specified in subsection 2530(f)(1) through (8) is recorded on the report and provide a copy of the completed shipping report to the shipping recycling center.

(h) To obtain handling fees, only those recycling centers eligible for such fees, as described in section 2516, shall submit a Handling Fee Application Form (Form DR-14 (1/00)) to the Division for the calendar month for which handling fees are being claimed. The Form DR-14 (1/00) shall be submitted no later than the first day of the second

month following the reporting month. Forms submitted after this date, and incorrectly completed forms, will be denied for payment and the handling fee will be forfeited for that calendar month. Forfeiture for that calendar month will not affect eligibility for subsequent months. There shall be a separate Form DR-14 (1/00) completed for each supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler which shall include all of the following information in addition to that required by section 2090 of these regulations:

- (1) The calendar month and year covered by the report; and
- (2) The name, and mailing address of the recycling center; and
- (3) The name and telephone number of a contact person; and
- (4) The certification number of the supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler; and,
- (5) A change of mailing address, ownership or a closing of the supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler; and
- (6) The weight, to the nearest tenth of a pound, of empty beverage containers, by material type, redeemed by that recycling center, at that supermarket site, nonprofit convenience zone recycler, or rural region recycler, only from consumers delivering that material during the hours the recycling center was open for business. This weight shall be taken from the receipts and logs of that recycling center for that calendar month; and,
- (7) The signature and title of an authorized representative of the recycling center in accordance with subsections 2090(d)(4) and (5) of subchapter 2 of these regulations; and
- (8) The date the application was signed.

~~(i) Each recycling center shall maintain a separate list of all purchases of more than 250 pounds of aluminum beverage containers. Such list (or legible copies of the receipts) shall be sent to the Division weekly and shall contain all of the following information, taken from the receipt prepared pursuant to section 2525(a) of these regulations:~~

- ~~(1) The receipt number for the transaction; and~~
- ~~(2) The name of the person selling the material; and~~
- ~~(3) The additional identifying information of the person selling the material; and~~
- ~~(4) The name, address, and certification number of the recycling center submitting the list; and~~
- ~~(5) The transaction date; and~~
- ~~(6) The pounds purchased on the receipt; and~~
- ~~(7) The total amount paid.~~

~~(j)(i)~~ Recycling centers purchasing materials directly from more than one curbside program, dropoff or collection program, or community service program may apply to the Division to request the use of alternative methods for preparing the corresponding shipping reports. The Division shall consider each proposed alternative method and issue a written approval or denial within forty-five (45) calendar days.

- (1) In order for alternative methods to be accepted, they must be based on reasonable allocation methods.
- (2) An application for an alternative allocation method shall be denied if:

(A) The received weight of the material purchased by an entity from the recycling center is not used to calculate allocations to the curbside programs, dropoff or collection programs, or community service programs; or

(B) The recycling center does not ensure that the weight of rejected containers, line breakage, and out-of-state containers is not included in the allocated weight (this does not require a physical separation); or

(C) The recycling center does not account for each incoming load of material; or

(D) The recycling center does not inspect incoming material to verify that it is eligible for refund value payments, as specified in section 2501.

(3) Recycling centers may file a formal appeal by writing the Assistant Director for Recycling within thirty (30) calendar days after the receipt of a notice denying an application requesting an alternative method for shipping report preparation. Appeals submitted after this time period shall be rejected. All written appeals shall include:

(A) A copy of the notice denying the allocation method;

(B) A detailed explanation of why the determination was in error; and,

(C) Any other documentation that supports the appeal.

(4) A written decision on the appeal shall be sent to the recycling center within seven (7) calendar days of the receipt of the appeal.

Authority: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14526.6, 14538, 14549.1 and 14585, Public Resources Code.

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

(a) Recycling centers shall pay on delivery the refund value for every empty beverage container not donated to the recycling center.

(b) For deliveries to a recycling center, except reverse vending machines:

(1) The consumer has the option of being paid based on count for up to 50 empty beverage containers of each material type.

(2) The recycler may pay based on count for all deliveries of empty beverage containers received from consumers.

(c) Notwithstanding any other provision of this subchapter, recycling centers shall not pay dropoff or collection, community service, and curbside programs more than the relevant commingled rate.

(d) Calculation of Payment.

(1) If the material received from consumers is segregated, as determined by the load inspection required by section 2501 of these regulations, and payment is based upon weight, payment shall be calculated by multiplying the actual weight of the empty beverage containers, by the applicable segregated refund value per pound for the relevant material type.

(2) If the payment is based on the actual number of empty beverage containers, the payment shall be based upon the following:

(A) in the case of recycling centers other than a reverse vending machine, the number of the empty beverage containers, multiplied by the refund value per empty beverage container for the relevant material type and size; or,

(B) in the case of a reverse vending machine, the number of empty beverage containers, multiplied by the refund value per empty beverage container for the relevant material type and size. If the reverse vending machine accepts empty beverage containers in gross, rather than by individual containers, and pays based on weight, the payment shall be based on the applicable refund value per pound rate.

(3) For commingled materials delivered from a dropoff or collection program, community service program or curbside program, payment shall be based on the received weight of the commingled material, excluding the weight from the line breakage, rejected out-of-state material, multiplied by the applicable commingled rate, or the Division's approved individual commingled rate.

(4) For commingled materials delivered from another recycling center, payment shall be based on the received weight of the commingled material, excluding the weight of line breakage, rejected and out-of-state material, multiplied by the applicable commingled rate.

(5) For commingled materials delivered from consumers, payment shall be based on the received weight of the material, multiplied by the applicable commingled rate.

(e) Recycling centers shall have the option to refuse to accept empty beverage containers which, in the opinion of the recycling center, are excessively contaminated with dirt, moisture, or other foreign substances ("shrinkage"). Alternatively, recycling centers may adjust downward the refund value per pound used to calculate payment by the ratio of such substances to empty beverage containers.

(f) A certified recycler shall not pay the refund value to, or claim refund value for any material received from any person, operation or entity who is not certified by the Division, delivering a load of material in excess of ~~500~~100 pounds of aluminum or plastic beverage containers, or ~~2,500~~1,000 pounds of glass beverage containers, per day. This limitation is applicable to all transactions, including those performed pursuant to section 2500(h) of these regulations.

(1) It is a violation of this Section for a recycling center to split loads in excess of the aforementioned ~~weighs~~weights, or accept during any one day an aggregate total of material in excess of the aforementioned ~~weighs~~weights from any person not certified by the Division.

Authority: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14552(a), 14572 and 14572.5, Public Resources Code.

REGULAR

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2013-0422-01	REGULATORY ACTION NUMBER 2013-1031-01 S	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
Department of Resources Recycling and Recovery

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			NOTICE REGISTER NUMBER 2013, 182	PUBLICATION DATE 5/3/2013

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Recycling Center Daily Load Limits	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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SPECIFY CALIFORNIA CODE OF REGULATIONS TITLES AND SECTION(S) (including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 2530, 2535
	REPEAL
TITLE(S) 14	

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print <i>per agency request</i>	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) JANUARY 1, 2014 (GC 511349.3-4)(1)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) January 1, 2014 (GC 511349.3-4)(1)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON

Sharon Siozon	TELEPHONE NUMBER 916-322-1760	FAX NUMBER (Optional) 916-552-4995	E-MAIL ADDRESS (Optional) sharon.siozon@calrecycle.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Elliot Block</i>	DATE October 30, 2013
TYPED NAME AND TITLE OF SIGNATORY Elliot Block, Chief Counsel	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 17 2013

Office of Administrative Law



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

DATE: May 3, 2013

TO: ALL INTERESTED PARTIES

FROM: CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
– DIVISION OF RECYCLING

SUBJECT: RECYCLING CENTER DAILY LOAD LIMITS PROPOSED REGULATIONS

The Department of Resources Recycling and Recovery (CalRecycle) is proposing to amend the California Code of Regulations Sections 2530 and 2535 to lower the certified recycling center daily load limits for consumer redemption of California Redemption Value (CRV). CalRecycle proposes to reduce the daily load limits of empty beverage containers per person, per day from 500 pounds to 100 pounds each for aluminum and plastic, and from 2,500 pounds to 1,000 pounds for glass. In addition, the amendments would eliminate the requirement for certified recycling centers to report to CalRecycle all purchases of 250 pounds or more of aluminum empty beverage containers because this would no longer be applicable.

The reduced daily load limits would more accurately reflect actual consumer transactions and will assist CalRecycle in resolving issues associated with the importation of out-of-state beverage containers for illegal redemption of CRV at recycling centers. Eliminating the requirement to report 250-pound aluminum purchases will reduce costs for recycling centers.

The Notice of Proposed Action has been published in the California Regulatory Notice Register, thereby initiating the 45-day comment period. Written comments should be sent to CalRecycle before the close of the public comment period, no later than 5:00 p.m. on June 17, 2013. Submit written comments to Chris Reed, Daily Load Limits Permanent Regulations, CalRecycle Division of Recycling, 801 "K" St., MS 15-52, Sacramento, CA 95814. Written comments may also be e-mailed to DORRegulations@CalRecycle.ca.gov or faxed to (916) 552-4563.

The proposed text of the Recycling Center Daily Load Limits Permanent Regulations, the Notice of Proposed Action and the Initial Statement of Reasons including the Economic Analysis/Assessment are posted and can be accessed on CalRecycle's website at www.calrecycle.ca.gov/Laws/Rulemaking/. Paper copies of the documents referenced above are available upon request.

If you have any questions or need additional information, please contact Chris Reed at (916) 327-7598 or DORRegulations@calrecycle.ca.gov.



NOTICE OF PROPOSED ACTION

RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

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

NOTICE IS HEREBY GIVEN that the Department of Resources Recycling and Recovery (Department), proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 6, Chapter 5, Division 2, Title 14 of the CCR, the Department will propose permanent regulations, regarding the reduction of load limits for empty beverage containers and reporting of 250 pound aluminum transactions, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

SUBCHAPTER 6. RECYCLING CENTERS Article 3. Accounting and Reporting Requirements

§ 2530. REPORTING

Subsection 2530(i) is being eliminated because the proposed daily load limit for aluminum transactions proposed to be revised in 14CCR Section 2535 will be lower than the 250 pounds for aluminum beverage container transactions that currently are required to be reported to the Department.

Subsection 2530(j) is being changed to reflect the re-numbering resulting from the deletion of subsection 2530(i)

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

Subsection 2535(f) is being proposed to be amended to change the daily limits for loads of empty beverage containers received from any person, operation or entity not certified by the Department for aluminum and plastic beverage containers from 500 to 100 pounds per person per day, and for glass beverage containers from 2,500 to 1,000 pounds per person per day.

INFORMATION IS AVAILABLE UPON REQUEST. Copies of the text, the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based is available upon request and at our website: www.calrecycle.ca.gov/Laws/Rulemaking/. The rulemaking file is available to the public for review during normal business hours at the Department, 801 "K" Street, 17th Floor, Sacramento, California. Please contact the agency contact person, Chris Reed, at (916) 327-7598. General or substantive questions regarding this file may also be directed to Chris Reed. The back-up agency contact person for this rulemaking file is John

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

Halligan, who may be contacted at (916) 324-5392. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS. The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on June 17, 2013. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Chris Reed, Daily Load Limits Permanent Regulations, Department of Resources Recycling and Recovery, Division of Recycling, 801 "K" St., MS 17-01, Sacramento, CA 95814. During the 45-day comment period, written comments may also be Emailed to: DORRegulations@CalRecycle.ca.gov or faxed to (916) 552-4563.

PUBLIC HEARING. A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF MODIFIED TEXT. Following the written comment period, and the hearing, if one is held, the Department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with the changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the Department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the Department contact person identified in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of beverage container litter in the State. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

The goal of the Act is to achieve and maintain an 80% recycling rate for beverage containers included in the program. CalRecycle provides a number of services to help achieve this goal, including nonprofit grant management, public outreach and education, technical assistance, enforcement, auditing, economic analyses, and processing and paying program claims for California Refund Value (CRV).

The Act requires beverage distributors selling or distributing beverages included in the Act to make a redemption payment of five cents or ten cents per container for each covered beverage sold or distributed in California. This money is deposited into the Fund. Based upon valid requests for reimbursement, money is paid out of the Fund to reimburse processors for the CRV they paid to certified recyclers who redeemed CRV eligible containers from consumers who present empty CRV eligible containers to them for redemption.

Since the inception of the program there have been unscrupulous individuals and entities intent on defrauding the Fund by redeeming non-qualifying beverage containers for CRV (e.g., imported from out-of-State, out-of-country, or previously redeemed empty beverage containers). Although out-of-state (OOS) beverage containers may contain a CRV label, they do not qualify for CRV because they were not sold in California. As a result, the California Beverage Container Recycling Fund (CBCRF), and, more importantly, the people of California, loses five or ten cents for each OOS beverage container illegally redeemed for CRV in California.

The Department has both observations and anecdotal evidence that a significant number of individuals/entities frequently import large loads of used beverage containers (UBCs) from other states (e.g., Nevada, Arizona and New Mexico, etc.). To facilitate fraud, they break large loads into smaller load sizes that are compliant with the current regulations, thus avoiding detection, and then illegally redeeming them for California Refund Value (CRV) at certified recycling centers throughout California. Additionally, the Department's analysis of actual consumer transactions found that the typical consumer transaction was significantly smaller than the current daily load limits. Pursuant to Chapter 3.5 of the Government Code (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the Department is undertaking a rulemaking proceeding to amend the current daily load limits for empty beverage containers received by certified recycling centers from individuals/entities not certified by the Department (i.e., consumers). Additionally, the Department proposes to eliminate the current requirements for reporting loads of 250 pounds or more of aluminum empty beverage containers. The Department strongly believes that lowering the daily load limits for

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RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

consumers will help resolve issues associated with the individuals/entities importing out-of-state (OOS) UBCs into California and illegally redeeming them for CRV at certified recycling centers. Reductions in the daily load limits will also help to address issues associated with noncertified recyclers and illegal scavenging of curbside program materials. Additionally, the proposed reductions will facilitate certified recycling center operators' compliance with requirements for visually inspecting loads of beverage containers being presented for redemption by consumers to determine the proper payment basis of the loads and eligibility for CRV payment. Finally, if the daily load limits are reduced as proposed, the 250 pound aluminum reporting requirement will no longer be necessary. Eliminating this weekly reporting requirement will result in cost savings for all certified recycling centers California.

As provided by Title 14 of the California Code of Regulations (14CCR), Section 2535(f), certified recycling centers are restricted from paying or claiming CRV for loads of aluminum and plastic beverage containers if the weight of the load exceeds 500 pounds per person per day. For glass beverage containers, the limit is 2,500 pounds per person per day. Additionally, in accordance with 14CCR, Section 2530(i), certified recycling centers must report to the Division any loads of aluminum empty beverage containers over 250 lbs. purchased from consumers. The Department proposes to reduce the daily load limits for consumer redemption of empty beverage containers to 100 pounds for aluminum and plastic, and to 1,000 pounds for glass. The Division also proposes to eliminate the current requirement for certified recycling centers to report to the Division all purchases of 250 pounds or more of aluminum empty beverage containers from a single consumer because that requirement will no longer be necessary. Eliminating this reporting requirement will reduce costs for certified recycling centers and will not significantly impact the Department's ability to combat program related fraud.

Section 14595 of the Act declares that the redemption of beverage container material imported from OOS presents a significant threat to the integrity of the California Beverage Container Recycling Program (CBCRP) and the Fund. Furthermore, Section 14595.5 (a)(1) of the Act states that no person shall pay, claim, or receive any refund value, processing payment, or handling fee, or administrative fee for beverage container material that the person knew, or should have known, was imported from OOS.

Although OOS UBCs often contain a CRV label, they are not eligible to be redeemed for CRV because they were not sold in California and beverage distributors do not pay CRV into the Fund for beverages sold outside California. For every OOS UBC illegally redeemed for CRV, the Fund, and more importantly the people of California, loses five or ten cents. Although it is illegal to redeem OOS UBCs for CRV, it is not illegal to import OOS UBCs into CA if individuals/entities only receive the applicable scrap value of the commodity. These factors complicate efforts by the Department and our enforcement partner, the California Department of Justice (DOJ), to deter and/or detect fraudulent activities. These factors also complicate certified recycling center operators' ability to effectively perform inspections for qualifying materials.

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Based upon observations made, and evidence/data gathered by the Department's Investigators, DOJ Agents, and California Department of Food & Agriculture (CDFA) Plant Quarantine Inspection Station Agents, it is clear that a substantial number of vehicles/individuals are buying and/or collecting UBCs in other states and transporting them into California to redeem them for CRV.

During the period of June 15, 2011 through September 15, 2011, the Department and CDFA initiated a pilot program to survey vehicles importing used beverage containers into California through all 16 CDFA Plant Quarantine Inspection Station locations. During this time CDFA data documented 3,588 vehicles transporting OOS UBCs through the CDFA Plant Quarantine Inspection Stations (this included 518 rental trucks filled to capacity). While it is not illegal to import UBCs into California, it is illegal to redeem imported UBCs for CRV. A conservative projection based on this CDFA survey data results in an estimated minimum fraud exposure of \$7 million annually to the CBCRF for OOS UBCs transported in 'rental trucks' alone.

Furthermore, investigations conducted by the Department and DOJ have revealed that large loads (up to and greater than 5,000 pounds) of aluminum and plastic UBCs are being transported by individuals/entities into California on a daily basis, often using rental trucks. These large loads are subsequently broken down into smaller loads, typically less than 500 or 250 pounds to avoid the daily load limits and/or possible detection through required reporting. Multiple individuals then transport the smaller loads of UBCs in pick-up trucks, vans, and passenger cars to certified recycling centers and illegally redeem the UBCs for CRV. Because this type of activity constitutes fraud and is a felony crime, individuals/entities doing so have taken drastic measures to avoid being detected, such as performing counter-surveillance, entering into CA using auxiliary roads to avoid CDFA Plant Quarantine Inspection Stations, entering into CA late after midnight and before sunrise, trying to hide materials from view when transporting them, storing or breaking down large loads of UBC materials, etc. The actions of these individuals/entities, and the certified recycling centers who purchase from them knowing, or suspecting the UBCs are ineligible for CRV redemption, are draining the Fund of millions of dollars each year. Certified recycling center operators who facilitate or participate in illegal redemption pose a significant threat to the businesses of honest recycling center operators who know or suspect the UBC materials are ineligible and do the right thing by refusing to purchase the OOS UBCs.

By reducing the daily consumer load limit from 500 pounds to 100 pounds for aluminum and plastic, and 1,000 pounds for glass, the Department will be able to reduce the risk of large scale fraudulent activity and monitor it more effectively. Doing so will also make it much more difficult, complex and costly for the importers to sell the larger loads of OOS UBCs by pretending to be consumers. For example, an OOS importer only needs to divide a 5,000 lb. load of OOS UBCs into 10 transactions to stay under the current daily load limit for aluminum, (i.e., $5,000/500 = 10$). Under the proposed reduced daily load limit for aluminum the OOS importers would have to divide the same load 50 times (i.e., $5,000/100 = 50$). In turn, complicit recycling center operators actively engaged in splitting loads to avoid exceeding the daily load limit will be forced to produce additional

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fraudulent transactions in order support their illegal purchases/claims for reimbursement. In doing so, they create a larger 'footprint' for the Department and DOJ investigators to detect, investigate, and use as evidence for administrative action and/or criminal prosecution. Finally, reduced load limits will greatly facilitate a recycling center's ability to properly inspect loads of beverage containers because the maximum size of the load of aluminum and plastic beverage containers to be inspected will be 100 pounds, which equates to approximately 2,970 beverage containers equivalent to 495 six-packs (using the most recent (2013) containers per pound rate posted by the Department) or 1,700 PET plastic beverage containers equivalent to 283 six-packs. As proposed, the maximum size of a load of glass beverage containers will be 1,000 pounds, which equates to approximately 1,920 beverage containers, which is equivalent to 320 six-packs.

The Department's Division of Recycling, Recycling Enforcement Branch, Risk Assessment & Data Analysis Section conducted an analysis of approximately 95K consumer transactions, accounting for more than 2.4 million pounds of material, collected from 158 certified recycling centers which produced the following results:

ALUMINUM:

- Average (mean) weight = **8.7 pounds**
- Median weight = **4.3 pounds**
- **99.6%** of all transactions surveyed are =< **100 pounds**

PLASTIC:

- Average weight = **11.6 pounds**
- Median weight = **6 pounds**
- **99.2%** of all transactions surveyed are =< **100 pounds**

GLASS:

- Average weight = **77.4 pounds**
- Median weight = **27 pounds**
- **99.1%** of all transactions surveyed are =< **1,000 pounds or less**

This analysis demonstrates that the proposed reductions in the daily load limits will not adversely impact the average consumer attempting to redeem their CRV beverage containers. The results of the analysis also clearly indicate that current daily load limits of 500 pounds for aluminum and plastic and 2,500 pounds for glass are much too high and are not indicative of typical consumer transactions. The Department believes that individuals/entities who frequently redeem large loads of empty beverage containers are OOS importers, non-certified recycling centers, and/or are engaged in illegal scavenging from curbside programs.

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In August 2011, the Department held a public workshop for all interested parties and presented the results of our analysis of consumer transaction activity and, based upon the results, expressed our intentions to pursue regulatory change to reduce the daily load limits for consumer transactions. Interested parties were provided with the option of attending the workshop in person or via webinar. The Department requested and received feedback from individuals who attended/participated in the workshop. Several attendees expressed concerns that, dependent on the level of the reduced load limits, opportunities for recycling by non-profit groups (e.g., Boy Scout, Girl Scouts, church groups, schools, etc.) could be adversely impacted by reduced daily load limits. Attendees also expressed concerns that some of their 'large volume' clients would also be adversely impacted. The Department documented their responses and committed to review the feedback provided and attempt to mitigate the issues/concerns expressed. The Department committed to providing details at a subsequent workshop to be held at a later date.

In October 2011, the Department held a second public workshop for all interested parties to present several alternative reduced daily load limits for discussion and proposed actions to mitigate the issues/concerns regarding potential adverse impacts on opportunities/abilities to redeem empty beverage containers that were expressed at the August 2011 workshop. Interested parties were provided with the option of attending the workshop in person or via webinar. None of the individuals that attended/participated in this workshop expressed any significant concerns/issues about the proposed mitigating activities or the proposed level of the daily load limit reductions. As a result, the Department committed to finalizing details associated with the mitigating activities, the proposed level of the daily load limit reductions, and to conduct a final public workshop at a later date prior to proceeding with a formal rulemaking process.

In January 2012, The Department held the third and final workshop for all interested parties to discuss the proposed daily load limits of 50 pounds for aluminum and 250 pounds for glass and the proposed actions to mitigate issues/concerns regarding potential adverse impacts on opportunities/abilities to redeem empty beverage containers. Interested parties were provided with the option of attending the workshop in person or via webinar. Attendance at this workshop was significantly greater than at the prior two workshops, even though all the same interested parties were notified for all three workshops. While several workshop attendees voiced support for the proposed daily load limits, a larger number of attendees expressed concern that the proposed daily load limits of 50 pounds of aluminum and plastic, and 250 pounds of glass would have adverse impacts/create hardships for some of their customers. For example, representatives from recycling centers located in rural regions of the State claimed that consumers in rural areas aggregate their CRV materials over a longer period of time and redeem them for CRV infrequently (e.g., 'every couple of months', 'once or twice per year, etc.). They claim these individuals would potentially exceed the proposed daily load limit(s) and be denied CRV redemption and be paid only scrap for their materials. Recycling center operators in attendance also stated that some of their customers are bars and restaurants that bring in beverage container materials that they collect at their respective establishments. They claimed that these 'consumers' would

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routinely exceed the proposed 250 pound daily load limit for glass and as a result would be denied CRV redemption for their CRV eligible loads of materials. The Department captured all information and feedback provided by workshop attendees, as well as feedback provided in writing by other interested parties who were not able to attend the workshop. At the conclusion of this workshop, the Department reiterated our commitment to review all the feedback provided and would consider additional revisions before finalizing the rulemaking package and submitting it to OAL. Based upon the comments & feedback received at the workshops, and in particular to respond to the issues/concerns expressed by attendees at the January 2012 workshop, the Department increased the proposed daily load limits from 50 pounds to 100 pounds for aluminum and plastic and from 250 pounds to 1,000 pounds for glass.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5 (b) and 14536.

REFERENCE

Public Resources Code Sections, 14520, 14526.6, 14538, 14552, 14572, 14572.5 and 14585.

CONSISTENCY EVALUATION

The proposed regulation changes consist of revisions to existing regulations currently found in 14CCR. Certified recycling centers are currently subject to daily load limits associated with the purchase of empty beverage containers from consumers and to the reporting requirements associated with purchases of aluminum empty beverage containers of 250 pounds or more.

The Department has conducted a review of any related regulations in this area and have determined that these are the only regulations concerning recycling center daily load limits for beverage containers. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations.

FISCAL IMPACT STATEMENT

Impact on Local Government

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in any additional costs/expenditures be incurred by cities, counties, special districts, local agencies or school districts due to the implementation of the proposed regulations to reduce the daily load limits.

The proposed regulations to reduce the daily load limits do not mandate a new program or higher level of service on any local government. Therefore the state does not need to provide a subvention of funds to reimburse local government. The state has complete financial responsibility for the CBCRP and the proposed regulations to reduce the daily load limits will not transfer any responsibility from the state to cities, counties, cities and counties, or special districts.

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The Department determined implementation of the proposed regulations to reduce the daily load limits do not imposes a mandate on local agencies or school districts. The proposed regulations to reduce the daily load limits do not require local entities to undertake a new program or to provide an increased level of service in an existing program.

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in any non-reimbursable local costs.

The Department determined implementation of proposed regulations to reduce the daily load limits do not:

- a) Implement a federal mandate.
- b) Implement a court mandate.
- c) Implement a mandate in a ballot measure approved by the voters.
- d) Result from a documented request from the only local governments affected.
- e) Provide (or fall within the purview of existing) revenue sources or other financing mechanisms.
- f) Result in savings that are equal to or exceed any costs.
- g) Create, eliminate, or change the penalty for a new crime or infraction.

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in local governments being relieved from doing something they were previously required to do.

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in any revenue changes at the local level as the result of a state executive regulation.

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in local revenue losses that are reimbursable.

The Department determined implementation of proposed regulations to reduce the daily load limits are technical and do not result in additional cost or savings to local government.

The Department determined implementation of proposed regulations to reduce the daily load limits do not affect any local entity or program.

The Department determined implementation of proposed regulations to reduce the daily load limits do not affect any other known element of a local entity or program.

Impact on State Government

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The Department determined implementation of proposed regulations to reduce the daily load limits are technical and do not result in additional cost, savings, revenue changes or any other impacts, due to reasonable compliance, administration, implementation, and/or enforcement by the issuing state agency and/or any other state agency.

The Department determined implementation of proposed regulations to reduce the daily load limits made by the issuing state agency regarding the applicability of the California Constitution do no result in additional costs and/or the need to provide additional funding of any state costs.

The Department determined implementation of proposed regulations to reduce the daily load limits will produce an immaterial amount of savings due to the elimination of current reporting requirements.

The Department determined implementation of proposed regulations to reduce the daily load limits will not produce savings for itself that will have corresponding costs to another state agency, e.g., a transfer of responsibility.

Effect on Federal Funding of State Programs

The Department determined implementation of proposed regulations to reduce the daily load limits is not acting to exercise authority granted by the federal government.

The Department determined implementation of proposed regulations to reduce the daily load limits does not implement a federal mandate or are issued under authority granted by the federal government.

The Department determined implementation of proposed regulations to reduce the daily load limits does not result in reductions (savings) in Federal Funds.

The Department determined implementation of proposed regulations to reduce the daily load limits is technical and does not result in additional cost, savings, revenue changes or any other impacts, due to reasonable compliance, administration, implementation, and/or enforcement by the issuing state agency and/or any other state agency.

The Department determined implementation of proposed regulations to reduce the daily load limits will produce an immaterial amount of savings due to the elimination of current reporting requirements. See Economic and Fiscal Impact Statement Narrative section I.C.3 for details.

The Department determined implementation of proposed regulations to reduce the daily load limits will not produce savings for itself that will have corresponding costs to another state agency, e.g., a transfer of responsibility, receiving federal funding.

The Department determined implementation of proposed regulations to reduce the daily load limits will not affect any other known state agency receiving federal funding.

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COST IMPACT ASSESSMENT

The Department has prepared an Economic Impact Analysis / Assessment, which is hereby incorporated by reference and is included as a stand-alone document in the rulemaking package.

SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has prepared an Economic Impact Analysis / Assessment, which is hereby incorporated by reference and is included as a stand-alone document in the rulemaking package.

REPORTING REQUIREMENT

The proposed regulations to reduce the daily load limits, if implemented, will remove a reporting requirement mandated by the current regulations. Currently regulations require that all aluminum transactions over 250 pounds be documented and the data be transmitted to the Department on a weekly basis at a minimum (14CCR Section 2530(i)). The Department received 24,500 individual 250 pound reports from certified recycling center operators in calendar year 2011. The Department expects program participants to reduce their administrative costs with the removal of this reporting requirement. There is no additional programming, record keeping, reporting or other paperwork cost to California businesses impacted by the adoption of the regulation changes.

SMALL BUSINESS

The selected alternative eliminates 14CCR Section 2530(i) which would result in a direct cost saving to small business because certified recycling centers would no longer be required to collect and report all purchases greater than 250 pounds of aluminum to the Department on a weekly basis. Elimination of this reporting requirement would eliminate all costs associated with this reporting requirement.

COMPARABLE FEDERAL REGULATION OR STATUTE

The Department has determined that the selected alternative does not have any existing comparable federal regulation or statutes. The proposed regulation changes are specifically associated with CA Public Resources Code sections 14520, 14526.6, 14538, 14552, 14572, 14572.5 and 14585. The CBCRP is a state mandated program and does not have any operating and or compliance elements that fall under Federal

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statute and or guidelines. Empty beverage containers redeemed in California for CRV is a process that is unique to California.

HOUSING COSTS

There are no known impacts to housing cost in the State of California that are directly linked to the proposed regulation changes. The proposed regulation changes could have a positive impact on the cost to registered curbside collection program operators by limiting the volume of empty beverage containers scavenged from curbside bins and then redeemed via illegal consumer transactions. This loss of potential revenue for registered curbside collection program operators (primarily private sector companies contracting with local agencies) is likely to impact the cost of curbside collection and could be passed on to California homeowners by their local agency.

OTHER MATTERS

The Department has determined there are no other matters that must be addressed in the notice as specified in Government Code Section 11346.5(a)(4).

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**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The disclosures listed herein are based upon the Department's analysis of typical consumer transactions (referenced above), a series of three public workshops on this topic the Department conducted in August 2011, October 2011 and January 2012, and the Fiscal and Economic Impact Analysis / Assessment completed by the Department and included for reference in the regulatory package.

Mandate on local agencies and school districts:

The Department has determined that adoption of these proposed regulations do not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency:

The Department's cost savings would be realized through the elimination of workload associated with aggregating, analyzing and developing reports of aluminum transactions in excess of 250 pounds of aluminum and referring this information to the Department of Justice for potential investigation. Other than these savings, no other savings or additional expenses to state agencies are identified.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§17500 through 17630:

The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary costs or savings imposed upon local agencies:

No other non-discretionary costs or savings to local agencies have been identified. Costs or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:

The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements.

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Potential cost impact on private persons or directly affected businesses:

Elimination of 14CCR Section 2530(i) would result in cost saving to certified recycling centers. Certified recycling centers would be relieved of all costs by eliminating the current requirement that certified recycling centers report all transactions of 250 pounds or more to the Department on a weekly basis. These proposed regulations could potentially have an adverse impact on consumers of CRV beverages that attempt to redeem loads of empty beverage containers in excess to the proposed daily load limits. However, based upon the data analysis performed by the Department (see above), transactions in excess of 100 pounds of aluminum comprised less than 0.4% of all the transactions surveyed. Transactions in excess of 100 pounds of PET plastic comprised less than 0.9 percent of all transactions surveyed. Finally, transactions in excess of 1,000 pounds of glass comprised less than 0.8% of all transactions surveyed. As such, only an insignificant number of legitimate consumer transactions would be impacted by the proposed revisions to the daily load limits. Thus, it is possible that adoption of these changes might cause a very small number of private persons to visit recycling centers more frequently resulting in marginally increased costs for them.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Creation or elimination of jobs in California:

The Department has determined that the adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

Benefits of the regulation on the health and welfare of California residents, worker safety, and the state's environment:

The proposed regulations intends to protect the public interest of California residents by reducing the illegal redemption of out of state used beverage containers. Reducing the daily load limits for the redemption of empty beverage containers protects the fiscal stability of the California Beverage Container Recycling Fund; minimizes negative impacts on legitimate consumers' redemption of CRV materials; and minimizes negative impacts on certified recycling center operators ability to maintain legitimate volumes of CRV empty beverage containers. Eliminating the need for a weekly reporting requirement that will result in cost savings for all certified recycling centers in California.

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Significant effect on housing costs:

The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses:

Elimination of 14CCR Section 2530(i) would result in cost saving to certified recycling centers. Certified recycling centers would be relieved of all costs by eliminating the current requirement that certified recycling centers report all transactions of 250 pounds or more to the Department on a weekly basis.

CONSIDERATION OF ALTERNATIVES

The Department has determined that no reasonable alternative that it has considered or otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department believes we have demonstrated that the current daily load limits for consumers redeeming empty beverage containers for CRV are much too high. The Department is unable to identify a legitimate need for consumers requiring the current daily load limits or how consumers will be unduly denied redemption opportunities due to lower daily load limits.

Any alternatives the Department would consider as alternatives to lowering the current daily load limits for consumers redeeming empty beverage containers for CRV will leave the current excessively high load limits in place continuing to provide an irresistible incentive for abuse and fraud.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE AT THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Resources Recycling and Recovery website at: www.calrecycle.ca.gov/Laws/Rulemaking/.

The rulemaking file is available to the public for review during normal business hours at CalRecycle, 801 "K" Street, 17th Floor, Sacramento, California. Please contact the

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agency contact person, Chris Reed, at (916) 327-7598. General or substance questions regarding this file may also be directed to Chris Reed. The back-up agency contact person for this rulemaking file is John Halligan, who may be contacted at (916) 324-5392. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

INITIAL STATEMENT OF REASONS

RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

Title 14 Natural Resources
Division 2. Department of Conservation
Chapter 5. Division of Recycling

PROBLEM:

The Department of Resources Recycling and Recovery (Department), Division of Recycling (Division) proposes to amend sections 2530 and 2535 of Title 14 of the California Code of Regulations (14CCR). The Department has both observations and anecdotal evidence that a significant number of individuals/entities frequently import large loads of used beverage containers (UBCs) from other states (e.g., Nevada, Arizona and New Mexico, etc.). To facilitate fraud, they break large loads into smaller load sizes that are compliant with the current regulations, thus avoiding detection, then illegally redeeming them for California Refund Value (CRV) at certified recycling centers throughout California. Additionally, the Department's analysis of actual consumer transactions found that the typical consumer transaction was significantly smaller than the current daily load limits. Pursuant to Chapter 3.5 of the Government Code (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the Department is undertaking a rulemaking proceeding to amend the current daily load limits for empty beverage containers received by certified recycling centers from individuals/entities not certified by the Department (i.e., consumers). Additionally, the Department proposes to eliminate the current requirements for reporting loads of 250 pounds or more of aluminum empty beverage containers. The Department strongly believes that lowering the daily load limits for consumers will help resolve issues associated with the individuals/entities importing out-of-state (OOS) UBCs into California and illegally redeeming them for CRV at certified recycling centers. Reductions in the daily load limits will also help to address issues associated with noncertified recyclers and illegal scavenging of curbside program materials. Additionally, the proposed reductions will facilitate certified recycling center operators' compliance with requirements for visually inspecting loads of beverage containers being presented for redemption by consumers to determine the proper payment basis of the loads and eligibility for CRV payment. Finally, if the daily load limits are reduced as proposed, the 250 pound aluminum reporting requirement will no longer be necessary. Eliminating this weekly reporting requirement will result in cost savings for all certified recycling centers California.

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of beverage container litter in the State. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

As provided by Title 14 of the California Code of Regulations (14CCR), Section 2535(f), certified recycling centers are restricted from paying or claiming CRV for loads of aluminum and plastic beverage containers if the weight of the load exceeds 500 pounds per person per day. For glass beverage containers, the limit is 2,500 pounds per

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person, per day. Additionally, in accordance with 14CCR, Section 2530(i), certified recycling centers must report to the Division any loads of aluminum empty beverage containers over 250 lbs. purchased from consumers. The Department proposes to reduce the daily load limits for consumer redemption of empty beverage containers to 100 pounds for aluminum and plastic, and to 1,000 pounds for glass. The Division also proposes to eliminate the current requirement for certified recycling centers to report to the Division all purchases of 250 pounds or more of aluminum empty beverage containers from a single consumer because that requirement will no longer be necessary. Eliminating this reporting requirement will reduce costs for certified recycling centers and will not significantly impact the Department's ability to combat program related fraud.

Section 14595 of the Act declares that the redemption of beverage container material imported from OOS presents a significant threat to the integrity of the California Beverage Container Recycling Program (CBCRP) and the Fund. Furthermore, Section 14595.5 (a)(1) of the Act states that no person shall pay, claim, or receive any refund value, processing payment, or handling fee, or administrative fee for beverage container material that the person knew, or should have known, was imported from OOS.

Although OOS UBCs often contain a CRV label, they are not eligible to be redeemed for CRV because they were not sold in California and beverage distributors do not pay CRV into the Fund for beverages sold outside California. For every OOS UBC illegally redeemed for CRV, the Fund, and more importantly the people of California, loses five or ten cents. Although it is illegal to redeem OOS UBCs for CRV, it is not illegal to import OOS UBCs into California if individuals/entities only receive the applicable scrap value of the commodity. These factors complicate efforts by the Department and our enforcement partner, the California Department of Justice (DOJ), to deter and/or detect fraudulent activities. These factors also complicate certified recycling center operators' ability to effectively perform inspections for qualifying materials.

Based upon observations made, and evidence/data gathered by the Department's Investigators, DOJ Agents, and California Department of Food & Agriculture (CDFA) Border Protection Station Agents, it is clear that a substantial number of vehicles/individuals are buying and/or collecting UBCs in other states and transporting them into California to redeem them for CRV.

During the period of June 15, 2011 through September 15, 2011, the Department and CDFA initiated a pilot program to survey vehicles importing used beverage containers into California through all 16 CDFA Plant Quarantine Inspection Station locations. During this time CDFA documented 3,588 vehicles transporting OOS UBCs through the CDFA Plant Quarantine Inspection Stations (this included 518 rental trucks filled to capacity). While it is not illegal to import UBCs into California, it is illegal to redeem imported UBCs for CRV. A conservative projection based on this CDFA survey data results in an estimated minimum fraud exposure of \$7 million annually to the CBCRF for OOS UBCs transported in 'rental trucks' alone.

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RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

Furthermore, investigations conducted by the Department and DOJ have revealed that large loads (up to and greater than 5,000 pounds) of aluminum and plastic UBCs are being transported by individuals/entities into California on a daily basis, often using rental trucks. These large loads are subsequently broken down into smaller loads, typically less than 500 or 250 pounds to avoid the daily load limits and/or possible detection through required reporting. Multiple individuals then transport the smaller loads of UBCs in pick-up trucks, vans, and passenger cars to certified recycling centers and illegally redeem the UBCs for CRV. Because this type of activity constitutes fraud and is a felony crime, individuals/entities doing so have taken drastic measures to avoid being detected, such as performing counter-surveillance, entering into California using auxiliary roads to avoid CDFA Plant Quarantine Inspection Stations, entering into California after midnight and before sunrise, trying to hide materials from view when transporting them, storing or breaking down large loads of UBC materials, etc. The actions of these individuals/entities, and the certified recycling centers that purchase from them knowing, or suspecting the UBCs are ineligible for CRV redemption, are draining the Fund of millions of dollars each year. Certified recycling center operators who facilitate or participate in illegal redemption pose a significant threat to the businesses of honest recycling center operators who know or suspect the UBC materials are ineligible and do the right thing by refusing to purchase the OOS UBCs.

By reducing the daily consumer load limit from 500 pounds to 100 pounds for aluminum and plastic, and 1,000 pounds for glass, the Department will be able to reduce the risk of large-scale fraudulent activity and monitor it more effectively. Doing so will also make it much more difficult, complex and costly for the importers to sell the larger loads of OOS UBCs by pretending to be consumers. For example, an OOS importer only needs to divide a 5,000 lb. load of OOS UBCs into 10 transactions to stay under the current daily load limit for aluminum, (i.e., $5,000/500 = 10$). Under the proposed reduced daily load limit for aluminum the OOS importers would have to divide the same load 50 times (i.e., $5,000/100 = 50$). In turn, complicit recycling center operators actively engaged in splitting loads to avoid exceeding the daily load limit will be forced to produce additional fraudulent transactions in order support their illegal purchases/claims for reimbursement. In doing so, they create a larger 'footprint' for the Department and DOJ investigators to detect, investigate, and use as evidence for administrative action and/or criminal prosecution. Finally, reduced load limits will greatly facilitate a recycling center's ability to properly inspect loads of beverage containers because the maximum size of the load of aluminum and plastic beverage containers to be inspected will be 100 pounds, which equates to approximately 2,970 aluminum beverage containers equivalent to 495 six-packs (using the most recent (2013) containers per pound rate posted by the Department) or 1,700 PET plastic beverage containers equivalent to 283 six-packs. As proposed, the maximum size of a load of glass beverage containers will be 1,000 pounds, which equates to approximately 1,920 beverage containers, which is equivalent to 320 six-packs.

The Department's Division of Recycling, Recycling Enforcement Branch, Risk Assessment & Data Analysis Section conducted an analysis of approximately 95,000

INITIAL STATEMENT OF REASONS
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

consumer transactions, accounting for more than 2.4 million pounds of material, collected from 158 certified recycling centers which produced the following results:

ALUMINUM:

- Average (mean) weight = **8.7 pounds**
- Median weight = **4.3 pounds**
- **99.6%** of all transactions surveyed are =< **100 pounds**

PLASTIC:

- Average weight = **11.6 pounds**
- Median weight = **6 pounds**
- **99.2%** of all transactions surveyed are =< **100 pounds**

GLASS:

- Average weight = **77.4 pounds**
- Median weight = **27 pounds**
- **99.1%** of all transactions surveyed are =< **1,000 pounds or less**

This analysis demonstrates that the proposed reductions in the daily load limits will not adversely impact the average consumer attempting to redeem their CRV beverage containers. The results of the analysis also clearly indicate that current daily load limits of 500 pounds for aluminum and plastic and 2,500 pounds for glass are much too high and are not indicative of typical consumer transactions. The Department believes that individuals/entities that frequently redeem large loads of empty beverage containers are OOS importers, non-certified recycling centers, and/or are engaged in illegal scavenging from curbside programs.

PURPOSE, BENEFITS, GOALS

The purpose of PRC Section 14520 is to simply provide the definition for a 'recycling center'.

The purpose of PRC Section 14538 is to ensure that only individuals and/or entities certified by the Department can receive and pay refund value to consumers. The goal is to ensure that all individuals and/or entities that recycle empty beverage containers from the public are subject to the same certification and operational requirements. Another clear purpose for this section of the Act is to explicitly restrict certified recycling centers from paying refund value for beverage containers that are not eligible for refund value (i.e., beverage containers coming into CA from out of the state, or from noncertified recyclers). The goal is to protect the solvency of the CBCRF, because CRV redemption of each and every beverage container that is not eligible for CRV redemption is a direct loss of \$0.05 cents or \$0.10 to the CBCRF.

INITIAL STATEMENT OF REASONS
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

The purpose of PRC Section 14552 is to provide the Department with the authority to implement an auditing system. The goal is to ensure that the Department has the ability review all applicable reports and supporting documentation to ensure that redemption payments are accurately and timely paid into the CBCRF, and that refund values paid out of the CBCRF are based on valid and accurate claims for refund value reimbursement.

The purpose of PRC Section 14572 is to require certified recycling centers to accept and pay refund value for CRV beverage containers presented to them for redemption by a consumer or a dropoff or collection program. This section also specifically states that no person may receive, retain or claim program payments for empty beverage containers which come from out of state.

PURPOSE AND BENEFITS OF THE REGULATION

By reducing the allowable daily load limit from 500 pounds to 100 pounds for aluminum and plastic, and 1,000 pounds for glass, the Department will reduce the risk of large scale fraudulent activity and be able to monitor it more effectively. Doing so will also make it much more difficult, complex and costly for the OOS importers to sell the larger loads of OOS UBCs as CA consumers. For example, under the current daily load limit for aluminum, an OOS importer only needs to break down a 5,000 lb. load of OOS UBCs approximately 11 times (i.e., $5,000/450 = 11.1$). Under the proposed reduced daily load limit for aluminum the OOS importers would have to break down the same load 100 times (i.e., $5,000/100 = 50$). In turn, complicit recycling center operators actively engaged in splitting loads to avoid exceeding the daily load limit will be forced to produce additional fraudulent transactions in order support their illegal purchases/claims for program payment reimbursement. In doing so, they create a larger 'footprint' for the Department and DOJ investigators to detect, investigate and use as evidence for administrative action and/or criminal prosecution. The reduced load limits will greatly facilitate a recycling center's ability to properly inspect loads of beverage containers. For example, the current daily load limit of 500 pounds of aluminum equates to approximately 14,350 containers, which is equivalent to 2,391 six-packs. As proposed, the daily load limit for aluminum would be 100 pounds, which equates to 2,870 containers, which is equivalent to approximately 478 six-packs. This represents a significant reduction in the number of containers that must be inspected by recycling center operators in order to determine eligibility and the proper basis for payment.

The elimination of 14CCR Section 2530(i) will also benefit certified recycling centers by eliminating time, effort and cost associated with the requirement to submit to the Division documentation associated with all purchases of more than 250 pounds of aluminum beverage containers.

The Department is concurrently engaged in several efforts addressing the needs/issues outlined above that are meant to integrate with the proposed regulation changes for lowering the current daily load limits for consumers redeeming CRV.

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RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

- The Department has an interagency agreement with the California Department of Food and Agriculture to monitor the importation of out of state UBC material. This interagency agreement began in Fiscal Year 2012-2013.
- The Department is developing regulations for implementation of Public Resources Code 14596(a) associated with reporting and inspecting UBC materials imported into CA from out-of-state.

In addition, adoption and implementation of these proposed regulations addresses three specific issues (listed in descending order of magnitude):

1) *Illegal redemption of out of state UBC material imported into California.*

Large loads of imported UBC material are broken down into multiple smaller loads to circumvent the current daily load limits for consumer redemption of UBC material for CRV. The smaller loads of illegal UBC materials are redeemed for CRV at certified recycling centers by parties representing themselves as consumers.

Current daily load limits allow an individual consumer to redeem 2,500 lbs. of glass and 500 lbs. of Aluminum, PET, HDPE, Bi-Metal, and Plastic #3 through #7 per certified recycling center each day. Under the current regulations, an individual working 5 days a week, for 50 weeks per year could receive illegal CRV payments for the following amounts every year:

- \$192,250 of Aluminum (3,587,500 containers, 125,000 lbs.)
- \$125,000 of PET (1,962,500 containers, 125,000 lbs.)
- \$65,750 of Glass (1,162,500 containers, 625,000 lbs.)
- \$71,250 of HDPE (850,000 containers, 125,000 lbs.)

Total annual CRV value for these four CRV UBC materials combined is \$454,250 which is equivalent to 6,713,350 containers or approximately 1,000,000 lbs.

The current large daily load limits provide an efficient means commit fraud by illegally redeeming large volumes of out-of-state UBC material for CRV. This is a primary factor currently exposing the Fund to loss from fraud.

The current large daily load limits provide an excessive economic incentive to engage in the illegal redemption of out-of-state UBC materials at certified recycling centers by parties representing themselves as consumers.

It is important to note that when consumer load limits were originally defined in regulation the CRV per container was 50% less than it is today. Effective March 1, 1992, the CRV per container was 2.5¢ for containers less than 24oz and 5¢ for containers equal to or greater than 24oz. Since January 1, 2007, the CRV per container is 5¢ for containers less than 24oz and 10¢ for containers equal to or greater than 24oz.

INITIAL STATEMENT OF REASONS
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

As a result of increases in the CRV per container, the Fund has expanded from approximately \$400 million to approximately \$800 million dollars annually for CRV payments to consumers redeeming UBC materials.

The primary CBCRP impact of illegal redemption of out-of-state UBC materials is the theft of California consumers' money (CRV) from the Fund, because no CRV is paid into the Fund for the out-of-state UBC material being redeemed illegally for CRV. Current daily load limits provide illegal enterprises with an easy way to process large quantities of out-of-state UBCs at certified recycling centers on a daily basis. Secondly, this activity is a significant threat to the fiscal stability of the Fund by putting unnecessary strain upon the solvency of the Fund.

An additional impact on the CBCRP is the corruption of legitimate markets, where honest certified recycling center operators are disadvantaged due to unfair competition supported by illegal CRV payments for out of state UBC materials. Current daily load limits provide for large volumes of out-of-state UBC material to be processed through a single certified recycling center by a single individual consumer creating an economic incentive for the certified recycling center operator to facilitate or become an active participant defrauding the Fund.

In terms of the illegal redemption of out of state UBC material imported into California, the purposes for the proposed modification to existing regulations lowering daily load limits are to:

- Protect the public interest by reducing the efficiencies and profitability associated with the illegal redemption of out of state UBC materials for CRV by increasing the operating overhead, lowering the profit margin, and reducing the volume, and increasing the documentation foot print associated with illegal activities;
- Protect the fiscal stability of the Fund by reducing CRV payments for out-of-state UBC materials;
- Reduce the concentration of illegal redemption of out-of-state UBC material at a single certified recycling center and thereby reducing the economic incentive for certified recycling center operators to become complicit in defrauding the Fund.
- Reduce corruption of legitimate markets, where honest certified recycling center operators suffer due to unfair competition supported by illegal CRV payments for out-of-state UBC materials;
- Minimize negative impacts on legitimate consumers' redemption of CRV UBC materials; and
- Minimize negative impacts on certified recycling center operators' ability to maintain legitimate volumes of CRV empty beverage containers from consumer redemption.

2) Redemption of curbside program empty beverage containers illegally scavenged by individuals and organized enterprises.

INITIAL STATEMENT OF REASONS
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

Illegally scavenged empty beverage containers are redeemed for CRV at certified recycling centers by parties pretending to be consumers. Organized enterprises break large loads of illegally scavenged material into multiple smaller loads to circumvent current daily load limits for consumer redemption of empty beverage containers for CRV.

The primary CBCRP impact from illegal scavenging, and subsequent CRV redemption of UBC materials is the corruption of legitimate markets by depriving registered curbside operators and local agencies of legitimate revenues. Current daily load limits allow large volumes of illegally scavenged UBC material to be processed through a single certified recycling center by a single individual consumer creating an economic incentive for the certified recycling center operator to facilitate or become an active participant defrauding the Fund.

The large current daily load limits provide an easy means to convert illegally scavenged UBC material into CRV. Because CRV was presumably paid into the Fund for UBCs placed in curbside recycling bins this does not pose the same threat of significant losses to the Fund due to fraud as does the illegal importation and redemption of out-of-state UBC material described in issue #1. It does, however, reduce the profitability of legitimate operators of curbside programs, who play a critical role in the continuing success of the CBCRP.

In terms of the redemption of curbside program material illegally scavenged by individuals and organized enterprises, the purposes for the proposed modification to existing regulations lowering daily load limits are to:

- Protect local agencies and registered curbside program operators UBC material supply by reducing the efficiencies and profitability associated with redeeming illegally scavenged curbside UBC materials, thereby increasing the operating overhead, reducing the volume, and increasing the documentation foot print for individuals and enterprises engaged in CRV redemption of illegally scavenged curbside UBC materials.
- Minimize negative impacts on legitimate consumer's ability to redeem CRV UBC materials.
- Minimize negative impacts on certified recycling center operators' ability to maintain legitimate volumes of CRV UBC materials from consumer redemption.

3) Large quantities of non-CRV UBC materials are included in CRV payments for large consumer loads.

Under current regulations, certified recycling center operators are required to visually inspect loads of UBC materials presented for redemption by consumers to determine the proper basis for calculating the CRV payment. It can be difficult for certified recycling center staff to perform reasonably thorough inspections of very large loads of UBC materials to determine eligibility for CRV. Thorough inspection by certified recycling centers is critical because the inclusion of non-CRV UBC

INITIAL STATEMENT OF REASONS
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

materials in consumer loads negatively impacts the CBCRP and poses an additional threat to the fiscal stability of the Fund.

In terms of large quantities of non-CRV UBC materials being included in CRV payments for large consumer loads, the purposes for the proposed modification to existing regulations lowering daily load limits are to:

- Protect the fiscal stability of the Fund by reducing the quantities of non-CRV UBC material included in CRV payments for large loads of UBC material presented for redemption by consumers.
- Increase the effectiveness of visual inspections certified recycling center operators perform by reducing the size of large loads. This decreases the opportunity for consumers to hide ineligible materials in a large load from the scrutiny/detection.
- Facilitate certified recycling center operators ability to make accurate determinations of the basis for calculating CRV payments.
- Minimize negative impacts on legitimate consumers' ability to redeem CRV UBC materials.
- Minimize negative impacts on certified recycling center operators' ability to maintain legitimate volumes of CRV UBC materials from consumer redemption.

REASONABLE ALTERNATIVES

The Department believes we have demonstrated that the current daily load limits for consumers redeeming CRV UBC material are unreasonably high. The Department is unable to identify any legitimate need for consumers to regularly recycle loads as large as those allowed by the current daily limits. Nor is the Department able to identify how consumers will be unduly denied redemption opportunities due to lower daily load limits. With this in mind, the Department has determined that the current daily load limits are unreasonably high.

Any alternatives that do not lower the daily load limits for consumers redeeming CRV UBC material will leave the current unreasonably high load limits in place thus maintaining what has proven to be an irresistible incentive for abuse and fraud. The Department believes that leaving the current daily load limits in place would render any alternatives ineffective at reducing fraud.

ANALYSIS OF ALTERNATIVES

See discussion above.

SELECTED ALTERNATIVE

See discussion above.

INITIAL STATEMENT OF REASONS
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

PROPOSED TEXT

SUBCHAPTER 6. RECYCLING CENTERS
Article 3. Accounting and Reporting Requirements

Proposed revisions to the regulations are represented as follows:

Additions = underlined

Deletions = ~~strikeout~~

§ 2530. REPORTING

~~Subsection 2530(i): Each recycling center shall maintain a separate list of all purchases of more than 250 pounds of aluminum beverage containers. Such list (or legible copies of the receipts) shall be sent to the Division weekly and shall contain all of the following information, taken from the receipt prepared pursuant to section 2525(a) of these regulations:~~

- ~~(1) The receipt number of the transaction; and~~
- ~~(2) The name of the person selling the material; and~~
- ~~(3) The additional identifying information of the person selling the material; and~~
- ~~(4) The name, address, and certification number of the recycling center submitting the list;~~
- ~~(5) The transaction date; and~~
- ~~(6) The pounds purchased on the receipt; and~~
- ~~(7) The total amount paid~~

This subsection is being eliminated because the daily load limit for aluminum transactions proposed to be revised in 14CCR Section 2535 will be lower than the current requirement that all aluminum beverage container transactions of 250 pounds or more be reported to the Department.

§ 2530. REPORTING

Subsection 2530~~(i)~~(i):

This subsection is being changed to reflect the re-numbering resulting from the deletion of subsection 2530(i)

INITIAL STATEMENT OF REASONS
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

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

Subsection 2535 (f): A certified recycler shall not pay the refund value to, or claim refund value for any material received from any person, operation or entity who is not certified by the Division, delivering a load of material in excess of ~~500~~ 100 pounds of aluminum or plastic beverage containers, or ~~2,500~~ 1,000 pounds of glass beverage containers, per day. This limitation is applicable to all transactions, including those performed pursuant to section 2500(h) of these regulations.

This subsection is being proposed to be amended to reduce the daily limits for loads of empty beverage containers received from any person, operation or entity not certified by the Department for aluminum and plastic empty beverage containers from 500 to 100 pounds per person per day, and for glass empty beverage containers from 2,500 to 1,000 pounds per person per day.

RATIONALE

The proposed modification to existing regulations defining the daily load limits are technical in nature and are intended to reduce the excessive risk of loss to the Fund associated with abuse and fraud facilitated by the excessively high daily load limits currently established by regulation. The proposed modifications are intended to correct flaws in existing regulations, and as such, the Department is unable to identify a reasonable alternative. The Department believes adoption and implementation of the proposed modifications to the existing regulations provides the most reasonable, least burdensome, and most cost-effective approach to achieve the purposes of the existing regulations in a manner that ensures full compliance with the law being implemented.

MATERIAL RELIED UPON

The Department's Division of Recycling, Recycling Enforcement Branch, Risk Assessment & Data Analysis Section conducted an analysis of approximately 95,000 consumer transactions, accounting for more than 2.4 million pounds of material, collected from 158 certified recycling centers. The purpose of this effort was to assess typical consumer transaction data from a nonbiased viewpoint, make inferences based upon the research, and present information that may be relevant in the overall scope and goals of the California Recycling Program. While analyzing the data it became apparent that the vast majority of consumer transactions were significantly smaller than the current daily load limits for all each applicable material type. The following Tables and Frequency Distribution Charts represent the results of the Department's analysis of the consumer data.

INITIAL STATEMENT OF REASONS
 RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

ALUMINUM:

- Average weight = **8.7 pounds**
- Median weight = **4.3 pounds**
- **99.6%** of all transactions surveyed are =< **100 pounds**

This table displays the data point values used for the following frequency distribution chart for aluminum beverage containers (Table 1B):

Transaction Groups (5 lb increments)	Number of Transactions	Cumulative Percentage
5	22,282	55.322%
10	8,043	75.291%
15	3,856	84.865%
20	2,148	90.198%
25	1,196	93.167%
30	779	95.101%
35	517	96.385%
40	347	97.247%
45	261	97.895%
50	199	98.389%
55	118	98.682%
60	82	98.885%
65	68	99.054%
70	55	99.191%
75	38	99.285%
80	37	99.377%
85	33	99.459%
90	22	99.513%
95	18	99.558%
100	23	99.615%

Table 1A

INITIAL STATEMENT OF REASONS
 RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

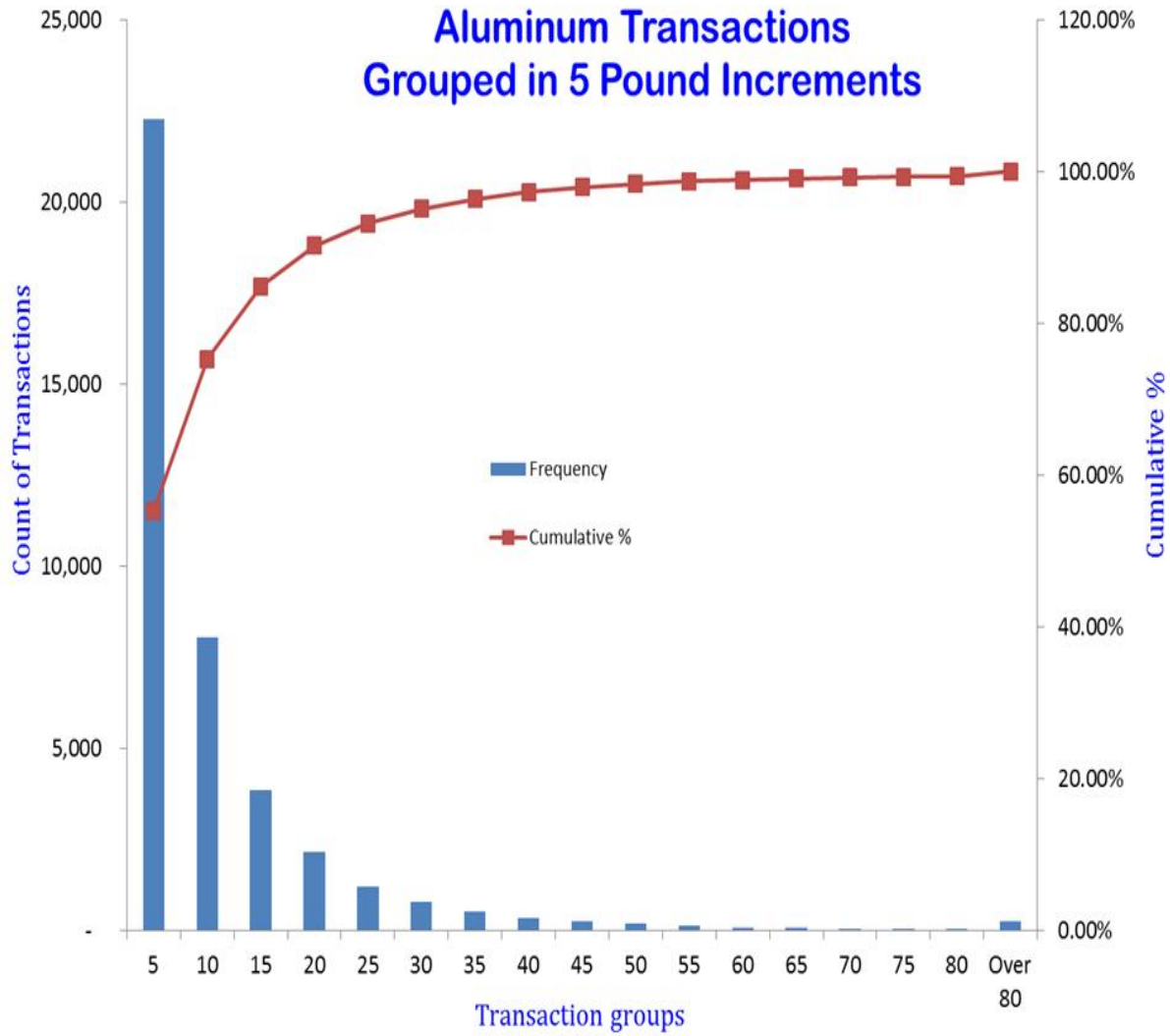


Table 1B

INITIAL STATEMENT OF REASONS
 RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

PET PLASTIC:

- Average weight = **11.6 pounds**
- Median weight = **6 pounds**
- **99.2%** of all transactions surveyed are =< **100 pounds**

This table displays the data point values used for the following frequency distribution chart for PET Plastic beverage containers (Table 2B):

Transaction Groups (5 lb increments)	Number of Transactions	Cumulative Percentage
5	15,342	45.466%
10	7,499	67.689%
15	3,832	79.045%
20	2,236	85.672%
25	1,389	89.788%
30	850	92.307%
35	603	94.094%
40	372	95.196%
45	302	96.091%
50	241	96.805%
55	179	97.336%
60	128	97.715%
65	121	98.074%
70	78	98.305%
75	78	98.536%
80	54	98.696%
85	50	98.844%
90	49	98.989%
95	54	99.149%
100	32	99.244%

Table 2A

INITIAL STATEMENT OF REASONS
 RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

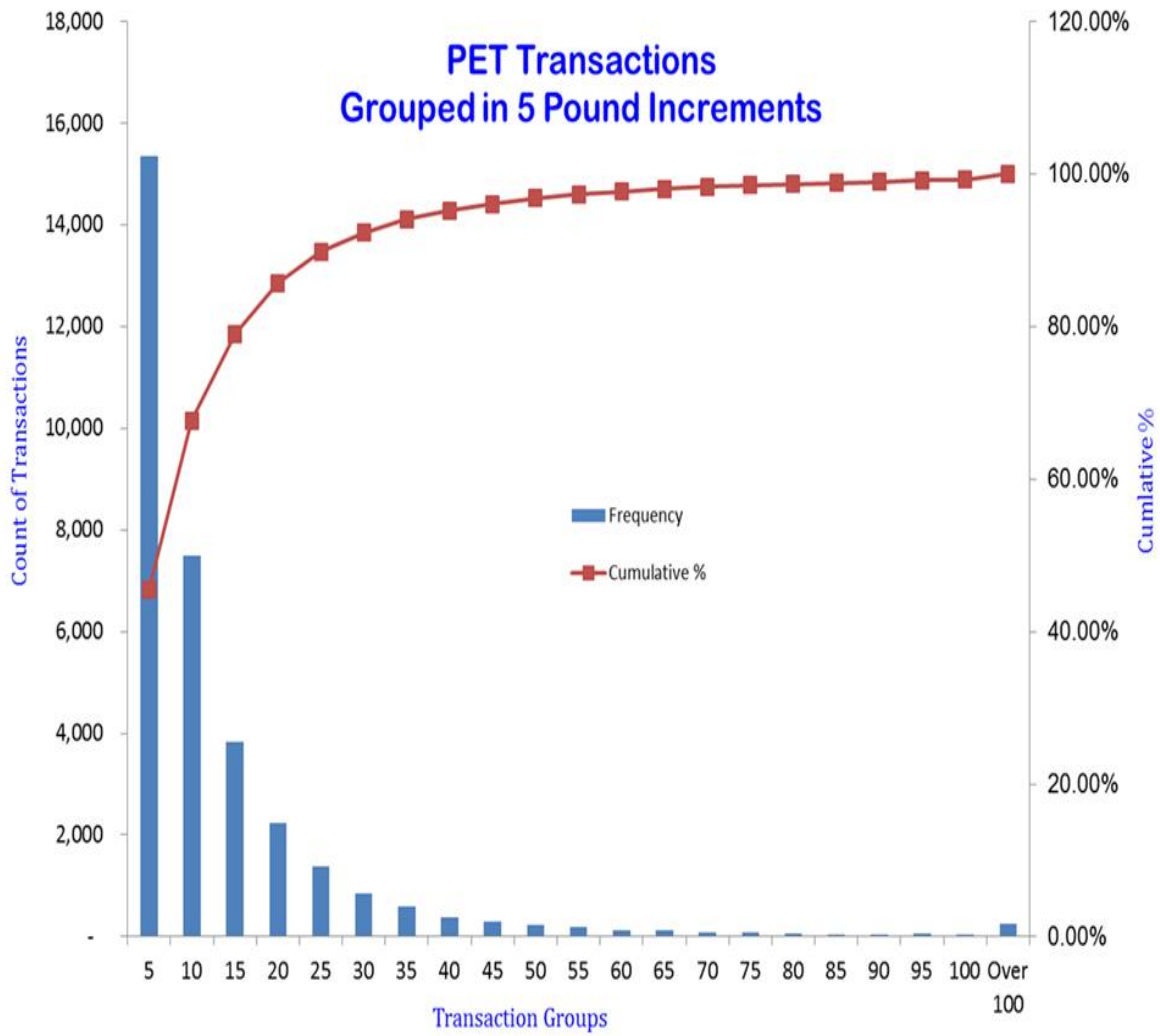


Table 2B

INITIAL STATEMENT OF REASONS
 RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

HDPE PLASTIC:

- Average weight = **11.6 pounds**
- Median weight = **6 pounds**
- **99.8%** of all transactions surveyed are =< **100 pounds**

This table displays the data point values used for the following frequency distribution chart for HDPE Plastic beverage containers (Table 3B):

Transaction Groups (5 lb increments)	Number of Transactions	Cumulative Percentage
5	10,107	69.732%
10	2,452	86.650%
15	867	92.631%
20	403	95.412%
25	200	96.792%
30	130	97.689%
35	93	98.330%
40	54	98.703%
45	37	98.958%
50	28	99.151%
55	29	99.351%
60	18	99.476%
65	7	99.524%
70	8	99.579%
75	9	99.641%
80	5	99.676%
85	3	99.696%
90	6	99.738%
95	6	99.779%
100	5	99.814%

Table 3A

**INITIAL STATEMENT OF REASONS
 RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS**

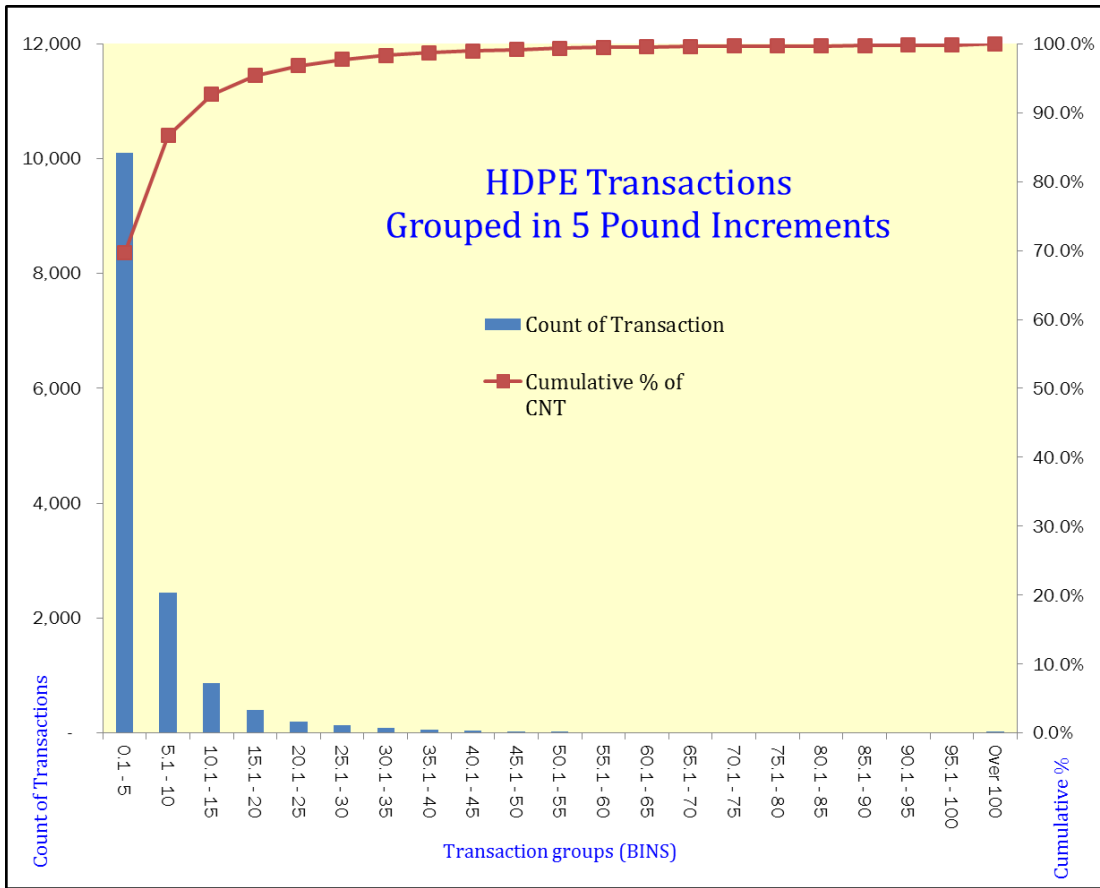


Table 3B

INITIAL STATEMENT OF REASONS
 RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

GLASS:

- Average weight = **77.4 pounds**
- Median weight = **27 pounds**
- **99.1%** of all transactions surveyed are =< **1,000 pounds or less**

This table displays the data point values used for the following frequency distribution chart for glass beverage containers (Table 4B):

Transaction Groups (5 lb increments)	Number of Transactions	Cumulative Percentage
40	13,324	61.11%
80	3,851	78.77%
120	1,686	86.50%
160	782	90.09%
200	480	92.29%
240	322	93.77%
280	220	94.78%
320	162	95.52%
360	132	96.13%
400	114	96.65%
440	75	96.99%
480	56	97.25%
520	68	97.56%
560	47	97.78%
600	40	97.96%
640	43	98.16%
680	34	98.31%
720	46	98.52%
760	32	98.67%
800	23	98.78%
840	19	98.86%
880	12	98.92%
920	15	98.99%
960	14	99.05%
1,000	13	99.11%

Table 4A

INITIAL STATEMENT OF REASONS
 RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

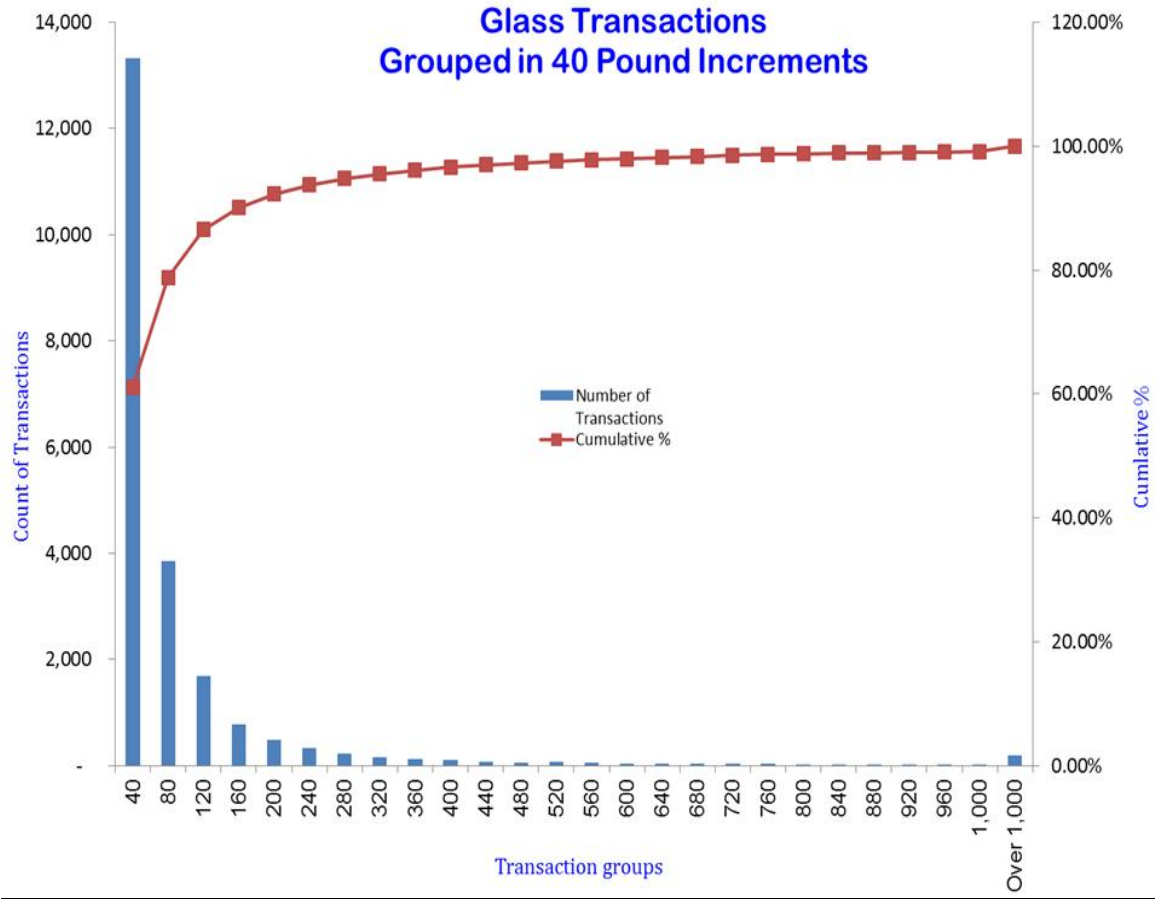


Table 4B

INITIAL STATEMENT OF REASONS
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

The tables and charts on the preceding pages show that the proposed reductions in the daily load limits will not adversely impact the vast majority of California consumers redeeming their empty beverage containers for CRV. The results of the Department's analysis also indicate that current daily load limits of 500 pounds for aluminum and plastic and 2,500 pounds for glass are significantly higher than necessary to accommodate all but approximately one percent or less of legitimate transactions and are not remotely indicative of typical consumer transactions. The Department believes that individuals/entities that frequently redeem large loads of empty beverage containers are OOS Importers, non-certified recyclers, and/or are engaged in illegal scavenging from curbside programs.

Another source of data used for the Department's analysis was a study funded and published by CRI (Container Recycling Institute) titled "Returning to Work: Understanding the Domestic Jobs Impacts from Different Methods of Recycling Beverage Containers", published in December 2011. This report can be accessed via the following link: <http://www.container-recycling.org/assets/pdfs/reports/2011-ReturningToWork.pdf>. This report was used to estimate the potential jobs impacts associated with the estimated affected economic value and loss of non CRV revenue by certified recycling center operators.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department has prepared an Economic Impact Analysis / Assessment, which is hereby incorporated by reference and is included as a stand-alone document in the rulemaking package.

UNNECESSARY DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The Department has determined that the selected alternative does not have any existing comparable federal regulation or statutes. The proposed regulation changes are specifically associated with Public Resources Code sections 14520, 14526.6, 14538, 14552, 14572, 14572.5 and 14585. The CBCRP is a state mandated program and does not have any operating and/or compliance elements that fall under Federal statutes and/or guidelines. Empty beverage containers redeemed in California for CRV is a process that is unique to California.

ECONOMIC IMPACT ANALYSIS / ASSESSMENT

Statement of the Mandate

The proposed regulation changes do not require local entities to undertake a new program or to provide an increased level of service in an existing program. This is based on the fact the proposed regulation changes do not impose a new mandate but modify an existing mandate. The changes to the existing mandate reduce the daily allowable size of a consumer transaction that is eligible for a claim of reimbursement from the California Beverage Container Recycling Fund (CBCRF). In addition, the proposed regulation changes eliminate a mandate for certified recycling center operators to provide weekly reports to the Department. Elimination of this reporting requirement will reduce certified recycling center operators operating cost and avoid potential administrative penalty assessments for failing to comply with the current reporting requirement.

The proposed modification to the existing regulations does not:

- 1) Implement a federal mandate.
- 2) Implement a court mandate.
- 3) Implement a mandate in a ballot measure approved by the voters.
- 4) Result from a documented request from the only local governments affected.
- 5) Provide (or fall within the purview of existing) revenue sources or other financing mechanisms.
- 6) Result in savings that are equal to or exceed any costs.
- 7) Create, eliminate, or change the penalty for a new crime or infraction.

Background / Introductory Material

The California Beverage Container Recycling and Litter Reduction Act (AB 2020, Statutes of 1986; effective September 29, 1986) is the basis for the Regulation changes being proposed. The Department of Resources Recycling and Recovery (Department), proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 6, Chapter 5, Division 2, Title 14 of the CCR, the Department will propose permanent regulations, regarding the reduction of daily load limits for aluminum, plastic and glass beverage containers and reporting of 250 pound aluminum transaction, after the consideration of all comments, objections or recommendations. The proposed changes to existing regulations are as follows:

SUBCHAPTER 6. RECYCLING CENTERS Article 3. Accounting and Reporting Requirements

§ 2530. REPORTING

~~Subsection 2530(i): Each recycling center shall maintain a separate list of all purchases of more than 250 pounds of aluminum beverage containers. Such list (or legible copies of the receipts) shall be sent to the Division weekly and shall contain all of the following information, taken from the receipt prepared pursuant to section 2525(a) of these regulations:~~

- ~~(1) The receipt number of the transaction; and~~
- ~~(2) The name of the person selling the material; and~~
- ~~(3) The additional identifying information of the person selling the material; and~~

RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 2. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY - CHAPTER 5. DIVISION OF RECYCLING
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- ~~(4) The name, address, and certification number of the recycling center submitting the list;~~
- ~~(5) The transaction date; and~~
- ~~(6) The pounds purchased on the receipt; and~~
- ~~(7) The total amount paid~~

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

Subsection 2535 (f): A certified recycler shall not pay the refund value to, or claim refund value for any material received from any person, operation or entity who is not certified by the Division, delivering a load of material in excess of ~~500~~ 100 pounds of aluminum or plastic beverage containers, or ~~2,500~~ 1,000 pounds of glass beverage containers, per day. This limitation is applicable to all transactions, including those performed pursuant to Section 2500(h) of these regulations.

Additions = underlined

Deletions = ~~strikeout~~

The Department of Resources Recycling and Recovery (Department), Division of Recycling (Division) proposes to amend sections 2530 and 2535 of Title 14 of the California Code of Regulations (14CCR). The Department has both observations and anecdotal evidence that a significant number of individuals/entities frequently import large loads of used beverage containers (UBCs) from other states (e.g., Nevada, Arizona and New Mexico, etc.). To facilitate fraud, they break large loads into smaller load sizes that are compliant with the current regulations, thus avoiding detection, then illegally redeeming them for California Refund Value (CRV) at certified recycling centers throughout California. Additionally, the Department's analysis of actual consumer transactions found that the typical consumer transaction was significantly smaller than the current daily load limits. Pursuant to Chapter 3.5 of the Government Code (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the Department is undertaking a rulemaking proceeding to amend the current daily load limits for empty beverage containers received by certified recycling centers from individuals/entities not certified by the Department (i.e., consumers). Additionally, the Department proposes to eliminate the current requirements for reporting loads of 250 pounds or more of aluminum empty beverage containers. The Department strongly believes that lowering the daily load limits for consumers will help resolve issues associated with the individuals/entities importing out-of-state (OOS) UBCs into California and illegally redeeming them for CRV at certified recycling centers. Reductions in the daily load limits will also help to address issues associated with noncertified recyclers and illegal scavenging of curbside program materials. Additionally, the proposed reductions will facilitate certified recycling center operators' compliance with requirements for visually inspecting loads of beverage containers being presented for redemption by consumers to determine the proper payment basis of the loads and eligibility for CRV payment. Finally, if the daily load limits are reduced as proposed, the 250 pound aluminum reporting requirement will no longer be necessary. Eliminating this weekly reporting requirement will result in cost savings for all certified recycling centers California.

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of beverage container litter in the State. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

As provided by Title 14 of the California Code of Regulations (14CCR), Section 2535(f), certified recycling centers are restricted from paying or claiming CRV for loads of aluminum and plastic beverage containers if the weight of the load exceeds 500 pounds per person per day. For glass beverage containers, the limit is 2,500 pounds per person, per day. Additionally, in accordance with 14CCR, Section 2530(i), certified recycling centers must report to the Division any loads of aluminum empty beverage containers over 250 lbs. purchased from consumers. The Department proposes to reduce the daily load limits for

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consumer redemption of empty beverage containers to 100 pounds for aluminum and plastic, and to 1,000 pounds for glass. The Division also proposes to eliminate the current requirement for certified recycling centers to report to the Division all purchases of 250 pounds or more of aluminum empty beverage containers from a single consumer because that requirement will no longer be necessary. Eliminating this reporting requirement will reduce costs for certified recycling centers and will not significantly impact the Department's ability to combat program related fraud.

Section 14595 of the Act declares that the redemption of beverage container material imported from OOS presents a significant threat to the integrity of the California Beverage Container Recycling Program (CBCRP) and the Fund. Furthermore, Section 14595.5 (a)(1) of the Act states that no person shall pay, claim, or receive any refund value, processing payment, or handling fee, or administrative fee for beverage container material that the person knew, or should have known, was imported from OOS.

Although OOS UBCs often contain a CRV label, they are not eligible to be redeemed for CRV because they were not sold in California and beverage distributors do not pay CRV into the Fund for beverages sold outside California. For every OOS UBC illegally redeemed for CRV, the Fund, and more importantly the people of California, loses five or ten cents. Although it is illegal to redeem OOS UBCs for CRV, it is not illegal to import OOS UBCs into CA if individuals/entities only receive the applicable scrap value of the commodity. These factors complicate efforts by the Department and our enforcement partner, the California Department of Justice (DOJ), to deter and/or detect fraudulent activities. These factors also complicate certified recycling center operators' ability to effectively perform inspections for qualifying materials.

Based upon observations made, and evidence/data gathered by the Department's Investigators, DOJ Agents, and California Department of Food & Agriculture (CDFA) Border Protection Station Agents, it is clear that a substantial number of vehicles/individuals are buying and/or collecting UBCs in other states and transporting them into California to redeem them for CRV.

During the period of June 15, 2011 through September 15, 2011, the Department and CDFA initiated a pilot program to survey vehicles importing used beverage containers into California through all 16 CDFA Plant Quarantine Inspection Station locations. During this time CDFA data documented 3,588 vehicles transporting OOS UBCs through the Plant Quarantine Inspection Stations (this included 518 rental trucks filled to capacity). While it is not illegal to import UBCs into California, it is illegal to redeem imported UBCs for CRV. A conservative projection based on this CDFA survey data results in an estimated minimum fraud exposure of \$7 million annually to the CBCRF for OOS UBCs transported in 'rental trucks' alone.

Furthermore, investigations conducted by the Department and DOJ have revealed that large loads (up to and greater than 5,000 pounds) of aluminum and plastic UBCs are being transported by individuals/entities into California on a daily basis, often using rental trucks. These large loads are subsequently broken down into smaller loads, typically less than 500 or 250 pounds to avoid the daily load limits and/or possible detection through required reporting. Multiple individuals then transport the smaller loads of UBCs in pick-up trucks, vans, and passenger cars to certified recycling centers and illegally redeem the UBCs for CRV. Because this type of activity constitutes fraud and is a felony crime, individuals/entities doing so have taken drastic measures to avoid being detected, such as performing counter-surveillance, entering into California using auxiliary roads to avoid CDFA Plant Quarantine Inspection Stations, entering into California late after midnight and before sunrise, trying to hide materials from view when transporting them, storing or breaking down large loads of UBC materials, etc. The actions of these individuals/entities, and the certified recycling centers that purchase from them knowing, or suspecting the UBCs are ineligible for CRV redemption, are draining the Fund of millions of dollars each year. Certified recycling center operators who facilitate or participate in illegal redemption pose a significant threat to the businesses of honest recycling center operators who know or suspect the UBC materials are ineligible and do the right thing by refusing to purchase the OOS UBCs.

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By reducing the daily consumer load limit from 500 pounds to 100 pounds for aluminum and plastic, and 1,000 pounds for glass, the Department will be able to reduce the risk of large scale fraudulent activity and monitor it more effectively. Doing so will also make it much more difficult, complex and costly for the importers to sell the larger loads of OOS UBCs by pretending to be consumers. For example, an OOS importer only needs to divide a 5,000 lb. load of OOS UBCs into 10 transactions to stay under the current daily load limit for aluminum, (i.e., $5,000/500 = 10$). Under the proposed reduced daily load limit for aluminum the OOS importers would have to divide the same load 50 times (i.e., $5,000/100 = 50$). In turn, complicit recycling center operators actively engaged in splitting loads to avoid exceeding the daily load limit will be forced to produce additional fraudulent transactions in order support their illegal purchases/claims for reimbursement. In doing so, they create a larger 'footprint' for the Department and DOJ investigators to detect, investigate, and use as evidence for administrative action and/or criminal prosecution. Finally, reduced load limits will greatly facilitate a recycling center's ability to properly inspect loads of beverage containers because the maximum size of the load of aluminum and plastic beverage containers to be inspected will be 100 pounds, which equates to approximately 2,970 aluminum beverage containers equivalent to 495 six-packs (using the most recent (2013) containers per pound rate posted by the Department) or 1,700 PET plastic beverage containers equivalent to 283 six-packs. As proposed, the maximum size of a load of glass beverage containers will be 1,000 pounds, which equates to approximately 1,920 beverage containers, which is equivalent to 320 six-packs.

The Department's Division of Recycling, Recycling Enforcement Branch, Risk Assessment & Data Analysis Section conducted an analysis of approximately 95,000 consumer transactions, accounting for more than 2.4 million pounds of material, collected from 158 certified recycling centers which produced the following results:

ALUMINUM:

- Average (mean) weight = 8.7 pounds
- Median weight = 4.3 pounds
- 99.6% of all transactions surveyed are \leq 100 pounds

PLASTIC:

- Average weight = 11.6 pounds
- Median weight = 6 pounds
- 99.2% of all transactions surveyed are \leq 100 pounds

GLASS:

- Average weight = 77.4 pounds
- Median weight = 27 pounds
- 99.1% of all transactions surveyed are \leq 1,000 pounds or less

This analysis demonstrates that the proposed reductions in the daily load limits will not adversely impact the average consumer attempting to redeem their CRV beverage containers. The results of the analysis also clearly indicate that current daily load limits of 500 pounds for aluminum and plastic and 2,500 pounds for glass are much too high and are not indicative of typical consumer transactions. The Department believes that individuals/entities that frequently redeem large loads of empty beverage containers are OOS importers, non-certified recycling centers, and/or are engaged in illegal scavenging from curbside programs.

In August 2011, the Department held a public workshop for all interested parties and presented the results of our analysis of consumer transaction activity and, based upon the results, expressed our intentions to pursue regulatory change to reduce the daily load limits for consumer transactions. Interested parties were provided with the option of attending the workshop in person or via webinar. The Department requested and received feedback from individuals who attended/participated in the workshop. Several

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attendees expressed concerns that, dependent on the level of the reduced load limits, opportunities for recycling by non-profit groups (e.g., Boy Scout, Girl Scouts, church groups, schools, etc.) could be adversely impacted by reduced daily load limits. Attendees also expressed concerns that some of their 'large volume' clients would also be adversely impacted. The Department documented their responses and committed to review the feedback provided and attempt to mitigate the issues/concerns expressed. The Department committed to providing details at a subsequent workshop to be held at a later date.

In October 2011, the Department held a second public workshop for all interested parties to present several alternative reduced daily load limits for discussion and proposed actions to mitigate the issues/concerns regarding potential adverse impacts on opportunities/abilities to redeem empty beverage containers that were expressed at the August 2011 workshop. Interested parties were provided with the option of attending the workshop in person or via webinar. None of the individuals that attended/participated in this workshop expressed any significant concerns/issues about the proposed mitigating activities or the proposed level of the daily load limit reductions. As a result, the Department committed to finalizing details associated with the mitigating activities, the proposed level of the daily load limit reductions, and to conduct a final public workshop at a later date prior to proceeding with a formal rulemaking process.

In January 2012, The Department held the third and final workshop for all interested parties to discuss the proposed daily load limits of 50 pounds for aluminum and 250 pounds for glass and the proposed actions to mitigate issues/concerns regarding potential adverse impacts on opportunities/abilities to redeem empty beverage containers. Interested parties were provided with the option of attending the workshop in person or via webinar. Attendance at this workshop was significantly greater than at the prior two workshops, even though all the same interested parties were notified for all three workshops. While several workshop attendees voiced support for the proposed daily load limits, a larger number of attendees expressed concern that the proposed daily load limits of 50 pounds of aluminum and plastic, and 250 pounds of glass would have adverse impacts/create hardships for some of their customers. For example, representatives from recycling centers located in rural regions of the State claimed that consumers in rural areas aggregate their CRV materials over a longer period of time and redeem them for CRV infrequently (e.g., 'every couple of months', 'once or twice per year, etc.). They claim these individuals would potentially exceed the proposed daily load limit(s) and be denied CRV redemption and be paid only scrap for their materials. Recycling center operators in attendance also stated that some of their customers are bars and restaurants that bring in beverage container materials that they collect at their respective establishments. They claimed that these 'consumers' would routinely exceed the proposed 250 pound daily load limit for glass and as a result would be denied CRV redemption for their CRV eligible loads of materials. The Department captured all information and feedback provided by workshop attendees, as well as feedback provided in writing by other interested parties who were not able to attend the workshop. At the conclusion of this workshop, the Department reiterated our commitment to review all the feedback provided and would consider additional revisions before finalizing the rulemaking package and submitting it to OAL. Revisions to the proposed regulations referenced in this notice were made based upon feedback received before, during and immediately after the January 2012 workshop.

The scope of economic (private sector) and fiscal (government agency) impacts for consideration in this analysis is defined by their relationship to the disbursement of California Refund Value (CRV) dollars. The modifications to current regulations being recommended will decrease the daily load limits that the State of California will accept as the basis for a claim for reimbursement of CRV.

The California Beverage Container Recycling Program was designed as a pass-through program. It provides consumers the opportunity to recover the CRV collected from them by a dealer when they purchase a CRV beverage. This is the economic incentive for consumers to save the beverage containers and redeem them for the CRV, thereby reducing litter from empty beverage containers and increasing the recycling of those containers.

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The private sector provides the infrastructure for collecting empty beverage containers and paying CRV to consumers. Certified recycling centers are the primary locations for redemption of CRV by consumers and are the channel for distribution of California Beverage Container Fund moneys claimed for CRV by consumers.

Working Data:

The analysis of the economic and fiscal impacts associated with the proposed regulation modification uses several data sources. The primary source of data is the CBCRP payment and reporting system which is used to receive and process claims for reimbursement of CRV by private sector certified or registered program participants (i.e., certified recycling centers). Consumers redeem their UBCs at certified recycling centers located throughout the state. The operators of these recycling centers consolidate their purchases of UBC materials redeemed by consumers and prepare a Shipping Report when they ship the material to another certified entity (i.e., certified recycling center or certified processor). Shipping Reports are ultimately attached to a Processor Invoice and submitted to the Department for reimbursement of CRV paid out to consumers. Certified recycling center operators are eligible to receive administration fees, processing payments, and handling fees in addition to the CRV reimbursement. The Shipping Report, Processor Invoice and Handling Fee Application data are managed and maintained in the Division of Recycling Integrated Information System (DORiis).

For the economic and fiscal impacts analysis, the affected universe was all claimed consumer transaction redemption weight and refund value for calendar year 2011, as identified on Shipping Report Receipt and Log (RL) period "From" and "Thru" dates. These dates and the associated claimed redemption weight and refund value should correspond to actual receipt and log documentation certified recycling centers are mandated to maintain as source documents for auditing of claims submitted to the Department for reimbursement of refund value, and calculated payments for administration fees and processing payments, if applicable. The analysis also includes Handling Fee payments paid for each reporting month in 2011 (i.e., 12 months). Handling Fee payments are also based upon the underlying consumer transactions documented on RLs that support redemption weight and refund value reimbursement claimed on Shipping Reports.

It should be noted that the consumer transaction values for CRV and redemption weight used as source data for this analysis from DORiis are overstated. When Shipping Reports are submitted, the values provided/entered by operators of certified recycling centers for RL values are stored in the system exactly as claimed. If a Shipping Report is reduced due to business rules used to validate claims prior to payment, the reduction is applied to the total redemption weight and CRV of the shipping report, not the RL values. This is necessary to maintain the auditability of Shipping Report RL data to source documents.

Also included in the source data are fraudulent Shipping Report claims for reimbursement and associated calculated values. As a result of these factors and adjustments, the Department's analysis errs to the benefit of certified recycling centers operators by overstating the potential economic impacts somewhat.

The Department is responsible for maintaining a survey of open market scrap values associated with the material types included in the program. This survey is used to determine processing payment rates used to subsidize program participant's purchase and processing of container material types that lack sufficient scrap value to cover the cost of transporting and processing the applicable material type. The scrap value survey data was used to derive a reasonable estimate of the scrap value for claimed consumer transaction redemption weight and refund value (CRV).

As noted in the background section above, the Recycling Enforcement Branch Risk Assessment and Data Management Unit aggregated approximately 95,000 consumer transactions, accounting for more than 2.4 million pounds of material, collected from 158 certified recycling centers. This data was gathered during standardized compliance activities performed by Department investigators in the course of

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evaluating the legitimacy of claimed consumer transaction volumes. The compliance activity is called a Consumer Transaction Profile (CTP). CTPs involve a team of investigators being present at a certified recycling center and documenting every consumer transaction thereby duplicating the recycling center's daily receipts and logs of consumer purchases. The standard CTP lasts 3 – 7 days, weekends included, for all hours the certified recycling center is open. The data is compiled and documented in a report. In cases where there is illegitimate recycling activity, the Department consistently observes a decrease in transaction volumes ranging from 50% – 90% during the period the CTP is performed. In cases of legitimate recycling activity, the Department notes immaterial changes in consumer transaction volumes.

Another source of data used was a study funded and published by CRI (Container Recycling Institute) titled "Returning to Work", Understanding the Domestic Jobs Impacts from Different Methods of Recycling Beverage Containers", published date of December 2011. This report was used to estimate the potential jobs impacts associated with the estimated affected economic value and loss of non CRV revenue by certified recycling center operators.

Assumptions:

- Data regarding the portion of affected consumer transactions that would result in loss of business activity at certified recycling centers due to implementation of the proposed regulation modifications is not readily obtainable. The Department has made a reasonable assumption as to the percentage of consumer transactions that could be lost at 10% of the affected population. Worst case scenario would be to assume that 100% of the affected consumer transactions would be lost. The Department assumes that legitimate consumer transactions would not be lost because the relatively small number of impacted consumers will simply modify their behavior and reduce the size of the loads they redeem and/or redeem materials more frequently. If these consumers do so, no legitimate transactions would be lost.
- Based upon field observations and prior enforcement activity, the Department assumes that a substantial portion of large consumer transactions for glass over 1,000 lbs. and all other material over 100 lbs., have a higher concentration of ineligible and/or illegal consumer transactions due to source(s) of the UBC materials (i.e., out of state material (OOS), non-CRV material purchased as commingled, and previously redeemed material that has not been properly cancelled and then is redeemed a second time for CRV). For purposes of practicality and to be conservative, the Department cannot, and does not, make an assumption of the percentage of lost consumer transactions associated with ineligible materials and/or illegal transactions. Because these UBC materials are ineligible and/or illegal the associated consumer transactions lost are not legitimate losses to certified recycling center operators or consumers.
- The CTP data only included four material types. For the remaining material types (i.e., Bi-Metal, and Plastic resins #3-#7) the Department applied the same rate as HDPE, which is 6%. The Department assumes and understands that doing so overstates the value of these beverage container material types. To be conservative and to avoid understating the economic impacts to certified recycling center operators the Department determined this to be the reasonable approach for deriving a value for these material types.

Calculations:

The economic impact analysis identifies the scope / universe of economic activity (i.e., consumer transactions) that could be affected by implementation of the proposed regulation modifications which would reduce the daily load limits for redeeming eligible UBCs for CRV.

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- The economic impact analysis starts with a valuation of all consumer transactions ascribed to the CBCRP in calendar year 2011. All consumer transactions CRV and non-CRV value = 100% of universe.
- Secondly, the CTP survey results are used to estimate the quantity of consumer transactions that are greater than 1,000 lbs. for glass and greater than 100 lbs. for Aluminum, PET, and HDPE as a percentage of all consumer transactions of the corresponding material types. The assumed 6% is used for Bi-metal, PVC, LDPE, PP, PS, Other 7.
- The percentage of transactions estimated as being greater than the proposed consumer load limits of 1,000 lbs. and 100 lbs. respectively, is applied to the universe in order to estimate the values of the population of consumer transactions that potentially could be affected.
 - Consumer transaction valuation for 2011 (i.e., 100% of economic activity) multiplied by the CTP survey results, equals the subset of CBCRP consumer transactions (i.e., economic activity) that potentially could be affected by implementation of the proposed regulations to reduce the daily allowable load limits.

It is important to note that this is not an estimate of potential impacts, only the population of economic activity that could be impacted / affected. As stated previously, the Department assumes that only a portion of this economic activity will be affected. The quantity of affected consumer transactions (i.e., economic activity) that will be impacted which result in a loss of revenue for certified recycling center operators is assumed to be less than 30% of the population of consumer transactions greater than 1,000 lbs. and 100 lbs for the applicable UBC material types.

There are two components to the consumer transaction values: claimed consumer transaction CRV and non-CRV values.

- CRV is paid to consumers by certified recycling center operators, which are reimbursed dollar for dollar out of the California Beverage Container Recycling Fund (Fund). As such, this is not revenue for certified recycling center operators.
- Non-CRV value associated with CRV material redemption includes; administrative fees, processing payments, Handling Fees, and commodity scrap value. Loss of non-CRV value due to lost consumer transactions define the potential negative economic impacts to certified recycling center operators.
 - Administrative fees, processing payments, and Handling Fees are monies paid out of the Fund to certified recycling center operators to subsidize the redemption and processing of CRV UBC material.
 - Scrap value is the private sector, open market value of UBC materials as a commodity that certified recycling center operators realize when they process and sell the redeemed UBC materials exclusive of CRV.

For clarification and explanation, we offer the following hypothetical example:

- All CBCRP consumer transactions for calendar year 2011 are \$450 of CRV and \$550 of non-CRV.
- Multiplied by CTP survey results of transactions greater than 1,000 lbs. and 100 lbs. (for example 10%) produces the potentially affected population of consumer transaction values. For CRV, this is \$45, and for non-CRV it is \$55 of the potentially affected population of consumer transaction values.

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- The potentially affected consumer transaction values are multiplied by the Department's 10% assumption for potential economic impact/loss. This results in \$13.50 of CRV, and \$16.50 of non-CRV dollars in potential economic impact/loss due to potentially lost consumer transactions.

The following calculations are used to derive estimated dollar valuations for the economic impacts:

- Shipping Report consumer transaction (claimed refund value, redemption weight, administration fee, and processing payment) data was aggregated and summed by material type for each certified recycling center and its associated Operator. This is represented in the universe of all consumer transactions.
- Handling Fee amounts paid were aggregated and summed by material type for each certified recycling center operator. This is also represented in the universe of all consumer transactions.
- Scrap value for consumer transactions were estimated by using the Department's December 2011 Monthly Scrap Value Survey data and applying the rates contained therein to the consumer transactions claimed redemption weights. This is how the scrap value for the universe of all consumer transactions was calculated. (See Table 1 on Page 14)

CTP survey data for transactions greater than 1,000 lbs. for glass and greater than 100 lbs. for aluminum, PET, and HDPE were summed, and then divided by the total weight of all consumer transactions for the corresponding material type to derive a percentage, by weight (not count), of applicable material type transactions greater than 1,000 lbs. or greater than 100 lbs., respectively. These percentages were applied to the universe of all consumer transaction values for the corresponding UBC material type to estimate the potentially affected population of consumer transaction values.

As stated previously, the CTP data only included four material types (AL, GL, PET1 and HDPE2), for all other material types (Bi-Metal and Plastic resins #3-#7) the Department assumed and applied the same rate as HDPE, which is 6%. The Department assumes and understands that doing so is very likely to overstate the value of these other beverage container material types. In order to be conservative and to avoid understating the economic impacts on certified recycling center operators, the Department determined this to be a very reasonable approach in deriving a value for these material types.

Conclusions:

Based upon the analysis performed, the Department concludes that the proposed modification existing regulations reducing the daily load limits for the redemption of empty beverage containers to 1,000 lbs. for glass and 100 lbs. for all other material types does not impose a reimbursable mandate on local government. The Department has also concluded the proposed changes to the regulations will not impose non-reimbursable local costs.

For calendar year 2011 consumer transactions claimed by certified recycling center operators were as follows:

(See Table 2 on Page 15)

- ~\$868,330,000 for reimbursement of CRV paid to consumers for redeemed UBC materials based on their receipts and logs. This accounted for ~1,680,007,000 lbs. of redemption weight.
- The Department has estimated the total non-CRV value of this material to be ~\$385,930,000. The total non-CRV value includes:
 - ~\$6,377,000 of administration fees,
 - ~\$67,395,000 of processing fees,

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- ~\$37,488,000 of handling fees, and
- ~\$274,670,000 of scrap value.
- Combined, the total CRV and total non-CRV values for all consumer transactions accounted for an estimated ~\$1,254,260,000 of economic value associated with the redemption of UBC materials via consumer transactions at certified recycling centers.
- The following are the applicable material type percentages of the total claimed refund value for consumer transactions in CY 2011:
(See Table 3 on Page 16)
 - Aluminum ~48%,
 - PET ~37%,
 - Glass 12%,
 - HDPE ~2%,
 - PS ~.03%,
 - Other .02%,
 - Bi-metal ~.02%, and
 - LDPE, PP, and PVC are negligible as a percentage of total claimed CRV for consumer transactions.

Certified recycling center operators are a diverse population of business entities and, as such, are not easily categorized. The Department aggregated the identified economic value by certified recycling center operators and the results are as follows:

(See Table 4 on Page 16)

- 1,066 operators, operating 2,616 certified recycling centers, received CRV reimbursements in calendar year 2011.
- Handling Fees were paid based upon Handling Fee Applications submitted and approved for 1,292 certified recycling centers in calendar year 2011.
- There were 144 certified recycling center operators with an estimated combined CRV and non-CRV economic value of \$2 million dollars or more during calendar year 2011.
- The mean of CRV value for UBCs redeemed by certified recycling center operators was ~\$322,000.
- The mean of non-CRV estimated value for UBCs redeemed by certified recycling center operators was ~\$147,000.

Results from the analysis of CTP data identified the percentage of transactions by weight greater than 1,000 lbs. for glass and greater than 100 lbs. for aluminum, PET, and HDPE are as follows:

(See Table 5 – 10, Pages 17 thru 21)

- Glass 18%.
- Aluminum 7.4%,
- PET 10.5%,
- HDPE 6%, and

As stated previously, the Department assumed 6% for Bi-Metal, and Plastic resins #3-#7.

Based upon the preceding data, the Department estimated the CRV and non-CRV values of consumer transactions greater than 1,000 lbs. for glass and 100 lbs. for the remaining CRV UBC material types which could be affected by the implementation of the proposed regulation modifications to reduce the daily load limits are as follows;

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(See Table 11, Page 22)

- Estimated CRV value of the potentially affected population is ~\$85,142,000. This would account for ~242,834,000 lbs. of consumer transaction redemption weight.
- Estimated non-CRV value of the potentially affected population is ~\$36,698,000. The non-CRV value includes;
 - ~\$624,000 of administration fees,
 - ~\$9,838,000 of processing payments,
 - ~\$3,659,000 of handling fees paid, and
 - ~\$22,577,000 of scrap value.

The Department estimated CRV and non-CRV values of consumer transactions greater than 1,000 lbs. for glass and 100 lbs. for the remaining CRV UBC material types potentially affected by implementation of the proposed regulation modifications to reduce the daily load limits for each certified recycling center based on their individual volumes in 2011.

The mean of CRV and non-CRV values for potentially affected consumer transactions associated with the 2,619 certified recycling centers are as follows;

(See Table 12, Page 22)

- ~\$33,000 of CRV and
- ~\$14,000 of non-CRV.

As stated previously, the Department estimated potential economic impacts for consumers and certified recycling center operators using an assumption of 10% for potential loss of consumer transactions (economic activity). This 10% loss would be CRV UBC material currently redeemed for CRV by consumers which would go unredeemed after implementation of the proposed regulation modifications to reduce the allowable daily load limits.

Consumer's CRV economic impact:

Based upon the Department's previously stated assumption, consumers would potentially not redeem approximately \$8,514,200 worth of CRV UBC material (~\$85,142,000 CRV x 10%). The unredeemed CRV would remain in the Fund and not be disbursed for reimbursement of consumer CRV transactions. CRV is a reimbursement / pass through and has no direct economic value for certified recycling center operators. The non-CRV value associated with consumers redeeming CRV material has economic value for certified recycling center operators.

The Department assumes this is not an indication of a negative impact on consumers' economic opportunity to redeem CRV UBC material and recover CRV paid at the dealer when the filled containers are purchased.

The Department has calculated consumers' annualized economic opportunity to recover CRV by redeeming CRV UBC material for the four primary material types that comprise ~99% of CRV payments based on consumer transactions in 2011. The bases for annualized economic opportunity to recover CRV by consumers are current program rates, redeeming at the proposed consumer daily allowable load limits, 5 days per week for 50 weeks, allowing two weeks' vacation in a calendar year.

(See Table 13 & 14 on Pages 23 and 24, respectively)

If implemented, the proposed regulation modifications to reduce the daily load limits will provide consumers with the economic opportunity to annually redeem CRV UBC material for CRV in the following amounts:

- \$39,250 of Aluminum (717,500 containers weighing 25,000 lbs.)
- \$25,000 of PET (392,500 containers weighing 25,000 lbs.)

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- \$26,250 Glass (465,000 containers weighing 250,000 lbs.)
- \$14,250 of HDPE (170,000 containers weighing 25,000 lbs.)

Combined, the annual CRV value of the four primary material types an individual consumer can recover based upon the assumptions stated above is \$104,750.

Certified recycling center operators' non-CRV economic impact:

As stated previously, the Department has estimated the non-CRV value of the potentially affected population to be approximately \$36,698,000.

Based upon the Department's previously stated assumption of a 10% loss, all certified recycling center operators have a potential combined economic impact estimated to be approximately \$3,669,800 of non-CRV value associated with consumers not redeeming CRV UBC material. (~\$36,698,000 non-CRV value x 10%)

As stated previously, the mean of non-CRV value for potentially affected consumer transaction is ~\$14,000 per certified recycling center. (~\$36,698,000 / 2,619)

Based upon the Department's previously stated assumption of a 10% loss, the mean of potential non-CRV economic impact, per certified recycling center, is estimated to be approximately \$1,400. (~\$14,000 non-CRV x 10%)

The Department assumes the overestimation included in the analysis producing estimated potential economic impacts is material in nature and provides a substantive contingency as to future potential economic impacts to consumers and certified recycling center operators should the proposed regulation modifications to reduce the allowable daily load limits be approved and implemented.

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TABLES 1 - 14:

Table 1: Monthly Scrap Value Notice used to calculate Estimated Scrap Value of Consumer Transactions.

Scrap Value Per Ton					
	Aluminum	Glass	Bimetal	#1 PET Plastic	#2 HDPE Plastic
Oct-11	\$1,571.94	\$5.59	\$18.78	\$510.46	\$385.27
Nov-11	\$1506.67	\$5.42	(\$2.15)	\$445.45	\$363.81
Dec-11	\$1,459.00	\$5.03	(\$3.57)	\$387.96	\$324.91

Scrap Value Per Ton					
	#3 PVC Plastic	#4 LDPE Plastic	#5 PP Plastic	#6 PS Plastic	#7 Other Plastic
Oct-11	\$0.00	(\$20.35)	(74.00)	(\$5.40)	(\$6.97)
Nov-11	\$0.00	\$290.71	(\$225.63)	(\$0.59)	(\$18.64)
Dec-11	\$0.00	(\$300.00)	(\$37.61)	\$31.48	\$7.70

GLASS YEAR TO DATE OCTOBER 2011 – SEPTEMBER 2012 AVERAGE \$/TON: \$5.34 RC + CS + SP + CP TONS: 125,597.52	RC = Recycling Centers CS = Curbside Programs SP = Community Service Programs CP = Dropoff and Collection Programs
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Table 2: Summary of Consumer Transaction Values for Calendar Year 2011 by Material Type.

Mat Type	A	B	G	C	D	E	F
	Shipping Report Claims Data CY2011*	Shipping Report Claims Data CY2011*	Sum (C, D, E, F)	Shipping Report Claims Data CY2011*	Shipping Report Claims Data CY2011*	Handling Fee Claims Data CY2011*	Calculated DRRR Notice ***
	Material Type Total Claimed** Redemption Weight For Consumer Transactions (Lbs)	Material Type Total Claimed** Refund Value For Consumer Transactions	Material Type Total Non-CRV Value For Consumer Transactions	Material Type Total Admin Fee For Consumer Transactions	Material Type Total Processing Fee For Consumer Transactions	Material Type Total Handling Fee Claim Amount For Consumer Transactions	Material Type Total Estimated Scrap Value For Consumer Transactions
AL	272,613,000	\$ 419,734,000	\$ 220,722,000	\$ 3,083,000	\$ -	\$ 18,768,000	\$ 198,871,000
PET	344,176,000	\$ 320,052,000	\$ 105,167,000	\$ 2,356,000	\$ 22,434,000	\$ 13,614,000	\$ 66,763,000
GL	1,022,746,000	\$ 106,365,000	\$ 47,658,000	\$ 774,000	\$ 39,872,000	\$ 4,440,000	\$ 2,572,000
HDPE	39,066,000	\$ 21,483,000	\$ 11,779,000	\$ 160,000	\$ 4,645,000	\$ 627,000	\$ 6,347,000
PS6	67,000	\$ 280,000	\$ 35,000	\$ 2,000	\$ 21,000	\$ 11,000	\$ 1,000
Other 7	567,000	\$ 210,000	\$ 208,000	\$ 1,000	\$ 194,000	\$ 11,000	\$ 2,000
Bi-Metal	759,000	\$ 197,000	\$ 354,000	\$ 1,000	\$ 222,000	\$ 17,000	\$ 114,000
LDPE4	3,000	\$ 6,000	\$ 2,000	\$ -	\$ 2,000	\$ -	\$ -
PP5	10,000	\$ 3,000	\$ 5,000	\$ -	\$ 5,000	\$ -	\$ -
PVC3	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	1,680,007,000	\$ 868,330,000	\$ 385,930,000	\$ 6,377,000	\$ 67,395,000	\$ 37,488,000	\$ 274,670,000

* **SR Claims Data CY 2011** - is sourced using the Department ERP system used to processing claims for payment. This is data is post adjudication and payment. Shipping Report (DR6) data is used for Consumer Transaction information.

* **Handling Fee Claims Data CY2011** - is sourced using the Department ERP system used to processing claims for payment. This is data is post adjudication and payment. Shipping Report (DR6) data is used for Consumer Transaction information.

** **Total Claimed** - Consumer Transaction data uses the claimed amounts and are not reduced for Percentage reduction applied to shipping reports. The consumer Transaction data is overstated for this reason and to provide a conservative estimate for use in this analysis.

*** **Calculated DRRR Notice** - The December 2011 Statewide Average Monthly Scrap Value Per ton notice was used to calculate the estimated scrap value of claimed Redemption weight for consumer Transaction by applying the appropriate value.

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Table 3: Summary of Shipping Report population used to derive the Consumer Transaction Values for Calendar Year 2011.

Mat Type	H	I	J	K	L	M
	Shipping Report Claims Data CY2011*	Calculated †	A / Total A	B / Total B	Shipping Report Claims Data CY2011*	Shipping Report Claims Data CY2011*
	Material Type Number of Shipping Reports	Material Type Mean of Average Daily Volume Per Shipping Report For Consumer Transactions	Material Type as % of Total Claimed Redemption Weight For Consumer Transactions	Material Type as % of Total Claimed Refund Value For Consumer Transactions	Material Type Receipt & Log Range Date From	Material Type Receipt & Log Range Date Through
AL	159,205	308	16.23%	48.34%	12/10/2010	1/18/2012
PET	205,370	368	20.49%	36.86%	12/11/2010	1/31/2012
GL	141,638	1104	60.88%	12.25%	12/14/2010	2/7/2012
HDPE	126,507	49	2.33%	2.47%	12/13/2010	2/27/2012
PS6	820	7	0.00%	0.03%	1/1/2011	12/31/2011
Other 7	8,716	6	0.03%	0.02%	12/11/2010	1/20/2012
Bi-Metal	8,998	8	0.05%	0.02%	12/21/2010	2/29/2012
LDPE4	73	8	0.00%	0.00%	1/2/2011	12/31/2011
PP5	126	3	0.00%	0.00%	12/20/2010	12/31/2011
PVC3	9	5	0.00%	0.00%	2/4/2011	12/24/2011
Total	651,462					

† Mean of Average Daily Volume per Shipping Report- was calculated when shipping report data was extracted from the Departments Data Warehouse. Claimed Redemption Weight for Consumer Transactions divided by (Receipt and Log Date Range+1) = Average Daily Volume for a shipping Report. This is an average of what the daily volume for redemption weight from consumer transaction at the shipping Recycling Center. This was calculated for each shipping report and then the average for all shipping reports was calculated.

Table 4: Summary of Consumer Transaction Values for Calendar Year 2011 by Operator

Quartiles	Number of Operators	Operator Number of RC Accounts	Operator Number of RC Receiving HF	Operator Total RL Refund Value *	Operator Total Non-CRV Values **	Operator Total Values	Number of Operators with Total Values Over 2 Million	Mean of RC Account Total Claimed RL	Mean of RC Account Total Non-CRV Values **
							Dollars	Refund Value *	Values **
1st Quartile	13	917	813	\$ 207,294,000	\$ 101,233,000	\$ 308,527,000	13	\$ 226,000	\$ 110,000
2nd Quartile	76	309	129	\$ 221,578,000	\$ 94,931,000	\$ 316,509,000	76	\$ 717,000	\$ 307,000
3rd Quartile	176	361	104	\$ 220,956,000	\$ 94,014,000	\$ 314,970,000	55	\$ 612,000	\$ 260,000
4th Quartile	801	1,032	246	\$ 218,502,000	\$ 95,752,000	\$ 314,254,000	0	\$ 212,000	\$ 93,000
Total	1,066	2,619	1,292	\$ 868,330,000	\$ 385,930,000	\$ 1,254,260,000	144	\$ 332,000	\$ 147,000

***RL Refund Value** - RL is an abbreviation for Receipt and Log Transactions these are Consumer Transactions. these are the claimed amounts are not reduced amounts if the claim was reduced for percentage reduction taken due to claimed redemption weight being greater than the received weight by a margin greater than 2.5%
****Non-CRV Values** - include Administration Fees, Processing Fees, Handling Fees, and Estimated Scrap Value

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Table 5: Consumer Transaction Profile Survey Data for Transactions of AL, PET1, and HDPE2 Greater than 100 lbs and Glass Greater than 1,000 lbs

Consumer Transaction Profile Survey Data for Transactions (AL, PET1, HDPE2) > 100 Lbs or Glass > 1,000 Lbs							
	<u>Number of Transaction Over 100 or 1000 Lbs</u>	<u>Number of Transaction Over 100 or 1000 LBS as % of Total Count</u>	<u>Weight of Transaction Over 100 or 1000 Lbs</u>	<u>Weight of Transaction Over 100 or 1000 LBS as % of Total Weight Lbs</u>	<u>Average Weight of Transaction Over 100 or 1000 Lbs</u>	<u>Median Weight of Transaction Over 100 or 1000 Lbs</u>	<u>Standard Deviation Weight of Transaction Over 100 or 1000 Lbs</u>
ALUMINUM	155	0.38%	25,875	7.4%	166.9	144.0	76.5
PET 1	255	0.76%	40,926	10.5%	159.9	133.0	75.3
GLASS	194	0.89%	303,383	18.0%	1,563.8	148.0	447.1
HDPE 2	27	0.19%	5,041	6.0%	186.7	1,437.5	96.8

Table 6: Consumer Transaction Profile Summary Data for all Survey data.

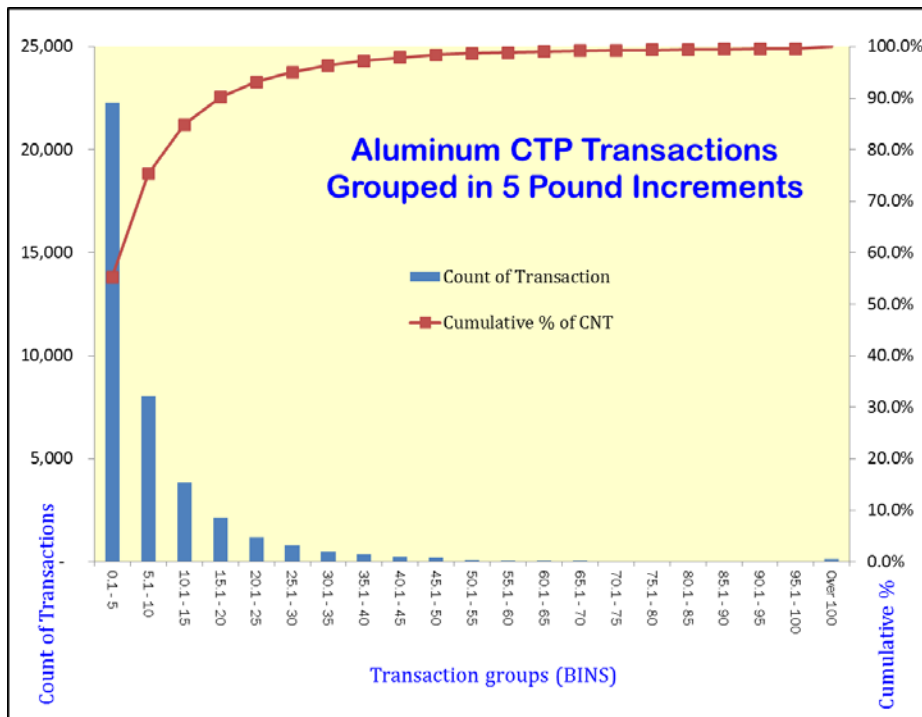
Consumer Transaction Profile Survey Data									
	<u>Total Number of Consumer Transactions</u>	<u>Total Weight of Consumer Transactions Lbs</u>	<u>Average Consumer Transaction Weight Lbs</u>	<u>Median Consumer Transaction Weight Lbs</u>	<u>Standard Deviation of Consumer Transaction Weight Lbs</u>	<u>Max Consumer Transaction Weight Lbs</u>	<u>Min Consumer Transaction Weight</u>	<u>Minimum CTP Date</u>	<u>Maximum CTP Date</u>
ALUMINUM	40,277	352,077	8.7	4.3	15.4	498	0.10	5/30/2001	8/23/2011
PET 1	33,744	390,529	11.6	6.0	19.6	500	0.10	5/30/2001	8/23/2011
GLASS	21,804	1,688,687	77.4	27.0	184.4	2,500	0.10	5/30/2001	8/23/2011
HDPE 2	14,494	84,068	5.8	2.9	12.1	467	0.10	6/2/2001	8/23/2011

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Table 7: Consumer Transaction Profile survey Aluminum data and histogram

ALUMINUM Consumer Transaction Profile Survey Data						
BIN Value	Count of Transaction	Cumulative % of CNT	Count of Transaction as % of Total	SUM Transaction Weight LBS	Sum Transaction Weight as % of Total	Cumulative % of Weight
0.1 - 5	22,282	55.3%	55.3%	49,911	14.2%	14.2%
5.1 - 10	8,043	75.3%	20.0%	58,905	16.7%	30.9%
10.1 - 15	3,856	84.9%	9.6%	47,553	13.5%	44.4%
15.1 - 20	2,148	90.2%	5.3%	37,664	10.7%	55.1%
20.1 - 25	1,196	93.2%	3.0%	26,916	7.6%	62.8%
25.1 - 30	779	95.1%	1.9%	21,496	6.1%	68.9%
30.1 - 35	517	96.4%	1.3%	16,850	4.8%	73.6%
35.1 - 40	347	97.2%	0.9%	13,053	3.7%	77.4%
40.1 - 45	261	97.9%	0.6%	11,163	3.2%	80.5%
45.1 - 50	199	98.4%	0.5%	9,496	2.7%	83.2%
50.1 - 55	118	98.7%	0.3%	6,229	1.8%	85.0%
55.1 - 60	82	98.9%	0.2%	4,741	1.3%	86.3%
60.1 - 65	68	99.1%	0.2%	4,283	1.2%	87.6%
65.1 - 70	55	99.2%	0.1%	3,733	1.1%	88.6%
70.1 - 75	38	99.3%	0.1%	2,759	0.8%	89.4%
75.1 - 80	37	99.4%	0.1%	2,871	0.8%	90.2%
80.1 - 85	33	99.5%	0.1%	2,726	0.8%	91.0%
85.1 - 90	22	99.5%	0.1%	1,931	0.5%	91.5%
90.1 - 95	18	99.6%	0.0%	1,674	0.5%	92.0%
95.1 - 100	23	99.6%	0.1%	2,247	0.6%	92.7%
Over 100	155	100.0%	0.4%	25,875	7.3%	100.0%
Grand Total	40,277		100.0%	352,077	100.0%	



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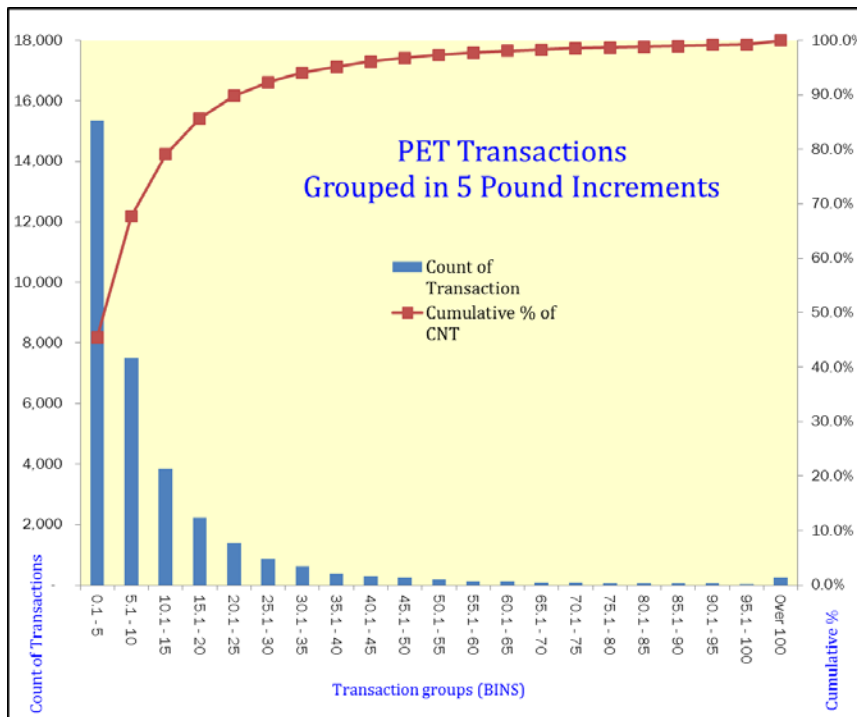
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Table 8: Consumer Transaction Profile survey PET data and histogram

PET Consumer Transaction Profile Survey Data						
BIN Value	Count of Transaction	Cumulative % of CNT	Count of Transaction as % of Total	SUM Transaction Weight LBS	Sum Transaction Weight as % of Total	Cumulative % of Weight
0.1 - 5	15,342	45.5%	45.5%	38,366	9.8%	9.8%
5.1 - 10	7,499	67.7%	22.2%	55,283	14.2%	24.0%
10.1 - 15	3,832	79.0%	11.4%	47,564	12.2%	36.2%
15.1 - 20	2,236	85.7%	6.6%	39,096	10.0%	46.2%
20.1 - 25	1,389	89.8%	4.1%	31,362	8.0%	54.2%
25.1 - 30	850	92.3%	2.5%	23,535	6.0%	60.2%
30.1 - 35	603	94.1%	1.8%	19,699	5.0%	65.3%
35.1 - 40	372	95.2%	1.1%	14,036	3.6%	68.9%
40.1 - 45	302	96.1%	0.9%	12,928	3.3%	72.2%
45.1 - 50	241	96.8%	0.7%	11,579	3.0%	75.1%
50.1 - 55	179	97.3%	0.5%	9,408	2.4%	77.6%
55.1 - 60	128	97.7%	0.4%	7,398	1.9%	79.4%
60.1 - 65	121	98.1%	0.4%	7,566	1.9%	81.4%
65.1 - 70	78	98.3%	0.2%	5,288	1.4%	82.7%
70.1 - 75	78	98.5%	0.2%	5,664	1.5%	84.2%
75.1 - 80	54	98.7%	0.2%	4,209	1.1%	85.3%
80.1 - 85	50	98.8%	0.1%	4,147	1.1%	86.3%
85.1 - 90	49	99.0%	0.1%	4,329	1.1%	87.4%
90.1 - 95	54	99.1%	0.2%	5,010	1.3%	88.7%
95.1 - 100	32	99.2%	0.1%	3,136	0.8%	89.5%
Over 100	255	100.0%	0.8%	40,926	10.5%	100.0%
Grand Total	33,744		100.0%	390,529	100.0%	



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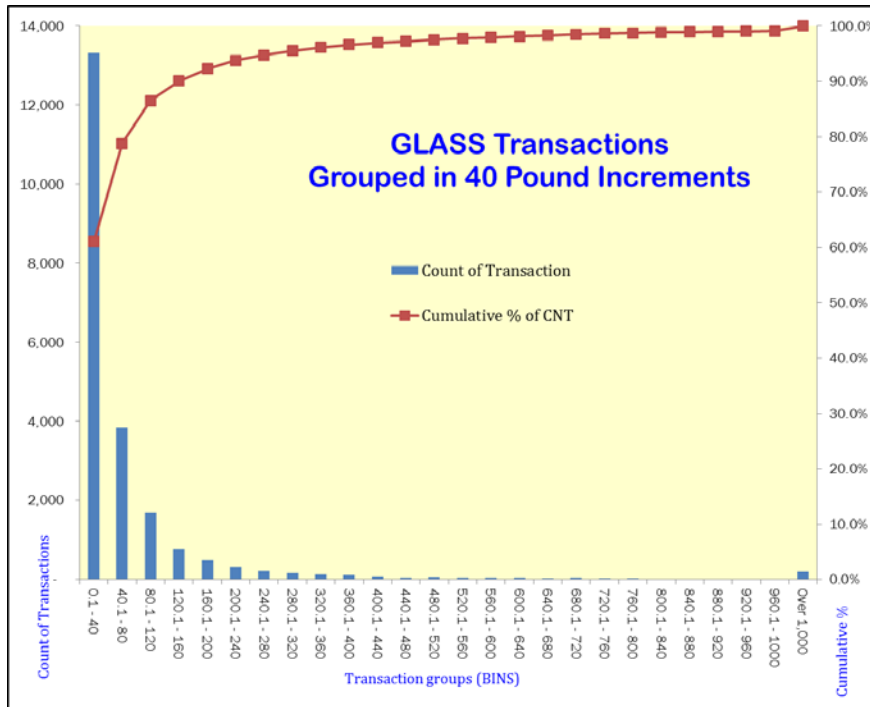
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Table 9: Consumer Transaction Profile survey Glass data and histogram

GLASS Consumer Transaction Profile Survey Data						
BIN Value	Count of Transaction	Cumulative % of CNT	Count of Transaction as % of Total	SUM Transaction Weight LBS	Sum Transaction Weight as % of Total	Cumulative % of Weight
0.1 - 40	13,324	61.1%	61.1%	206,462	12.2%	12.2%
40.1 - 80	3,851	78.8%	17.7%	221,815	13.1%	25.4%
80.1 - 120	1,686	86.5%	7.7%	166,376	9.9%	35.2%
120.1 - 160	782	90.1%	3.6%	108,387	6.4%	41.6%
160.1 - 200	480	92.3%	2.2%	86,507	5.1%	46.8%
200.1 - 240	322	93.8%	1.5%	70,716	4.2%	50.9%
240.1 - 280	220	94.8%	1.0%	57,543	3.4%	54.4%
280.1 - 320	162	95.5%	0.7%	48,735	2.9%	57.2%
320.1 - 360	132	96.1%	0.6%	45,267	2.7%	59.9%
360.1 - 400	114	96.6%	0.5%	43,713	2.6%	62.5%
400.1 - 440	75	97.0%	0.3%	31,710	1.9%	64.4%
440.1 - 480	56	97.2%	0.3%	25,772	1.5%	65.9%
480.1 - 520	68	97.6%	0.3%	34,195	2.0%	67.9%
520.1 - 560	47	97.8%	0.2%	25,631	1.5%	69.5%
560.1 - 600	40	98.0%	0.2%	23,452	1.4%	70.8%
600.1 - 640	43	98.2%	0.2%	26,835	1.6%	72.4%
640.1 - 680	34	98.3%	0.2%	22,454	1.3%	73.8%
680.1 - 720	46	98.5%	0.2%	32,465	1.9%	75.7%
720.1 - 760	32	98.7%	0.1%	23,775	1.4%	77.1%
760.1 - 800	23	98.8%	0.1%	17,901	1.1%	78.2%
800.1 - 840	19	98.9%	0.1%	15,689	0.9%	79.1%
840.1 - 880	12	98.9%	0.1%	10,377	0.6%	79.7%
880.1 - 920	15	99.0%	0.1%	13,606	0.8%	80.5%
920.1 - 960	14	99.1%	0.1%	13,146	0.8%	81.3%
960.1 - 1000	13	99.1%	0.1%	12,777	0.8%	82.0%
Over 1,000	194	100.0%	0.9%	303,383	18.0%	100.0%
Grand Total	21,804	100.0%	100.0%	1,688,688	100.0%	



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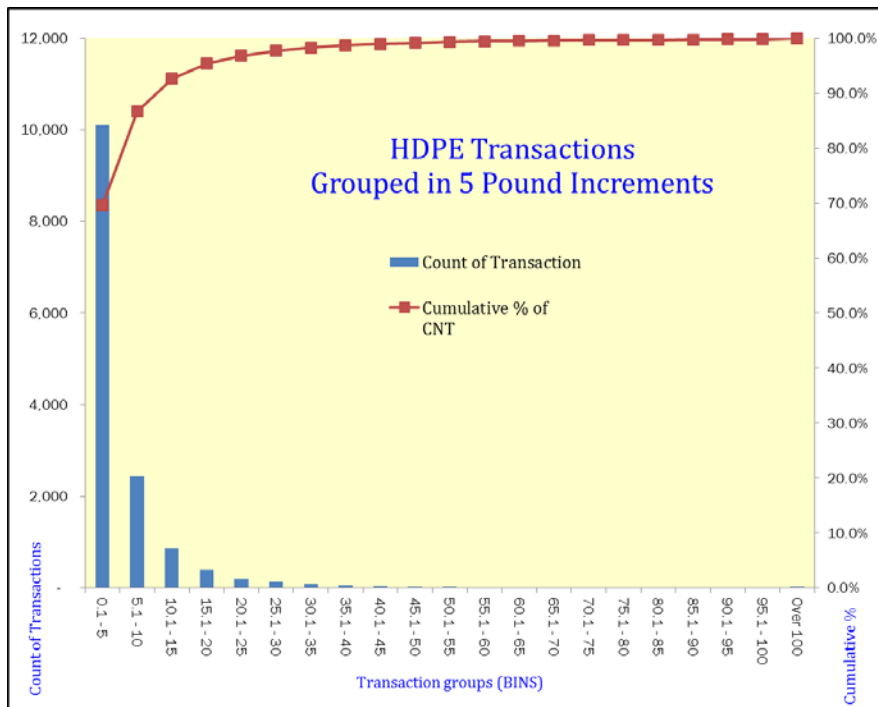
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Table 10: Consumer Transaction Profile survey HDPE data and histogram

HDPE Consumer Transaction Profile Survey Data						
BIN Value	Count of Transaction	Cumulative % of CNT	Count of Transaction as % of Total	SUM Transaction Weight LBS	Sum Transaction Weight as % of Total	Cumulative % of Weight
0.1 - 5	10,107	69.7%	69.7%	20,420	24.3%	24.3%
5.1 - 10	2,452	86.6%	16.9%	18,259	21.7%	46.0%
10.1 - 15	867	92.6%	6.0%	10,744	12.8%	58.8%
15.1 - 20	403	95.4%	2.8%	7,080	8.4%	67.2%
20.1 - 25	200	96.8%	1.4%	4,523	5.4%	72.6%
25.1 - 30	130	97.7%	0.9%	3,572	4.2%	76.8%
30.1 - 35	93	98.3%	0.6%	3,016	3.6%	80.4%
35.1 - 40	54	98.7%	0.4%	2,053	2.4%	82.9%
40.1 - 45	37	99.0%	0.3%	1,578	1.9%	84.7%
45.1 - 50	28	99.2%	0.2%	1,338	1.6%	86.3%
50.1 - 55	29	99.4%	0.2%	1,547	1.8%	88.2%
55.1 - 60	18	99.5%	0.1%	1,032	1.2%	89.4%
60.1 - 65	7	99.5%	0.0%	445	0.5%	89.9%
65.1 - 70	8	99.6%	0.1%	546	0.6%	90.6%
70.1 - 75	9	99.6%	0.1%	659	0.8%	91.4%
75.1 - 80	5	99.7%	0.0%	391	0.5%	91.8%
80.1 - 85	3	99.7%	0.0%	247	0.3%	92.1%
85.1 - 90	6	99.7%	0.0%	528	0.6%	92.8%
90.1 - 95	6	99.8%	0.0%	559	0.7%	93.4%
95.1 - 100	5	99.8%	0.0%	491	0.6%	94.0%
Over 100	27	100.0%	0.2%	5,041	6.0%	100.0%
Grand Total	14,494		100.0%	84,068	100.0%	



Continued

RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

TITLE 14. NATURAL RESOURCES

**DIVISION 2. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY - CHAPTER 5. DIVISION OF RECYCLING
ECONOMIC IMPACT ANALYSIS / ASSESSMENT: (ADDENDUM TO STD 399)**

Table 11: Estimated population of affected Consumer Transactions by Material Type and associated values.

Mat Type	N	O	P	Q	R	S	T
	Calculated ^^CTP Data (x) A ^Material Type Estimated Impacted Redemption Wt (Lbs) for Consumer Transactions Over 100 Lbs Or Glass > 1,000 Lbs	^Material Type Estimated Impacted Refund Value (CRV) for Consumer Transactions Over 100 Lbs Or Glass > 1,000 Lbs	^Material Type Estimated Impacted Non-CRV Total for Consumer Transactions Over 100 Lbs Or Glass > 1,000 Lbs	^Material Type Estimated Impacted Admin Fee for Consumer Transactions Over 100 Lbs Or Glass > 1,000 Lbs	^Material Type Estimated Impacted Processing Fee for Consumer Transactions Over 100 Lbs Or Glass > 1,000 Lbs	^Material Type Estimated Impacted Handling Fee for Consumer Transactions Over 100 Lbs Or Glass > 1,000 Lbs	^Material Type Estimated Impacted Scrap Value for Consumer Transactions Over 100 Lbs Or Glass > 1,000 Lbs
AL	20,173,000	\$ 31,060,000	\$ 16,333,000	\$ 228,000	\$ -	\$ 1,389,000	\$ 14,716,000
PET	36,138,000	\$ 33,605,000	\$ 11,043,000	\$ 247,000	\$ 2,356,000	\$ 1,430,000	\$ 7,010,000
GL	184,094,000	\$ 19,146,000	\$ 8,578,000	\$ 139,000	\$ 7,177,000	\$ 799,000	\$ 463,000
HDPE	2,344,000	\$ 1,289,000	\$ 708,000	\$ 10,000	\$ 279,000	\$ 38,000	\$ 381,000
PS6	4,000	\$ 17,000	\$ 2,000	\$ -	\$ 1,000	\$ 1,000	\$ -
Other 7	34,000	\$ 13,000	\$ 13,000	\$ -	\$ 12,000	\$ 1,000	\$ -
Bi-Metal	46,000	\$ 12,000	\$ 21,000	\$ -	\$ 13,000	\$ 1,000	\$ 7,000
LDPE4	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
PP5	1,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
PVC3	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	242,834,000	\$ 85,142,000	\$ 36,698,000	\$ 624,000	\$ 9,838,000	\$ 3,659,000	\$ 22,577,000

^ Estimated - all estimated values are based on using the ratio of CTP transactions over 100 or 1,000 Lbs. by weight to proportionally identify estimated impacts in payments to Recycling Centers. This is the scope of value that can be impacted. The department does not expect that this value will be lost. The values were calculated for each RC Account for each material type, then these values were summed for each material type then rounded to the nearest thousands. These values aggregated at the material level and rounded will not calculate out to the percentage in the CTP data table in the smaller amounts due to rounding to the thousands.

^^ CTP Data - Consumer Transaction Profile data. The Department engage a project to aggregate 10 years of CTP data to provide a Survey of Consumer Transactions. The results of this survey is the primary source of data to determine potential financial impacts of changing load limits by providing a profile of consumer activity independently verified by Department staff.

^^ CTP Transactions Over 100 Lbs OR Glass > 1,000 LBbs - Consumer Transaction Profile transaction for Aluminum, PET1 and HDPE2 greater than 100 Lbs. and Glass transactions greater than 1,000 Lbs. This is the population being used to estimate potential impacts

^^^ Scope of valuations that could be impacted due to lowering consumer load limits - It is assumed that the majority of these values will still be available to program participants (RC Accounts), but based on more transactions under 100 or 1,000 pounds. These are not expected losses.

Table 12: Estimated population of affected Consumer Transactions by Operator

Quartiles	Operator			Estimated Scope of Value for Consumer Transactions Over 100 Lbs or Glass Transactions over 1,000 Lbs				
	Number of Operators	Number of RC Accounts	Operator Number of RC Accounts Receiving HF	Operators	Operators	Operators	Mean of	Mean of
				RL Refund Value	Non-CRV Value	Total Value	RL Refund Value Per RC Account	Non-CRV Value Per RC Account
1st Quartile	13	917	813	\$ 20,396,000	\$ 9,639,000	\$ 30,035,000	\$ 22,000	\$ 11,000
2nd Quartile	76	309	129	\$ 22,014,000	\$ 9,132,000	\$ 31,146,000	\$ 71,000	\$ 30,000
3rd Quartile	176	361	104	\$ 21,598,000	\$ 8,927,000	\$ 30,525,000	\$ 60,000	\$ 25,000
4th Quartile	801	1,032	246	\$ 21,134,000	\$ 9,000,000	\$ 30,134,000	\$ 20,000	\$ 9,000
Total	1,066	2,619	1,292	\$ 85,142,000	\$ 36,698,000	\$121,840,000	\$ 33,000	\$ 14,000

Continued

RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS
 TITLE 14. NATURAL RESOURCES
 DIVISION 2. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY - CHAPTER 5. DIVISION OF RECYCLING
 ECONOMIC IMPACT ANALYSIS / ASSESSMENT: (ADDENDUM TO STD 399)

Table 13: Comparison of Annualized Valuations for Consumer Load Limits

Consumer Load Limit Scenario Annualized Valuations

ALUMINUM		
Max transaction Limit:	500	100
Daily Containers @ 28.7 per LB:	14,350	2,870
Daily CRV @ \$ 1.57 LB:	\$ 785	\$ 157
Annualized Containers @ 250 Workdays / Yr	3,587,500	717,500
Annualized CRV @ 250 Workdays / Yr	\$ 196,250	\$ 39,250

PET		
Max transaction Limit:	500	100
Containers @ 15.7 per LB:	7,850	1,570
Daily CRV @ \$ 1.00 Lb:	\$ 500	\$ 100
Annualized Containers @ 250 Workdays / YR	1,962,500	392,500
Annualized CRV 250 Workdays / YR	\$ 125,000	\$ 25,000

GLASS		
Max transaction Limit:	2,500	1000
Containers @ 1.86 per LB:	4,650	1,860
Daily CRV @ \$ 0.105 Lb:	\$ 263	\$ 105
Annualized Containers @ 250 Workdays / YR	1,162,500	465,000
Annualized CRV 250 Workdays / YR	\$ 65,750	\$ 26,250

HDPE		
Max transaction Limit:	500	100
Containers @ 6.8 per LB:	3,400	680
Daily CRV @ \$ 0.57 Lb:	\$ 285	\$ 57
Annualized Containers @ 250 Workdays / YR	850,000	170,000
Annualized CRV 250 Workdays / YR	\$ 71,250	\$ 14,250

*Workdays per year is a 50 week work year and 5 days per week = 250 workdays in a standard work year.

Continued

RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS
 TITLE 14. NATURAL RESOURCES
 DIVISION 2. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY - CHAPTER 5. DIVISION OF RECYCLING
 ECONOMIC IMPACT ANALYSIS / ASSESSMENT: (ADDENDUM TO STD 399)

Table 14: Program Rates Effective January 1, 2011

PAYMENT OF CALIFORNIA REFUND VALUE EFFECTIVE JANUARY 1, 2011			
California Code of Regulations, Title 14, Section 2500(e), requires recycling centers to post the following refund prices by weight or by container and by material type.			
Table 1. ALL RECYCLING CENTERS			
Material Type	(A) Containers Per Segregated Pound	(B)* Refund Value Per Segregated Pound	(C)* Refund Value Per Commingled Pound
Aluminum	29.1	\$ 1.54	\$ 1.43
Glass	1.86	\$ 0.104	\$ 0.073
#1 PET Plastic	14.5	\$ 0.93	\$ 0.73
#2 HDPE (High Density Polyethylene)	6.5	\$ 0.55	\$ 0.21
#3 PVC (Vinyl)	26.7	\$ 1.33	Segregated Only
#4 LDPE (Low Density Polyethylene)	39.7	\$ 1.98	Segregated Only
#5 PP (Polypropylene)	3.2	\$ 0.31	Segregated Only
#6 PS (Polystyrene)	83.7	\$ 4.18	Segregated Only
#7 Other (includes pouches and unspecified resins)	4.6	\$ 0.37	Segregated Only
Bimetal	5.0	\$ 0.26	Segregated Only
Table 2. REVERSE VENDING MACHINES ONLY**			
Material Type	Refund Value Per Commingled Pound		
Aluminum	\$ 1.54		
Glass	\$ 0.101		
PET Plastic	\$ 0.91		
Table 3. CURBSIDE PROGRAMS ONLY			
Material Type	Refund Value Per Commingled Pound		
Aluminum	\$ 1.35		
Glass	\$ 0.039		
PET Plastic	\$ 0.58		
HDPE Plastic	\$ 0.06		
Table 4. DROPOFF or COLLECTION PROGRAMS ONLY			
Material Type	Refund Value Per Commingled Pound		
Aluminum	\$ 1.46		
Glass	\$ 0.044		
PET Plastic	\$ 0.68		
HDPE Plastic	\$ 0.06		
Table 5. COMMUNITY SERVICE PROGRAMS ONLY			
Material Type	Refund Value Per Commingled Pound		
Aluminum	\$ 1.40		
Glass	\$ 0.056		
PET Plastic	\$ 0.72		
HDPE Plastic	\$ 0.08		
<p>*(B) and (C) only are to be used to calculate the Refund Payment.</p> <p>** For machines intake volumes only.</p> <p>Note: The containers that produce the <u>Containers Per Segregated Pound</u> (CPP) in column (A) vary in size. Consequently, the refund value is \$0.05 for some containers (<24 oz.) and \$0.10 for others (≥24 oz.). Therefore, one cannot simply multiply the CPP average by either refund value to get the <u>Refund Value Per Segregated Pound</u> rates, column (B).</p>			

RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY - CHAPTER 5. DIVISION OF RECYCLING
ECONOMIC IMPACT ANALYSIS / ASSESSMENT: (ADDENDUM TO STD 399)

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Underline *Proposed Permanent Additions*
~~Strikeout~~ *Proposed Permanent Deletions*

TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT OF CONSERVATION
CHAPTER 5 DIVISION OF RECYCLING
SUBCHAPTER 6. RECYCLING CENTERS

Article 3. Accounting and Reporting Requirements

§2530. REPORTING.

Recycling centers shall prepare and submit all of the following reports in accordance with the general requirements for reporting of section 2090 of these regulations.

(a) A shipping report for each delivery (of material subject to the Act) between:

- (1) the recycling center and any other recycling center; or
- (2) the recycling center and the processor; or
- (3) the recycling center and a dropoff or collection program, community service program or curbside program, as provided in subdivision (f), below.

(b) The shipping recycling center shall indicate on the shipping report all information listed under subsection 2530(e)(1) through (6), provide the shipping report containing this information to the person receiving the shipment and shall retain a completed copy; the shipping report shall accompany the material shipped, except as noted in (1) below. For shipments to processors, the recycling center shall receive a copy of the completed shipping report from the processor upon payment, pursuant to section 2430(a)(1) of these regulations.

(1) In the case of glass, recyclers may add up the daily summaries until total weight is equal to received weight and claim the corresponding redemption weight and refund value. In such cases, a shipping report need not accompany the load.

(c) The shipping report shall be based upon any receipts or log entries prepared pursuant to section 2525 above, or any shipping reports for material received by recycling centers from other recycling centers.

(d) Copies of any shipping reports for material received by a recycling center from other recycling centers, dropoff or collection programs, community service programs, or curbside programs, shall be appended to the shipping report prepared pursuant to this section.

(e) Except as provided for in subsection (f) below, a separate shipping report shall be prepared for each material type and shall include all of the following information:

- (1) The name, address, and certification number of the recycling center shipping the material as well as the name and telephone number of a contact person; and
- (2) The name and certification number of the recycling center or processor receiving the material; and
- (3) The period and the material type covered by the report; and

(4) The following information based upon the information contained in the receipts and logs and the received shipping reports:

(A) Total weight of empty beverage containers purchased by basis for refund value payment (e.g. segregated and weighed, commingled and weighed, segregated and counted).

(B) The redemption weight of the material.

(C) The total refund value.

(5) The number of attached shipping reports which pertain to material included in the shipment.

(6) The printed name, title and signature of an authorized representative of the recycling center and the date signed.

(f) For material received by the recycling center from a dropoff or collection program, community service program or curbside program, the recycling center shall prepare a separate shipping report for each material type and provide a copy of the completed shipping report to the shipping dropoff or collection program, community service program or curbside program. Shipping reports prepared pursuant to this subsection shall contain all of the following information:

(1) The name, certification or identification number for the entity shipping the material, as well as the name and telephone number of a contact person; and

(2) The name and certification number of the recycling center receiving the material; and

(3) The date the material was received and the material type covered by the report; and

(4) The received weight, excluding rejected containers, line breakage, and out-of-state containers; and

(5) The refund value paid; and

(6) The name and signature of the shipper or an authorized representative of the shipper and the date signed; and

(7) The name and signature of an authorized representative of the recycling center and the date signed; and

(8) The weight ticket date and weight ticket number; and

(9) The shrinkage deduction taken, if any.

(10) The redemption weight; and, for plastic, aluminum, and glass, collected by a curbside program, or a dropoff or collection program that meets the requirements of Section 2850, the registered curbside program or certified entity eligible for the quality incentive payment shall be identified as either the Shipper (S), or the Receiver (R) in the QIP (Quality Incentive Payment) Box.

(g) For material received by a recycling center from another recycling center, the receiving recycling center shall ensure that all the information specified in subsection 2530(f)(1) through (8) is recorded on the report and provide a copy of the completed shipping report to the shipping recycling center.

(h) To obtain handling fees, only those recycling centers eligible for such fees, as described in section 2516, shall submit a Handling Fee Application Form (Form DR-14 (1/00)) to the Division for the calendar month for which handling fees are being claimed. The Form DR-14 (1/00) shall be submitted no later than the first day of the second

month following the reporting month. Forms submitted after this date, and incorrectly completed forms, will be denied for payment and the handling fee will be forfeited for that calendar month. Forfeiture for that calendar month will not affect eligibility for subsequent months. There shall be a separate Form DR-14 (1/00) completed for each supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler which shall include all of the following information in addition to that required by section 2090 of these regulations:

- (1) The calendar month and year covered by the report; and
- (2) The name, and mailing address of the recycling center; and
- (3) The name and telephone number of a contact person; and
- (4) The certification number of the supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler; and,
- (5) A change of mailing address, ownership or a closing of the supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler; and
- (6) The weight, to the nearest tenth of a pound, of empty beverage containers, by material type, redeemed by that recycling center, at that supermarket site, nonprofit convenience zone recycler, or rural region recycler, only from consumers delivering that material during the hours the recycling center was open for business. This weight shall be taken from the receipts and logs of that recycling center for that calendar month; and,
- (7) The signature and title of an authorized representative of the recycling center in accordance with subsections 2090(d)(4) and (5) of subchapter 2 of these regulations; and
- (8) The date the application was signed.

~~(i) Each recycling center shall maintain a separate list of all purchases of more than 250 pounds of aluminum beverage containers. Such list (or legible copies of the receipts) shall be sent to the Division weekly and shall contain all of the following information, taken from the receipt prepared pursuant to section 2525(a) of these regulations:~~

- ~~(1) The receipt number for the transaction; and~~
- ~~(2) The name of the person selling the material; and~~
- ~~(3) The additional identifying information of the person selling the material; and~~
- ~~(4) The name, address, and certification number of the recycling center submitting the list; and~~
- ~~(5) The transaction date; and~~
- ~~(6) The pounds purchased on the receipt; and~~
- ~~(7) The total amount paid.~~

~~(i)~~(i) Recycling centers purchasing materials directly from more than one curbside program, dropoff or collection program, or community service program may apply to the Division to request the use of alternative methods for preparing the corresponding shipping reports. The Division shall consider each proposed alternative method and issue a written approval or denial within forty-five (45) calendar days.

- (1) In order for alternative methods to be accepted, they must be based on reasonable allocation methods.
- (2) An application for an alternative allocation method shall be denied if:

(A) The received weight of the material purchased by an entity from the recycling center is not used to calculate allocations to the curbside programs, dropoff or collection programs, or community service programs; or

(B) The recycling center does not ensure that the weight of rejected containers, line breakage, and out-of-state containers is not included in the allocated weight (this does not require a physical separation); or

(C) The recycling center does not account for each incoming load of material; or

(D) The recycling center does not inspect incoming material to verify that it is eligible for refund value payments, as specified in section 2501.

(3) Recycling centers may file a formal appeal by writing the Assistant Director for Recycling within thirty (30) calendar days after the receipt of a notice denying an application requesting an alternative method for shipping report preparation. Appeals submitted after this time period shall be rejected. All written appeals shall include:

(A) A copy of the notice denying the allocation method;

(B) A detailed explanation of why the determination was in error; and,

(C) Any other documentation that supports the appeal.

(4) A written decision on the appeal shall be sent to the recycling center within seven (7) calendar days of the receipt of the appeal.

Authority: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14526.6, 14538, 14549.1 and 14585, Public Resources Code.

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

(a) Recycling centers shall pay on delivery the refund value for every empty beverage container not donated to the recycling center.

(b) For deliveries to a recycling center, except reverse vending machines:

(1) The consumer has the option of being paid based on count for up to 50 empty beverage containers of each material type.

(2) The recycler may pay based on count for all deliveries of empty beverage containers received from consumers.

(c) Notwithstanding any other provision of this subchapter, recycling centers shall not pay dropoff or collection, community service, and curbside programs more than the relevant commingled rate.

(d) Calculation of Payment.

(1) If the material received from consumers is segregated, as determined by the load inspection required by section 2501 of these regulations, and payment is based upon weight, payment shall be calculated by multiplying the actual weight of the empty beverage containers, by the applicable segregated refund value per pound for the relevant material type.

(2) If the payment is based on the actual number of empty beverage containers, the payment shall be based upon the following:

(A) in the case of recycling centers other than a reverse vending machine, the number of the empty beverage containers, multiplied by the refund value per empty beverage container for the relevant material type and size; or,

(B) in the case of a reverse vending machine, the number of empty beverage containers, multiplied by the refund value per empty beverage container for the relevant material type and size. If the reverse vending machine accepts empty beverage containers in gross, rather than by individual containers, and pays based on weight, the payment shall be based on the applicable refund value per pound rate.

(3) For commingled materials delivered from a dropoff or collection program, community service program or curbside program, payment shall be based on the received weight of the commingled material, excluding the weight from the line breakage, rejected out-of-state material, multiplied by the applicable commingled rate, or the Division's approved individual commingled rate.

(4) For commingled materials delivered from another recycling center, payment shall be based on the received weight of the commingled material, excluding the weight of line breakage, rejected and out-of-state material, multiplied by the applicable commingled rate.

(5) For commingled materials delivered from consumers, payment shall be based on the received weight of the material, multiplied by the applicable commingled rate.

(e) Recycling centers shall have the option to refuse to accept empty beverage containers which, in the opinion of the recycling center, are excessively contaminated with dirt, moisture, or other foreign substances ("shrinkage"). Alternatively, recycling centers may adjust downward the refund value per pound used to calculate payment by the ratio of such substances to empty beverage containers.

(f) A certified recycler shall not pay the refund value to, or claim refund value for any material received from any person, operation or entity who is not certified by the Division, delivering a load of material in excess of ~~500~~100 pounds of aluminum or plastic beverage containers, or ~~2,500~~1,000 pounds of glass beverage containers, per day. This limitation is applicable to all transactions, including those performed pursuant to section 2500(h) of these regulations.

(1) It is a violation of this Section for a recycling center to split loads in excess of the aforementioned weights, or accept during any one day an aggregate total of material in excess of the aforementioned weights from any person not certified by the Division.

Authority: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14552(a), 14572 and 14572.5, Public Resources Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME Resources Recycling and Recovery	CONTACT PERSON Chris Reed	TELEPHONE NUMBER (916) 327-7598
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Recycling Center Daily Load Limits		NOTICE FILE NUMBER Z

ECONOMIC IMPACT STATEMENT**A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)**

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input checked="" type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.) |

h. (cont.) _____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: 1042 Describe the types of businesses (Include nonprofits.): Certified Recycling Centers
See Section III - Economic and Fiscal Impact Statement Narrative - Page 1 - Section I.A.2

Enter the number or percentage of total businesses impacted that are small businesses: 10303. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: _____

4. Indicate the geographic extent of impacts: Statewide Local or regional (List areas.): _____5. Enter the number of jobs created: 0 or eliminated: 0 Describe the types of jobs or occupations impacted: _____

See Section III - Economic and Fiscal Impact Statement Narrative - Page 2 - Section I.A.5.b & c

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

 Yes No If yes, explain briefly: _____**B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)**

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: 0b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: 0c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 0

d. Describe other economic costs that may occur: _____

See Section III - Economic and Fiscal Impact Statement Narrative - Page 3 - Section I.B.1.d

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

2. If multiple industries are impacted, enter the share of total costs for each industry: NA

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): \$ 0

4. Will this regulation directly impact housing costs? Yes No If yes, enter the annual dollar cost per housing unit: _____ and the number of units: _____

5. Are there comparable Federal regulations? Yes No Explain the need for State regulation given the existence or absence of Federal regulations: See Section III - Economic and Fiscal Impact Statement Narrative - Page 3 - Section I.B.5.b

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: See Section III - Economic and Fiscal Impact Statement Narrative - Pages 3 & 4 - Section I.C.1

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?

Explain: See Section III - Economic and Fiscal Impact Statement Narrative - Page 4 - Section I.C.2

3. What are the total statewide benefits from this regulation over its lifetime? \$ 90K-7M

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: No alternatives were considered because leaving the current consumer load limits in place would diminish the effectiveness of any alternative.

See Section III - Economic and Fiscal Impact Statement Narrative - Pages 4 thru 8 starting at Section I.D.1

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$ _____	Cost: \$ _____
Alternative 1:	Benefit: \$ _____	Cost: \$ _____
Alternative 2:	Benefit: \$ _____	Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? Yes No

Explain: See Section III - Economic and Fiscal Impact Statement Narrative - Page 8

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million ? Yes No (If No, skip the rest of this section.)

2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: \$ _____ Cost-effectiveness ratio: \$ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____
(FISCAL YEAR)

2. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

a. implements the Federal mandate contained in _____

b. implements the court mandate set forth by the _____
court in the case of _____ vs. _____

c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____
election; (DATE)

d. is issued only in response to a specific request from the _____
_____, which is/are the only local entity(s) affected;

e. will be fully financed from the _____ authorized by Section _____
(FEES, REVENUE, ETC.)
_____ of the _____ Code;

f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Savings of approximately \$ _____ annually.

4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

5. No fiscal impact exists because this regulation does not affect any local entity or program.

6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year. It is anticipated that State agencies will:

a. be able to absorb these additional costs within their existing budgets and resources.

b. request an increase in the currently authorized budget level for the _____ fiscal year.

2. Savings of approximately \$ _____ in the current State Fiscal Year.

3. No fiscal impact exists because this regulation does not affect any State agency or program.

4. Other.




C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year.

2. Savings of of approximately \$ _____ in the current State Fiscal Year.

3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

4. Other.

FISCAL OFFICER SIGNATURE 		DATE 2/6/13
AGENCY SECRETARY ¹ APPROVAL/CONCURRENCE 		DATE 2/28/13
DEPARTMENT OF FINANCE ² APPROVAL/CONCURRENCE 	PROGRAM BUDGET MANAGER	DATE 3/28/13

1. The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

2. Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.

Economic and Fiscal Impact Statement (STD. 399, Rev. 12/2008) Narrative:

I. Economic Impact Statement

Note to Reader: This document is intended to be used as a narrative reference to the responses and information listed on the STD 399 form

A. Estimated Private Sector Cost Impacts

2. ***Total number of businesses impacted.*** As of May 2012, there were 1,042 certified recycling center operators. They operate 2,307 certified recycling centers.

Describe the types of business. Only certified recycling centers will be affected. The overwhelming majority of certified recycling center operators are private sector companies engaged in the waste or scrap industry. The applicable classification for certified recycling center operators is NAICS 423930 "Recyclable material merchant wholesalers."

The number or percentage of total business impacted that are small businesses. The Department identifies 1,030 of the 1,042 certified recycling center operators as small businesses. The basis used by the Department for identify small businesses using available data are:

- *Not dominant in field of operation.* The Department identified certified recycling center operators with 10 or fewer certified recycling centers as the criteria.
- *Principle office located in California.*
- *Annual receipts of \$4.5 million or less.* The Department identified certified recycling center operators with \$4.5 million of Non-CRV value based on consumer transactions.

The Department based these criteria upon the eligibility requirements for Small Business certification published by the Department of General Services:

- Be independently owned and operated.
- Not dominant in field of operation.
- Principle office located in California.
- Owners domiciled in California.
- Including affiliates, be either; a business with 100 or fewer employees, or average annual gross receipts of \$14 million or less, over the past three tax years.

The Department is unable to accurately estimate/identify the number of employees associated with certified recycling center operators.

A large percentage of the certified recycling center operators are also engaged in waste and scrap business activity that have revenues equal to or greater than the revenue produced by their certified recycling center transactions.

The Department divided \$14 million by 3 years to derive approximately \$4.5 million of annual revenue as a criterion.

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5. Total number of jobs created or eliminated.

- a. The number of jobs created or eliminated is assumed to be zero by the Department. The Department assumes potential impacts on the volume of CRV UBC material redeemed will be offset by an increase in the number of consumer transactions. The Department assumes implementation of the proposed regulation modifications should result in individual consumer transactions currently greater than 1,000 lbs. for glass and 100 lbs. for the remaining CRV UBC material types will be divided into multiple smaller consumer transactions that fall within the regulations and qualifying the consumer transactions for CRV payments.
- b. The Department estimates the elimination of approximately 0.04 full time employee positions per certified recycling center. While the Department does estimate a potential impact on 89 full time employees (FTE) statewide, when distributed across all 2,307 certified recycling centers, this would result in the elimination of a mere 0.04 FTE per certified recycling center. As a practical matter, this will not result in the elimination of any actual positions. Of the 1,042 certified recycling center operators 781 operate a single certified recycling center. These certified recycling centers likely have the owner operator working at the facility and performing consumer transaction without any employees (jobs) to be impacted.
- c. The Jobs or occupations impacted are likely to be staff receiving CRV UBC material for redemption and documenting the consumer transaction.

The jobs impacts were estimated/calculated using data points from the CRI study “Understanding the Domestic Jobs Impacts from Different Methods of Recycling Beverage containers in Part 2 (pages 23-28), specifically page 25 “Collection: Container deposit-return (CDR)”. The report identified three categories with impacts on Full Time Employment (FTE) associated with CDR processes. The values identified in the CRI study and used in this analysis are:

- 6.71 jobs for collection of UBC materials, and
- 0.28 jobs for administration, management and maintenance, and
- 0.35 jobs for Transportation.
- This yielded a combined value of 7.34 jobs per 1,000 tons of UBCs collected for this stage of the CDR system’s container life cycle.

The Department estimates approximately 243 million pounds of CRV UBC material redemption weight as the population of potentially affected consumer transactions impacted by implementation of proposed regulation modifications. (See Table 11, Page 22 of the Economic Impact Analysis / Assessment)

- As stated earlier, the Department assumes a potential loss of 10% in consumer transactions, which would account for 24,300,000 lbs. of CRV UBC material (243,000,000 lbs. x 10%).
- The 24,300,000 lbs. represents 12,150 tons of CRV UBC material (24,300,000 lbs. / 2,000 lbs.).
- Applying the CRI study ratio of 7.34 jobs per 1,000 tons CDR material would result in a potential impact to approximately 89 FTEs due to a potential reduction in material volumes. (12,150 tons / 1,000 = 12.15) (12.15 x 7.34 = 89.181)

B. Estimated Costs

1. Statewide Dollar cost for Business

- d. Describe other economic costs that may occur:

There is a potential economic impact to consumers of \$8,514,200 if they choose to not redeem eligible CRV UBC material due to implementation of proposed reductions in the allowable daily load limits. These figures are discussed in detail in the document “Economic Impact Analysis/Assessment” that is a part of this rulemaking package.

There is a potential economic impact to certified recycling center operators for \$3,669,800 if consumers choose to not redeem eligible CRV UBC material due to implementation of proposed reductions in the allowable daily load limits. These figures are discussed in detail in the document “Economic Impact Analysis/Assessment” that is a part of this rulemaking package.

5. Are there comparable Federal Regulations?

- b. There are no comparable Federal regulations.

The proposed regulation changes are specific to the CBCRP. The CBCRP is a state mandated program and does not have any operating and or compliance elements that fall under Federal statute and or guidelines. CRV UBC material redeemed in California for CRV is a process that is unique to California.

C. Estimated Benefits

1. Briefly summarize benefits resulting from this regulation and who will benefit

Direct Benefit (measurable):

The proposed regulations to reduce the daily allowable load limits, if implemented, will remove a reporting requirement mandated by the current regulations. Current regulations require that all aluminum transactions more than 250 pounds be documented and the data be transmitted to the Department on at least a weekly basis (14CCR Section 2530(i)). The Department received 24,500 individual two hundred fifty pound reports from certified recycling center operators in calendar year 2011. The Department expects program participants to reduce their administrative costs with the removal of this reporting requirement. There is no additional programming, record keeping, reporting or other paperwork cost to California businesses impacted by the adoption of the regulation changes.

The Department estimates approximately 4,083 hours of work will be eliminated. This is approximately 2 full time positions, with an equivalent value of approximately \$90,000 in payroll savings assuming an average of \$45,000 per position annually. This is an estimate of the cost currently associated with the support required for compliance with 14CCR Section 2530(i).

This benefit will be shared by certified recycling center operators and the Department. The Department will realize the majority of this benefit compared to any other single entity.

The process for compliance with 14CCR Section 2530(i) reporting requires certified recycling center operators to identify aluminum consumer transaction over 250 lbs. in their transaction records, duplicate the information, and transmit (fax or mail) the documentation to the Department. The Department receives the documents and enters them into a reporting system, the transmitted documentation is then filed and archived.

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Conservatively, assuming a total of 10 minutes per transaction record for the entire process results in 4,083 hours spent managing these reports annually (24,500 reports x 10 minutes = 245,000 minutes / 60 minutes = 4,083.3 hours). At 2,000 hours for a full time position annually this equates to approximately 2 full time positions between the certified recycling center operators and the Department.

Indirect Benefit (immeasurable):

The intent and purpose of the proposed regulations to reduce the daily load limits is to protect the public interest concerning approximately \$850 million dollars of CRV payments each year. Illegal redemption of out of state UBC material for illegitimate payments of CRV is conservatively estimated at approximately \$7 million dollars annually. (See background section in Cost Estimating Methodology.) Reducing consumer load limits is one of multiple strategies being used as part of a larger plan to address abuse and fraud of CRV payments associated with consumer transactions.

2. Are the benefits the results of...

Goals developed by the Agency based on broad statutory authority? Yes

Explain. The California Beverage Container Recycling and Litter Reduction Act establishes broad statutory authority for the Department to adopt regulations "...which the department determines may be necessary or useful to carry out this division or any of the department's duties or responsibilities imposed pursuant to this division." Public Resources Code Section 14530.5(b).

D. Alternative to the Regulation

1. List Alternative considered and describe below

Alternatives:

The Department has demonstrated the current daily load limits for consumers redeeming CRV UBC material as are too high. The Department is unable to identify any legitimate need for consumers to regularly recycle loads as large as those allowed by the current daily limits. Nor is the Department able to identify how consumers will be unduly denied redemption opportunities due to lower daily load limits. See Table 5, Page 17 of the Economic Impact Analysis / Assessment.

Any alternatives that do not lower the daily load limits for consumers redeeming CRV UBC material will leave the current unreasonably high load limits in place thus maintaining what has proven to be an irresistible incentive for abuse and fraud. The Department believes that leaving the current daily load limits in place would render any alternatives ineffective at reducing fraud.

The proposed modification to existing regulations defining the daily load limits are technical in nature and are intended to reduce the excessive risk of loss to the Fund associated with abuse and fraud facilitated by the excessively high daily load limits currently established by regulation. The proposed modifications are intended to correct flaws in existing regulations, and as such, the Department is unable to identify a reasonable alternative. The Department believes adoption and implementation of the proposed modifications to the existing regulations provides the most reasonable, least burdensome, and most cost-effective approach to achieve the purposes of the existing regulations in a manner that ensures full compliance with the law being implemented.

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The proposed modifications to allowable daily load limits are intended to correct flaws in existing regulations, and as such, the Department is unable to identify a reasonable alternative. The Department believes correcting the flawed regulations is the only possible action for achieving the purposes sought for needs/issues 1, 2, and 3 outlined below.

The Department believes adoption and implementation of the proposed modifications to the existing regulations for daily load limits for consumers redeeming CRV UBC material at certified recycling centers is the only reasonable approach to achieving the purposes sought.

The Department believes adoption and implementation of the proposed modifications to the existing regulations for daily load limits is the least burdensome and most cost-effective approach in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented.

The Department is concurrently engaged in several efforts addressing the needs/issues outlined above that are meant to integrate with the proposed regulation changes for lowering the current daily load limits for consumers redeeming CRV.

- The Department has an interagency agreement with California Department of Food and Agriculture to monitor the importation of out of state UBC material. This interagency agreement began in Fiscal Year 2012-2013.
- The Department is developing regulations for implementation of Public Resources Code 14596(a) associated with reporting and inspecting UBC materials imported into CA from out-of-state.

The Department believes adoption and implementation of the proposed regulations amending the current daily load limits for consumer redemption of UBC material for CRV addresses three specific issues (listed in descending order of magnitude):

1) Illegal redemption of out of state UBC material imported into California.

Large loads of imported UBC material are broken down into multiple smaller loads to circumvent the current daily load limits for consumer redemption of UBC material for CRV. The smaller loads of illegal UBC materials are redeemed for CRV at certified recycling centers by parties representing themselves as consumers.

Current daily load limits allow an individual consumer to redeem 2,500 lbs. of glass and 500 lbs. of Aluminum, PET, HDPE, Bi-Metal, and Plastic #3 through #7 per certified recycling center each day. Under the current regulations, an individual working 5 days a week, for 50 weeks per year could receive illegal CRV payments for the following amounts every year:

- \$192,250 of Aluminum (3,587,500 containers, 125,000 lbs.)
- \$125,000 of PET (1,962,500 containers, 125,000 lbs.)
- \$65,750 of Glass (1,162,500 containers, 625,000 lbs.)
- \$71,250 of HDPE (850,000 containers, 125,000 lbs.)

Total annual CRV value for these four CRV UBC materials combined is \$454,250 which is equivalent to 6,713,350 containers or approximately 1,000,000 lbs.

The current large daily load limits provide an efficient means commit fraud by illegally redeeming large volumes of out-of-state UBC material for CRV. This is a primary factor currently exposing the Fund to loss from fraud.

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The current large daily load limits provide an excessive economic incentive to engage in the illegal redemption of out-of-state UBC materials at certified recycling centers by parties representing themselves as consumers.

It is important to note that when consumer load limits were originally defined in regulation the CRV per container was 50% less than it is today. Effective March 1, 1992, the CRV per container was 2.5¢ for containers less than 24oz and 5¢ for containers equal to or greater than 24oz. Since January 1, 2007, the CRV per container is 5¢ for containers less than 24oz and 10¢ for containers equal to or greater than 24oz.

As a result of increases in the CRV per container, the Fund has expanded from approximately \$400 million to approximately \$800 million dollars annually for CRV payments to consumers redeeming UBC materials.

The primary CBCRP impact of illegal redemption of out-of-state UBC materials is the theft of California consumers' money (CRV) from the Fund, because no CRV is paid into the Fund for the out-of-state UBC material being redeemed illegally for CRV. Current daily load limits provide illegal enterprises with an easy way to process large quantities of out-of-state UBCs at certified recycling centers on a daily basis. Secondly, this activity is a significant threat to the fiscal stability of the Fund by putting unnecessary strain upon the solvency of the Fund.

An additional impact on the CBCRP is the corruption of legitimate markets, where honest certified recycling center operators are disadvantaged due to unfair competition supported by illegal CRV payments for out of state UBC materials. Current daily load limits provide for large volumes of out-of-state UBC material to be processed through a single certified recycling center by a single individual consumer creating an economic incentive for the certified recycling center operator to facilitate or become an active participant defrauding the Fund.

In terms of the illegal redemption of out of state UBC material imported into California, the purposes for the proposed modification to existing regulations lowering daily load limits are to:

- Protect the public interest by reducing the efficiencies and profitability associated with the illegal redemption of out of state UBC materials for CRV by increasing the operating overhead, lowering the profit margin, and reducing the volume, and increasing the documentation foot print associated with illegal activities;
- Protect the fiscal stability of the Fund by reducing CRV payments for out-of-state UBC materials;
- Reduce the concentration of illegal redemption of out-of-state UBC material at a single certified recycling center and thereby reducing the economic incentive for certified recycling center operators to become complicit in defrauding the Fund.
- Reduce corruption of legitimate markets, where honest certified recycling center operators suffer due to unfair competition supported by illegal CRV payments for out-of-state UBC materials;
- Minimize negative impacts on legitimate consumers' redemption of CRV UBC materials; and
- Minimize negative impacts on certified recycling center operators' ability to maintain legitimate volumes of CRV empty beverage containers from consumer redemption.

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2) *Redemption of curbside program empty beverage containers illegally scavenged by individuals and organized enterprises.*

Illegally scavenged empty beverage containers are redeemed for CRV at certified recycling centers by parties pretending to be consumers. Organized enterprises break large loads of illegally scavenged material into multiple smaller loads to circumvent current daily load limits for consumer redemption of empty beverage containers for CRV.

The primary CBCRP impact from illegal scavenging, and subsequent CRV redemption of UBC materials is the corruption of legitimate markets by depriving registered curbside operators and local agencies of legitimate revenues. Current daily load limits allow large volumes of illegally scavenged UBC material to be processed through a single certified recycling center by a single individual consumer creating an economic incentive for the certified recycling center operator to facilitate or become an active participant defrauding the Fund.

The large current daily load limits provide an efficient means to convert illegally scavenged UBC material into CRV. Because CRV was presumably paid into the Fund for UBCs placed in curbside recycling bins this does not pose the same threat of significant losses to the Fund due to fraud as does the illegal importation and redemption of out-of-state UBC material described in issue #1. It does, however, reduce the profitability of legitimate operators of curbside programs, who play a critical role in the continuing success of the CBCRP.

In terms of the redemption of curbside program material illegally scavenged by individuals and organized enterprises, the purposes for the proposed modification to existing regulations lowering daily load limits are to:

- Protect local agencies and registered curbside program operators UBC material supply by reducing the efficiencies and profitability associated with redeeming illegally scavenged curbside UBC materials, thereby increasing the operating overhead, reducing the volume, and increasing the documentation foot print for individuals and enterprises engaged in CRV redemption of illegally scavenged curbside UBC materials.
- Minimize negative impacts on legitimate consumer's ability to redeem CRV UBC materials.
- Minimize negative impacts on certified recycling center operators' ability to maintain legitimate volumes of CRV UBC materials from consumer redemption.

3) *Large quantities of non-CRV UBC materials are included in CRV payments for large consumer loads.*

Under current regulations, certified recycling center operators are required to visually inspect loads of UBC materials presented for redemption by consumers to determine the proper basis for calculating the CRV payment. It can be difficult for certified recycling center staff to perform reasonably thorough inspections of very large loads of UBC materials to determine eligibility for CRV. Thorough inspection by certified recycling centers is critical because the inclusion of non-CRV UBC materials in consumer loads negatively impacts the CBCRP and poses an additional threat to the fiscal stability of the Fund.

In terms of large quantities of non-CRV UBC materials being included in CRV payments for large consumer loads, the purposes for the proposed modification to existing regulations lowering daily load limits are to:

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- Protect the fiscal stability of the Fund by reducing the quantities of non-CRV UBC material included in CRV payments for large loads of UBC material presented for redemption by consumers.
- Increase the effectiveness of visual inspections certified recycling center operators perform by reducing the size of large loads. This decreases the opportunity for consumers to hide ineligible materials in a large load from the scrutiny/detection.
- Facilitate certified recycling center operators ability to make accurate determinations of the basis for calculating CRV payments.
- Minimize negative impacts on legitimate consumers' ability to redeem CRV UBC materials.
- Minimize negative impacts on certified recycling center operators' ability to maintain legitimate volumes of CRV UBC materials from consumer redemption.

Performance Standards as an alternative

Were performance standards considered to lower compliance costs. Yes

Explain. The proposed regulations to reduce the daily allowable load limits prescribes the specific action to deny payment of CRV for consumer transactions greater than 1,000 lbs. of glass or 100 lbs. for the remaining CRV UBC material types. The intent of this prescribed action (mandate) is to prevent illegitimate payments of CRV. The Department was unable to identify an alternative performance standard that could provide the same degree of certainty in protecting the public's interest by deterring illegitimate payments of CRV.

For the purposes of this document, the following definitions apply:

FTE. Full-Time-Employment Equivalent jobs source is the study funded and published by CRI (Container Recycling Institute) titled "Returning to Work", Understanding the domestic Jobs impacts from Different Methods of Recycling Beverage Containers, published date of December 2011.

From the State Administrative Manual, Section 6602 -

For the purposes of implementing these guidelines, the following definitions apply:

Agency, Local. Any city, county, special district, authority, or other political subdivision of the state.

Agency, State. Every office, officer, Department, division, bureau, board, council, or commission in state government. A "state agency" does not include an agency in the judicial or legislative branches of state government.

Costs. All additional expenses for which either supplemental financing or the redirection of existing staff and/or resources (with or without the need for supplemental funding) is required. Costs include those which can be absorbed in an agency's existing budget.

Direct Cost

1. Personnel needed to perform a line function or activity prescribed (expressed or implied) in the regulation.
2. Fringe benefits associated with those personnel, e.g., retirement, OASDI, workers' compensation.
3. Operating expenses associated with those personnel, e.g., if compliance is achieved by contracting with a private vendor.
4. Any additional equipment which will have to be purchased or leased in order to comply with the regulation.

Allocation of other personnel-related costs if not otherwise allocated through an indirect cost system. Some agencies may allocate the costs of rent, space, utilities, etc., directly to the personnel involved.

Indirect Costs. Any costs related to the additional personnel or operating expenses described in the preceding which are not directly allocated or assigned to those personnel. They do not include a pro rata share of the costs of any manager or supervisor above the first line supervisors since it is assumed that any such supervisors would be in place whether or not the personnel hired to comply with the regulations were there. For example, if a regulation necessitated the hiring of additional staff in a county welfare Department, it would not be appropriate to assign, through an indirect cost system, a portion of the costs of the county welfare director to those new personnel since the director would exist to perform his/her functions even if the new personnel were not hired.

Mandate. A requirement with a consequence of noncompliance of either (1) a criminal penalty, (2) a civil liability, or (3) an administrative penalty.

Public Agency. Any state agency, city, county, special district, school district, community college district, county superintendent of schools, or federal agency.

Reasonable Compliance. No universal definition is available. However, the "prudent person" test can be utilized to arrive at an appropriate definition of the term. For example, if an agency is required by regulation to provide transportation for certain persons, it clearly would not be appropriate to purchase limousine-type luxury automobiles to do so. On the other hand, it would not be appropriate to provide the service by purchasing tandem bicycles. Reasonable compliance can be achieved with some mode of transportation between the two extremes cited. The issuing agency must evaluate each instance separately and determine what "reasonable compliance" would be. The estimate developed must clearly indicate the mode or level of activity it has assumed would achieve such compliance.

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Since compliance connotes that the regulation involves a requirement, costs incurred by state or local agencies in exercising any authority granted by a regulation which is permissive or optional are not germane and need not be estimated.

Regulation. Every rule, order, or standard of general application or the amendment, supplement, or revision of any rule, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure

The term "emergency" means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare. An emergency regulation is adopted pursuant to Government Code Section 11346.1.

Revenues. Any changes in the amounts of operating income received by state and local agencies as the result of an executive regulation must also be identified. In this context, "revenue" includes taxes, state and/or federal assistance, fees, licenses, and so forth.

Savings. Both actual budget reductions and the "freeing up" of staff and/or resources for reassignment to other areas of legitimate concern of the agency.

School District. Any school district, community college district, or county superintendent of schools.

Special District. Any agency of the state which performs governmental or proprietary functions within limited boundaries. Special district includes a redevelopment agency, a joint powers agency or entity, a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area. Special district does not include a city, a county, a school district, or a community college district.

County free libraries established pursuant to Chapter 6 (commencing with Section 19100) of Part II of the Education Code, areas receiving county fire protection services pursuant to Government Code Section 25643, and county road districts established pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code shall be considered special districts for all purposes of this section.

From Public Resources Code Sections 14500, et seq. -

Dealer. 14510. "Dealer" means a retail establishment which offers the sale of beverages in beverage containers to consumers. However, any lodging, eating, or drinking establishment, or soft drink vending machine operator who engages in the sale of beverages in beverage containers to consumers shall not be deemed a dealer for the purposes of this division, except that these sales are subject to Section 14560. To determine which retail establishments are dealers, the Department shall use annual or more frequent updates provided by American Business Information, Inc., as long as the information provided by American Business Information, Inc., is updated at least annually.

Consumer. 14508. "Consumer" means every person who, for his or her use or consumption, purchases a beverage in a beverage container from a dealer. "Consumer" includes, but is not limited to, a lodging, eating, or drinking establishment, and soft drink vending machines.

Fund. 14512.7. "Fund" means the California Beverage Container Recycling Fund established pursuant to subdivision (a) of Section 14580.

Recycling Center. 14520. "Recycling center" means an operation which is certified by the Department and which accepts from consumers, and pays or provides the refund value pursuant to Section 14572 for, empty beverage containers intended to be recycled.

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Redeem. 14522.5. “Redemption” and “redeem” means the return to a recycling center or location of an empty beverage container for a refund of at least the refund value.

Refund Value. 14524. “Refund value” means the amount established for each type of beverage container pursuant to Section 14560 that is paid by the following: (a) A certified recycling center to the consumer or dropoff or collection center for each beverage container redeemed by the consumer or dropoff or collection center. With respect to consumers returning containers to recycling centers, the refund value shall not be subject to tax under the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) or the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code).

Consumer. 14508. “Consumer” means every person who, for his or her use or consumption, purchases a beverage in a beverage container from a dealer. “Consumer” includes, but is not limited to, a lodging, eating, or drinking establishment, and soft drink vending machines.

**State of California
Office of Administrative Law**

In re:
**Department of Resources Recycling and
Recovery**

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Regulatory Action:

Government Code Section 11349.3

Title 14, California Code of Regulations

OAL File No. 2013-1031-01 S

Adopt sections:
Amend sections: 2530, 2535
Repeal sections:

This rulemaking action by the Department of Resources Recycling and Recovery amends sections 2530 and 2535 in Title 14 of the California Code of Regulations. More specifically, this action removes the weekly reporting requirement by recycling centers pursuant to section 2530, subdivision (i), and reduces the daily per person purchase amount for aluminum or plastic beverage containers from 500 pounds to 100 pounds, and from 2,500 pounds to 1,000 pounds for glass containers.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2014.

Date: 12/17/2013



**Kevin D. Hull
Attorney**

**For: DEBRA M. CORNEZ
Director**

**Original: Caroll Mortensen
Copy: Sharon Siozon**

UPDATED INFORMATIVE DIGEST

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action. However non-substantive changes were made to the Final Regulatory Text in section 2535 as follows:

- Subsection (f)(1): correcting the word *weighs to weights*.
- Under “Reference”: underline and italicizing *Section 14552(a)* to note its addition to the sections referenced.

FINAL STATEMENT OF REASONS

RECYCLING CENTER DAILY LOAD LIMITS

Title 14 Natural Resources
Division 2. Department of Conservation
Chapter 5. Division of Recycling

UPDATED INFORMATIVE DIGEST

In the original noticed informative digest, the Department identified changes that will (1) eliminate the reporting requirements for transactions of more than 250 pounds of aluminum beverage containers, and (2) reduce the daily limits for loads of empty beverage containers received from any person, operation or entity not certified by the Department for aluminum and plastic beverage containers from 500 to 100 pounds per person per day, and for glass beverage containers from 2,500 to 1,000 pounds per person per day. There have been no changes to the original noticed informative digest.

The Initial Statement of Reasons is included in the file, and there are no changes to the information contained therein.

Summary and Response to Comments

The Department did not receive any written requests for a public hearing, therefore a public hearing was not held. However written comments were received during the 45-day comment period from May 3, 2013 through June 17, 2013. A summary of each objection or recommendation made regarding the specific amendments, together with an explanation of how the reasons for making no change is included in the rulemaking file. The index of comments, summary of comments and responses to comments can be found in the comment binder (Binder #2) of this rulemaking package.

REQUIRED STATEMENTS

The creation or elimination of jobs within the State of California

The Department is not aware of any impact on the creation or elimination of jobs within the State of California that would be incurred through the proposed action.

The creation of new businesses or the elimination of existing businesses within the State of California

The Department is not aware of any cost impacts to new or existing businesses within the State of California that would necessarily be incurred to be in reasonable compliance with the proposed action. These proposed regulations will serve to clarify and make specific existing statutory requirements.

The expansion of businesses currently doing business within the State of California

Department staff made an initial determination that the proposed regulation changes would not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with other states.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment

The proposed regulations intend to protect the public interest of California residents by reducing the illegal redemption of out of state used beverage containers. Reducing the daily load limits for the redemption of empty beverage containers protects the fiscal stability of the California Beverage Container Recycling Fund; minimizes negative impacts on legitimate consumers' redemption of CRV materials; and minimizes negative impacts on certified recycling center operator's ability to maintain legitimate volumes of CRV empty beverage containers. Eliminating the need for a weekly reporting requirement that will result in cost savings for all certified recycling centers in California.

Alternative Statement

The Department has determined that no reasonable alternative that it has considered or otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department believes we have demonstrated that the current daily load limits for consumers redeeming empty beverage containers for CRV are much too high. The Department is unable to identify a legitimate need for consumers requiring the current daily load limits or how consumers will be unduly denied redemption opportunities due to lower daily load limits.

Any alternatives the Department would consider as alternatives to lowering the current daily load limits for consumers redeeming empty beverage containers for CRV will leave the current excessively high load limits in place continuing to provide an irresistible incentive for abuse and fraud.

Inconsistency or Incompatibility with Existing State Regulations

The Department has determined that the proposed action is not inconsistent or incompatible with existing state regulations. The proposed regulations will serve to clarify and make specific existing statutory and regulatory requirements.

Statement of Section 11346.3 (d)

The proposed regulations to reduce the daily load limits, if implemented, will remove a reporting requirement mandated by the current regulations. Currently regulations

require that all aluminum transactions over 250 pounds be documented and the data be transmitted to the Department on a weekly basis at a minimum (14CCR Section 2530(i)). The Department received 24,500 individual 250 pound reports from certified recycling center operators in calendar year 2011. The Department expects program participants to reduce their administrative costs with the removal of this reporting requirement. There is no additional programming, record keeping, reporting or other paperwork cost to California businesses impacted by the adoption of the regulation changes.

Local Mandate Statement

The Department has determined that the proposed action imposes no mandate upon local agencies or school districts and therefore requires no reimbursement pursuant to Section 17561 of the Government Code.

Financial Impact Statement

The adoption of the proposed regulation will not impose a cost on any agency, local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code. The adoption of the proposed regulations will also not result in any costs or savings to local agencies; result in any costs or savings to federal funding for the state; impose a mandate on local agencies or school districts; nor have any cost impact on private persons or businesses.

Cost Impact Statements

The Department has determined that the proposed action imposes no adverse economic impact on small businesses.

Elimination of 14CCR Section 2530(i) would result in cost saving to certified recycling centers. Certified recycling centers would be relieved of all costs by eliminating the current requirement that certified recycling centers report all transactions of 250 pounds or more to the Department on a weekly basis. These proposed regulations could potentially have an adverse impact on consumers of CRV beverages that attempt to redeem loads of empty beverage containers in excess to the proposed daily load limits. However, based upon the data analysis performed by the Department, transactions in excess of 100 pounds of aluminum comprised less than 0.4% of all the transactions surveyed. Transactions in excess of 100 pounds of PET plastic comprised less than 0.9% of all transactions surveyed. Finally, transactions in excess of 1,000 pounds of glass comprised less than 0.8% of all transactions surveyed. As such, only an insignificant number of legitimate consumer transactions would be impacted by the proposed revisions to the daily load limits. Thus, it is possible that adoption of these changes might cause a very small number of private persons to visit recycling centers more frequently resulting in marginally increased costs for them.

CalRecycle Responses to Recycling Center Daily Load Limits Proposed Permanent Regulations

Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
1.1	Escondido Recycling Yard, Inc.	Jack	Groff	<p>If you lower the amount, the criminals will simply redeem the containers at multiple centers and use more individuals to redeem the loads.</p>	<p>The department rejects this comment. The intention is to reduce efficiencies in committing fraud through the redemption of ineligible beverage container material. This increases the number of complicit parties and documentation associated with defrauding the CBCRF. Criminals will need to increase the number of fraudulent transactions to secure the same payout. This will increase the number of observable transactions at recycling centers increasing the opportunity for legitimate recycling center operators to report suspicious activity and observational evidence for law enforcement.</p> <p>As stated in the ISOR (pp. 1, 3, 6, & 8) & NOPA (pp. 3-5), criminals currently redeem large loads of out-of-state empty beverage containers at certified recycling centers in quantities just below the current daily load limits. Reducing the daily load limits will require these criminals to split loads more frequently and illegally redeem materials at 5 times as many recycling centers to gain the same result they get under the current daily load limits.</p>	None
1.2	Escondido Recycling Yard, Inc	Jack	Groff	<p>If you lower the load limits but don't ask recycling centers to report loads between 75 to 100 pounds, you have given the criminals a clear shot to feed out their illegal containers without any fear of the reports identifying the criminal rings that will be created.</p> <p>By insisting on reports of 75 to 100 pounds, you will be able to find the individuals going to multiple centers or the same centers for multiple days in a week.</p> <p>If you don't continue to receive reports, you give the criminals carte blanche to sneak in loads from out of state, split them up</p>	<p>The department rejects this comment. While the commenter is correct that the department proposes to eliminate the reporting requirements of 14CCR Section 2530(i) for all transactions in excess of 250 pounds of aluminum, all of the information required to be reported to the department by that section is also required to be recorded on receipts prepared and maintained for all transactions of \$100 or more in refund value (14CCR Section 2525(a)). The CRV per pound rate for aluminum effective January, 2013, is \$1.59. At the current CRV per pound rate, recycling centers are required, and will continue to be required, to prepare receipts for all</p>	None

CalRecycle Responses to Recycling Center Daily Load Limits Proposed Permanent Regulations

Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
				in warehouse locations, and send them out unreported.	<p>transactions in excess of approximately 63 pounds of aluminum. Receipts are required to be retained for a period of five years from the date they are created.</p> <p>Public Resources Code Section 14552(c) provides that during any inspection, the entity that is the subject of the inspection shall provide the department access to any relevant record necessary to verify compliance with the Act and Regulations.</p> <p>Given this ongoing authority and the scenario described above, the department finds that the burden that would be placed on recycling center operators in order to report all transactions of aluminum and plastic of a smaller specified size is too great compared to the benefits of receiving that information for all transactions when that information is already required to be documented and maintained by recycling center operators and is already subject to inspection by the department. The department will continue to monitor this situation and may revisit these reporting requirements at a future date if the proposed reduction of load limits is adopted and implemented. Currently, the department finds that existing statutory authority to access the necessary transaction data is adequate to detect and pursue individuals and entities engaged in fraudulent activities.</p>	
1.3	Escondido Recycling Yard, Inc	Jack	Groff	I agree that something has to be done to stem the flow of illegal containers, but I don't think your plan will do it. If I were a criminal, I would thank you for this action.	The department rejects this comment. This comment is of a general nature and is non-responsive to any specific section of the proposed regulations. However, to the extent that the commenter is challenging the necessity for the proposed regulations, indicated in the ISOR (p. 9) and	None

CalRecycle Responses to Recycling Center Daily Load Limits Proposed Permanent Regulations

Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
					<p>the NOPA (pp. 3-5) the Department has demonstrated that the current daily load limits for consumers redeeming CRV UBC material are unreasonably high. The Department is unable to identify any legitimate need for consumers to recycle loads as large as allowed by the current daily load limits on a regular basis. Nor is the Department able to identify how consumers will be unduly denied redemption opportunities due to lower daily load limits. With this in mind, the Department finds that the current daily load limits are unreasonably and artificially high.</p> <p>Any alternatives that do not lower the daily load limits for consumers redeeming CRV UBC material will leave the current unreasonably high load limits in place maintaining what has proven to be an irresistible incentive for abuse and fraud. The Department believes that leaving the current daily load limits in place would render any alternatives ineffective at reducing fraud.</p>	
3.1	All Ways Recycling		Unknown	I will be forced to turn away good CRV and it will make my honest legitimate customers disgruntled. Therefore I will lose business, and these cans will still find their way into the system one way or another anyway, unless the state does some internal investigations and actually enforce the rules and regulation already implied.	The department rejects this comment. No operator of a recycling center will have to turn away customers whose material meets the requirements of the Act and regulations. The department enforces the Act and Regulations but ineligible beverage container material continues to be redeemed for CRV. Therefore, the department is improving the regulations in an effort to combat CRV fraud. All operators of recycling centers are required to operate according to the same statutes and regulations whether or not the recommended regulation changes are implemented.	None

CalRecycle Responses to Recycling Center Daily Load Limits Proposed Permanent Regulations

Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
					<p>Current load limits already require rejection of eligible beverage container material in excess of those limits. Consumer load limits are a criteria used to regulate the size of a load of UBC material delivered to a recycling center and represented as a consumer transaction.</p> <p>It is anticipated that consumers redeeming large quantities of CRV empty beverage containers at certified recycling centers will need to visit those centers more often to redeem the same amount of material under the proposed load limits. However, based upon the Department's analysis of consumer transactions as indicated in the ISOR (pp. 4, & 12-20) and NOPA (pp. 6 & 14), less than 1% of consumers will be impacted by the proposed reduction in the load limits.</p>	
3.2	All Ways Recycling		Unknown	I do agree that there is a problem with out of state redemption but that this new load limit will reject eligible cans while doing little to nothing to stop the problem of interstate cans.	<p>(a) The department rejects this comment. It is unsupported by any data or logical argument contradicting the department's analysis and findings.</p> <p>(b) In addition, the department's proposed changes to the consumer daily load limits are only one facet of a comprehensive strategy currently being implemented by the department and our partners at the Department of Justice, the Attorney's General Office, and the Department of Food and Agriculture. The proposed consumer daily load limits will integrate and support future changes in how the department combats fraud associated with the illegal redemption of ineligible beverage container material.</p>	None
3.3	All Ways Recycling		Unknown	Every Certified Redemption center should have to display a sign with the load limits and the number to turn in any suspicious activity to (1-800 can-load) with a reward if persons	The department rejects this comment. As part of an overall change management and communication strategy, the department will provide certified recycling centers	None

CalRecycle Responses to Recycling Center Daily Load Limits Proposed Permanent Regulations

Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
				lead to the discovery that leads to a conviction or a fine.	with information related to the proposed load limit reduction, if adopted. Providing certified recycling centers with a sign they can display if they choose to educate their customers is a good idea and is one the department will pursue but the department's distribution of signs does not require the adoption of regulations. The 1-800-CAN-LOAD number is provided on many of the enforcement related notices currently issued by the department and is also listed on the CalRecycle website. Individuals can also submit complaints and tips via 1-800-RECYCLE. CalRecycle does not currently have statutory authority to issue rewards for information leading to convictions for recycling fraud.	
3.4	All Ways Recycling		Unknown	Actually follow up on leads and stop ignoring cases brought to the state attention and make penalties and fines higher. I have seen proof in the past of several yards in the area San Diego purchasing over the load limits at one time of out of state cans with U-Haul's with out of state plates like M&M Recycling and Mikes Recycling. No one from the state further investigated after being given camera footage, both those facilities still operate.	<p>The department rejects this comment. This comment is of a general nature and is non-responsive to any specific section of the proposed regulations. Further, all leads are addressed by the department and/or our law enforcement partners at the state or local level. Due to the sensitive nature of the investigation process, it is not always possible to respond directly to those who provide tips to the department.</p> <p>Regarding penalties, the department imposes penalties pursuant to statutory requirements. New legislation would be required to increase the penalties being imposed. Such an action is beyond the scope of this rulemaking procedure.</p>	
3.5	All Ways Recycling		Unknown	No out of state plates including Mexico plates should be allowed to recycle any amount of CRV ever.	The department rejects this comment because it proposes changes to the department's regulations that are beyond the scope of this rulemaking.	

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Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
10	San Francisco Supervisor Scott Wiener	Ben	Brosnahan	The Supervisor is interested in this proposal but would like to know more about the logistics and process of the proposal. When is the best time for us to try to do something? Are we restricted, like the public, to the 45 day input period? We are curious about the time and step by step process as to what happens next. Can you give me a timeline from now until potential implementation of these amendments?	<p>This comment is directed at procedure. The following response was provided directly to the commenter:</p> <p>[T]his email is in response to your phone call seeking additional information today.</p> <p>Please send any written comments to DORRegulations@CalRecycle.ca.gov.</p> <p>Also please go to URL http://www.calrecycle.ca.gov/Laws/Rulemaking/RCLoadLimits/default.htm for all supporting documentation. In particular see the hyperlink to the document named "Memo to Interested Parties" at URL http://www.calrecycle.ca.gov/Laws/Rulemaking/RCLoadLimits/ToInterested.pdf. This document provides the guidelines for providing comments from the public.</p> <p>Thank you for your interest.</p>	
11.1	Aaron Metals Co.	Aaron	Forkash	This does nothing to reduce fraud. Those looking to defraud the State by redeeming cans from out-of-state with the CA CRV embossment on the container will arrive at the recycling center with multiple IDs in multiple vehicles and pre-divide the contraband into 70-80 pound allotments.	See the department's response to comment 3.2(b)	None
11.2	Aaron Metals Co.	Aaron	Forkash	To catch these bandits, the State should increase the limits to 3,000 pounds per day--since sellers who arrive with extraordinary quantities would raise suspicion. Through the investigation of the questionable transaction, the State has a chance to curb the illicit out-of-state can racket. Increasing the load limits assists law enforcement since it will focus on the big fish going after the large load violators.	The department rejects this comment. The approach proposed by this commenter is essentially the opposite of that proposed by the department. The department finds that increasing the load limits in this way would merely facilitate fraud and would exacerbate the current situation.	None

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Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
11.3	Aaron Metals Co.	Aaron	Forkash	The State’s proposal will adversely affect day-to-day operations. Load limits will increase frequency of CRV drop offs. Parking is tight at recycling centers. Land is costly. We oppose changes that result in an increase in traffic on our properties. Plus anything that causes additional traffic will cause an increase in pollution. The public is a liability. The less people and traffic there is in the yard, the safer and cleaner the buy-back process goes.	The department rejects this comment. It is anticipated that consumers redeeming large quantities of CRV empty beverage containers at certified recycling centers will need to visit those centers more often to redeem the same amount of material under the proposed load limits. However, based upon the Department’s analysis of consumer transactions as indicated in the ISOR (pp. 4, & 12-20) and NOPA (pp. 6 & 14), less than 1% of consumers will be impacted by the proposed reduction in the load limits.	None
(16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 33).1	16) Greenhouse Recycling Co.; 17) Upper Room Consulting; 18) Sunwest Metals, Inc.; 19) RV.RECYCLING; 20) Bestway Recycling; 21) Allen’s Recycling Center; 22) Rodriguez Recycling Center; 23) Gonzalez Recycling Center; 26) Alameda Metals; 27) Unknown; 28) Action Sales & Metal Co., Inc.; 29) AG Recycling; 30) Daw’s Recycling	Pablo; Leonard; Hanan; Cris; Sung; Belen; Gonzalo; James; David; Samir; Bruce; Angeles; Bill;	Lucanera; Lang; Stanley; Ramirez; Kim; Gonzales; Rodriguez; Gonzalez; Kramer; Gomez; Falk; Gomez Daw;	The Department is aware of the methods and has done a competent job of explaining those that perpetrate fraud. But the solution to deal with fraud by imposing burdensome conditions on both citizens and recyclers to justify it with a mystical typical consumer will create numerous conditions that we will be forced to deal with increasing our burden. Conditions are different all over this state and there is no typical consumer. The Rural Counties Association spoke to that at Program Reform meetings. Californians that live longer distances from recycling centers will collect larger amounts to minimize trips. This would put farmers, ranchers, organizations and churches that fundraise and those that live greater distances at risk of being denied legitimate claims. There is no way for a recycling center to accurately estimate whether the customer is at risk of exceeding this weight limit.	See the department’s response to comment 3.1	None

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Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
	Center; 31) E &M Recycling Company 33) CA Recycling, Inc. Note: All of these commenters submitted identical comments. For convenience, clarity, and to save space, they will hereafter be referred to as “Group of 15 Commenters” and their collective comment numbers will be listed as comment 16.	Eugene; Julie;	Vortman; Gandarilla;			
16.2	Group of 15 Commenters		Group of 15 Commenters	The ISOR identifies the lengths to which these people will go to conceal their actions. Nothing in this proposal will prevent that from continuing. “Multiple individuals then transport the smaller loads of UBCs to certified recycling centers”. This proposal does nothing to stop that and the individuals will simply use smaller vehicles. These people are hired and paid a commission for presenting this material. The Department is aware of this.	See the department’s response to comment 3.2(b)	None
16.3	Group of 15 Commenters		Group of 15 Commenters	The Department asserts that this will reduce risk of large-scale fraud. They state that they will be able to monitor it more effectively but they don't say how that will happen. Lower load limits will make it more difficult and complex and costly	The department rejects this comment. The commenter refers to “burdensome time-consuming decisions,” “extra procedures,” and “confusion by citizens” but fails to provide any specific information to which the department	None

CalRecycle Responses to Recycling Center Daily Load Limits Proposed Permanent Regulations

Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
				for transporters of out-of-state material. We get to share their pain as recyclers with burdensome time-consuming decisions and extra procedures and confusion by citizens.	<p>can respond. To the contrary, the department assumes that the procedures used by a recycling center to ensure that they do not purchase loads over the current 500 pound and 2,500 pound daily load limits are the same procedures they will continue to use to ensure they do not purchase loads over the proposed daily load limits.</p> <p>As to the commenter’s statement regarding “confusion by citizens,” as stated in the ISOR (pp. 4, & 12-20) and NOPA (pp. 6 & 14), the Department’s analysis of consumer transactions at 158 certified recycling centers reveals that less than 1% of consumers would be impacted by the proposed reduction in the load limits.</p> <p>Also see the department’s response to comments 3.2(b) and 3.3.</p>	
16.4	Group of 15 Commenters		Group of 15 Commenters	According to the Division the perpetrators show great ingenuity and the financial incentive hasn't changed. The motivation will increase as perpetrators eventually find out there is no reporting requirements based on the repeal in this proposed change.	See the department’s response to comment 1.2.	None
16.5	Group of 15 Commenters		Group of 15 Commenters	Stated as Purposes, the Department admits that it wants to reduce efficiencies and profitability for illegal redeemers but they do it by imposing them on recyclers and citizens as well. They are quick to burden the industry but slow on listening.	See the department’s response to comments 1.2 and 3.1.	None
16.6	Group of 15 Commenters		Group of 15 Commenters	It uses a series of justifications that are not proven in reality and some not authorized by statute. In a rush to demonstrate	The department rejects this comment. The commenter cites “a series of justification that are not proven in reality	None

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Comment Number	Commenter Affiliation	First Name	Last Name	Summary of Comment	CalRecycle Response	Revisions Needed
				action, the authors have failed in providing clarity while imposing additional burden and costs upon the recycling industry. This is an industry that is struggling with lower revenues and increasing cost of goods brought about by subsidized competition.	and some not authorized by statute” but refers to nothing specific to support these statements. The commenter claims that “in a rush to demonstrate action, the authors have failed in providing clarity while imposing additional burden and costs upon the recycling industry,” but fails to provide any specific examples, data, information or references to support his/her allegations.	
16.7	Group of 15 Commenters		Group of 15 Commenters	By attempting to make these changes seem simple they will not only hurt recyclers but they will also impose burdensome conditions and confusion, possible financial loss or the need for additional trips by the public we serve. This damages the goodwill that we strive to develop.	The commenter refers to “burdensome conditions,” “confusion,” and “possible financial loss,” but fails to provide any specific information to which the department can respond. Also, see the department’s response to comment 3.1.	None
16.8	Group of 15 Commenters		Group of 15 Commenters	As drafted, this proposal significantly lacks clarity. There is no prescription presented for adoption should a customer exceed the limit. We don't know whether we should keep the material and deny CRV payment, pay for 100 pounds only or reject the load. The DOR has failed to state. If the recycler was required to reject the load it would result in an overly burdensome condition which would best be described as anger and frustration. Many recyclers have equipment known as a buyline. These systems will convey material past devices such as magnets and optical recognition before weighing. Subsequent to weighing they are transported through an enclosed system into another storage device or area. They are not made to have the material removed/returned after weighing and recyclers would be unable to comply with that directive. If any material were required to be returned on a busy day, customers and attendants could be tied up for excessive	The department rejects this comment. The first portion of this comment is of a general nature and is non-responsive to any specific section of the proposed regulations. Also, see the department’s response to comment 3.1.	None

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				amounts of time.		
16.9	Group of 15 Commenters		Group of 15 Commenters	As proposed, the regulations are excessively burdensome and could create hazards for personnel.	The department rejects this comment. This comment is of a general nature and is non-responsive to any specific section of the proposed regulations. However, to the extent that the commenter is challenging the necessity for the proposed regulations, please see the department's response to comment 1.3	None
16.10	Group of 15 Commenters		Group of 15 Commenters	It is difficult and dangerous to return glass. Glass is often weighed in the vehicle and dumped into ground-level bunkers. Material gets broken and there is no way to separate it from the other material in the bunker. The broken material is also hazardous to handle and poses a danger to workers.	See the department's response to comment 3.1.	None
16.11	Group of 15 Commenters		Group of 15 Commenters	Denying CRV to a scavenger who may suffer from mental health issues can also be hazardous and subject our employees to physical attack. That's not something that's uncommon in this business.	See the department's response to comment 3.1.	None
16.12	Group of 15 Commenters		Group of 15 Commenters	Reduce corruption of legitimate markets, minimize negative impacts on legitimate consumers and minimize negative impacts on certified recyclers are rationalizations not founded in fact. This will also increase negative impacts on certified recycling center operators not minimize them.	The department's fact-based analysis of the impact of fraud on markets, consumers, and Certified Recycling Centers is discussed in detail in the ISOR (pp. 7-9). Also, see the department's responses to comments 3.1 and 3.2(a) & (b)	None
9	Waste Management Cal Sierra Transfer Station	Tina	Arvin	Our concern for the new daily load limits is for those businesses that bring in well over the limits proposed. Would there be separate stipulations for businesses? We also have	The department rejects this comment. The commenter is not specific as to the type of business contemplated by their comment which makes it difficult for the department	None

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				many customers that like to save their aluminum and plastic to get a bigger refund at once.	<p>to respond. However, as discussed below, some “businesses” are considered consumers under the Act while others may, as appropriate, become certified as Dropoff or Collection Programs and Community Service Programs pursuant to Sections 2000(a)(11) & (20) and 2055 of the regulations.</p> <p>Per section 14508 of the Act, “Consumer” means every person who, for his or her use or consumption, purchases a beverage in a beverage container from a dealer. “Consumer” includes, but is not limited to, a lodging, eating, or drinking establishment, and soft drink vending machines. Any business that does not meet this definition is not considered a consumer for purposes of the daily load limits.</p> <p>The department is proposing to reduce the consumer daily load limit only. There will be no change to the load limits for certified entities such as Dropoff or Collection Programs and Community Service Programs.</p> <p>Also, see the department’s response to comment 3.1.</p>	
12	Upper Room Consulting	Leonard	Lang	Please document that there is no prescription for what recyclers are to do when limits are exceeded.	See the department’s response to comment 3.1.	None
13	Trabuco Church	Pastor Robert	Jacobsen	In addition to our plastics and aluminum, We brought in over 3200 lbs. of glass today - at \$0.11 - that's over \$350 ... however after we weighed in , we were told that we had exceed a 2500lb per day cap, and as a result could only be paid \$0.01 per lb. - i.e. \$32 We were not even offered \$0.11 per	The department rejects this comment. In addition to certifying recycling centers, the department also certifies individuals other entities as Dropoff or Collection Programs and Community Service Programs pursuant to sections 2000(a)(11) & (20) and 2055 of the regulations.	None

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				<p>pound for the first 2500 lbs. We spent more in gas getting the load to the recyclers.</p> <p>I was also made aware of a new proposal that would bring down the daily load limit even further ... which would essentially force us to eliminate our recycling co-op program. If you insist on lowering the load limits further would it be possible to make an exemption for groups like ours?</p>	<p>Subchapters 7 and 9 of the regulations govern the operations of Dropoff or Collection Programs and Community Service Programs respectively. Under those provisions, certified Dropoff or Collection Programs and Community Service Programs are not subject to the consumer daily load limits. As such, they can bring redeem any quantity of eligible used beverage containers at any frequency they desire.</p> <p>Because there are existing certification categories that govern the operations of individuals and organizations like those describe by the commenter, there is no need to create an exception to the proposed reduction in the consumer daily load limits.</p>	
16.13	Group of 15 Commenters		Group of 15 Commenters	<p>Because this limitation is also applied to churches, schools, businesses and other community service organizations it would also tip the economics on serving these entities. The small amounts would make it too costly to serve them.</p>	<p>See the department's response to comment 13.</p>	None
25.1	Institute of Scrap Recycling Industries	Katherine	Brandenburg	<p>Prior to the adoption of any regulation lowering the load limit for beverage containers, the Department must consider an avenue for recyclers to receive containers above the load limit from charities (i.e., Girl Scouts of America, SPCA, little league teams, etc.) without the charity having to wait for the "Community Service Program" application process to be completed.</p>	<p>The department rejects this comment. With a modest amount of planning, it is easily possible for a charitable organization to be certified as a Dropoff or Collection Program or Community Service Program. The process provided by section 2055 of the regulations is neither burdensome nor especially time-consuming. In addition, the department has staff available to guide such organizations through the certification process.</p> <p>Moreover, individuals and organizations sometimes use the Beverage Container Recycling Program for fund raising purposes even though their collection and redemption</p>	None

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					<p>practices warrant certification as Dropoff or Collection Programs or Community Service Programs. The current load limits are high enough so that individuals or organizations such as those referenced by the commenter are able to redeem empty beverage containers as if they were “consumers” even though they do not technically meet the definition provided by statute. However, it is the department’s position that individuals and organizations that collect or solicit empty beverage containers to redeem them as a means of profiting or raising funds for charity should be restricted from doing so when their material exceeds the proposed daily load limits.</p> <p>Also, see the department’s response to comment 13.</p>	
25.2	Institute of Scrap Recycling Industries	Katherine	Brandenburg	<p>Recently, an ISRI member received a call concerning a young lady with a serious medical condition informing the recycler that she plans to collect 1 million bottles and cans by Earth Day and asked if they could recycle the material. Unfortunately, the recycler had to turn her away because she was over the load limit.</p>	<p>See the department’s responses to comments 3.1 and 13.</p>	None
25.3	Institute of Scrap Recycling Industries	Katherine	Brandenburg	<p>... ISRI does not agree with lowering the load limit for glass from 2500 pounds to 1000 pounds. Throughout the ISR, the Department states that by reducing the daily consumer load limit the Department will be able to reduce the risk of large-scale fraudulent activity. As noted above, the investigations conducted by the Department and DOJ only recognize that aluminum and plastic used beverage containers were being transported into California. Therefore, we believe lowering the load limit for glass containers is not necessary and does not impose any harm on the integrity of the California Beverage Container Recycling Fund.</p>	<p>The department rejects this comment. While CalRecycle agrees with the commenter that glass is not a significant concern with respect to out of state importation fraud. CalRecycle disagrees with the assertion “lowering the load limit for glass containers is not necessary and does not impose any harm on the integrity of the California Beverage Container Recycling Fund.” The primary harm to the integrity of the CBCRF from glass is posed by handling fees and processing fees paid on ineligible containers. The processing payment and handling fee are the incentives for recycling centers to purchase large quantities of glass</p>	None

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					<p>for CRV, even though the glass containers have little or no scrap value. The profit for the recycling center is in the processing payment and handling fee payments.</p> <p>A secondary harm to the integrity of the CBCRF by glass is the payment of CRV on non-CRV containers. Due to the 2,500 load limit for glass, pickup trucks full of glass containers are routinely scavenged from curbside bins or collected from bars and restaurants. These large loads have high proportions of non-CRV containers and are very difficult to inspect thoroughly.</p> <p>Lowering the load limits on glass is intended, in part, to decrease the harm to the integrity of the CBCRF from consumer redemption of glass containers that are ineligible for program payments.</p>	
25.4	Institute of Scrap Recycling Industries	Katherine	Brandenburg	The Initial Statement of Reasons (ISR) states that there are a number of individuals who frequently import large loads of used beverage containers from other states into California. In particular, the ISR states that "investigations conducted by the Department and DOJ have revealed that large loads (up to and greater than 5,000 pounds) of <u>aluminum</u> and <u>plastic</u> UBCs are being transported by individual/entities into California on a daily basis." (Emphasis added.) ISRI agrees with this conclusion and supports the Department's proposed regulations as it relates to lowering the daily load limits for both aluminum and plastic. We further agree that the elimination of the reporting requirements in 14CCR Section 2530(i) is necessary since the load limit for aluminum will be lowered to 100 pounds.	No change requested.	None
32.1	Allan Company	Nenad	Trifunovic	A common problem with the load limits found in 14 CCR 2535(f) is that the regulations prohibit a certified recycler from	The department rejects this comment because it proposes changes to the department's regulations that are beyond	None

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				<p>paying refund value to, or claiming refund value for any material received from, any person who is not certified who delivers a load of material in excess of the specified load limits. The restriction applies to all transactions, including those performed pursuant to section 2500(h) of the regulations, such as those involving a church, school, business where beverages are consumed, or other community service organization (each referred to as a “Community Service Organization”).</p> <p>The regulations currently contemplate that a Community Service Organization would apply to become a certified entity (such as a Community Service Program), wait for the application and certification process to run its course, and then commence collection and recycling activity. Unfortunately, this process is very often too cumbersome, time consuming, and has the effect of inhibiting precisely the kind of recycling activity that the legislature and the public desire to encourage.</p> <p>A Possible Solution</p> <p>We are recommending that the Department create an exception to the load limits for Community Service Organizations, but impose recordkeeping (and possibly reporting) requirements on the certified recycling center. More specifically, the suggestion is that when a CRV transaction with an uncertified Community Service Organization is to take place and the amounts of CRV material transacted would exceed the load limits, the certified recycling center should be required to maintain a separate record (perhaps on a Department approved form) of all such purchases for review, inspection, audit, and copying by the</p>	<p>the scope of this rulemaking.</p> <p>Also, see the department’s responses to comments 3.1 and 13.</p>	

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				<p>Division.</p> <p>This is just one possible solution to the common problem of Community Service Organizations being limited from performing beneficial recycling as a result of the formal registration requirements and the load limits of 14 CCR 2535(f). Community Service Organizations need the ability to bring materials on an ad hoc basis, and Allan Company's proposal would address that need. If the Department is interested in pursuing such a solution, it is advisable that the Department review and reconcile the recordkeeping requirements proposed above with those found in 14 CCR 2525(k).</p> <p>The change suggested to the current version 14 CCR 2535(f)(1) is merely intended to bring the text of that subsection into conformity with the 2535(f). More specifically, the text of the current subsection (1) states that is a violation to accept material, however, 2535(f) does not forbid accepting material. Instead, a "certified recycler shall not pay the refund value to, or claim refund value for any material received from any person, operation or entity who is not certified by the Division, delivering a load of material in excess" of the applicable load limits. The difference is significant and we should use this opportunity to correct the existing text of 14 CRR 2535(f)(1).</p>		
32.2	Allan Company	Nenad	Trifunovic	<p>We support the Department's proposal. It is our belief that reducing the load limits will help disrupt the flow of ineligible materials and materially impair the pecuniary interests of those involved in fraudulent transactions.</p>	No change requested.	None

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36.1	California Consumers Against CalRecycle's Proposal to Amend CCR Sections 2530 and 2535 to Reduce the Certified Recycling Center Daily Load Limits Per Day for Consumer Redemption of CRV		Petition with approx. 800 names	<p>As per Cal PRC Code: Cal Code, Section 14501, Regulatory limits or impositions, proposed or implemented, made upon an individual consumer that:</p> <p>A) discourages their manner to favor redemption of recycles, as opposed to their disposal or B) impedes their opportunity to recycle economically, efficiently & conveniently or C) impedes the financial incentive of their right to return of deposit or</p> <p>Regulatory proportional reductions or impositions, proposed or implemented, upon a certified recycle center that:</p> <p>D) disestablishes a profitable marketplace Or location for a recycle center or E) impedes the enhancement of profitability for a recycle center or F) impedes the ability of a recycle center to earn sufficient profit to stay continually solvent in locations that provide consumers with convenient recycling opportunities,</p> <p>...is in violation of and contrary to the Intent of the Act, the Act itself and the department's responsibilities & regulations to determine & implement in a manner that favors the recycling of all redeemed containers. (Cal PRC Code, section 14501 : Cal Code, section 14501, (a), (c), (e), (f), (g) and (h))</p>	<p>The department rejects this comment. The commenter misinterprets and misapplies the legislative declarations and statements of intent cited in the comment. Adoption of the proposed consumer daily load limits is consistent with the purposes of the Act.</p> <p>Further, per section 14530.5(b) of the Act, the department has explicit statutory authority to adopt "any other rules and regulations ... which the department determines may be necessary or useful to carry out this division or any of the department's duties or responsibilities imposed pursuant to this division." Regulating consumer transactions at certified recycling centers is consistent with this provision of law.</p> <p>Also, see the department's response to comment 1.3.</p>	None
36.2	California Consumers Against CalRecycle's Proposal to Amend		Petition with approx. 800 names	If implemented, this proposal will establish an environmental injustice of discrimination against disabled or minority individuals of low or no- income, especially in depressed rural areas, that will be denied the ability to recycle in large	See the department's response to comment 3.1.	None

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	CCR Sections 2530 and 2535 to Reduce the Certified Recycling Center Daily Load Limits Per Day for Consumer Redemption of CRV			<p>amounts to feed, house and support themselves.</p> <p>Individual Consumers signing below, reside or visit in Rural Areas and strongly oppose and/or reject Cal Recycle’s proposal to reduce current daily load limits by 80% of crv beverage containers per person, per day. There should not be more than a 30 a 40% reduction of current regulation standard, if at all.</p> <p>Most Rural Individuals collect, store & redeem cry recyclables in large amounts because they have to travel several miles to qualified Recycle Centers. An 80% reduction will Inhibit their Ability to recycle cost -effectively, causing recycling to be unworthy, defeating the purpose to keep Recycles from our Landfills. Hence, the Reason for the Formation of CalRecycle Division of Recycling in the First Place.</p> <p>An 80% reduction in daily Load limits will impact low and middle income California consumers unfairly, especially in Rural areas, discriminate against all Individuals who purchase and redeem crv recyclables in volume, cause small Rural area Recycle Centers to lose significant crv volume purchases needed to stay solvent, forcing them to either lay off employees and/or close, thus inhibiting and impeding the Consumers Right to Full Return of Deposit by limiting amount, access and availability of redemption</p>		
37.1	Camarillo Recycling, Inc.	Rahamim	Zarin	CalRecycle should consider raising the proposed limits to 150 lbs for aluminum and plastic, OR allow certain organizations to bring more than the proposed 100 lbs / 1,000 lbs limits.	The department rejects this comment. The proposed weight limits were selected based upon an analysis of consumer transactions, as indicated in the ISOR (pp. 4, & 12-20) and NOPA (pp. 6 & 14), and the department’s finding that less than 1% of consumers will be impacted by	None

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					<p>the proposed reduction in the load limits.</p> <p>Also, see the department's responses to comments 13 and 32.</p>	
37.2	Camarillo Recycling, Inc.	Rahamim	Zarin	<p>Even though you specify that less than 1 % of transactions are above those limits, the actual quantities are probably in the range of 5% of the total recycled quantities.</p>	<p>The department rejects this comment. The proposed weight limits were selected based upon an analysis of consumer transactions, as indicated in the ISOR (pp. 4, & 12-20) and NOPA (pp. 6 & 14), and the department's finding that less than 1% of consumers will be impacted by the proposed reduction in the load limits. In addition, commenter provides no data to support this assertion.</p>	None
37.3	Camarillo Recycling, Inc.	Rahamim	Zarin	<p>Although it's true that most recycling customers recycle relatively low amounts, there are many situations where the limits need to be higher.</p> <p>There are several types of consumers that may have difficulty with staying below the proposed limits. Schools and other non-profits doing fundraisers often collect once a month and may collect 200-300 lbs, especially in plastic bottles. Restaurant or bar owners may have large quantities. Janitors or park maintenance crews might collect large quantities, especially after a special event.</p> <p>In order to continue to encourage recycling we believe that the limits should be somewhat higher, or have an exemption for non-profit groups, government entities, and perhaps other businesses that sell beverages at their official place of business.</p>	<p>See the department's responses to comments 3.1, 13, and 32.</p>	None
16.14	Group of 15		Group of 15	<p>In the Departments proposal it ignores the history of the load</p>	<p>See the department's response to comment 13.</p>	None

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	Commenters		Commenters	limits. Prior limits were 750 pounds for aluminum and 2000 pounds for glass. The goals of this program were to increase recycling and reduce litter. To do so a bounty (CRV) was placed on the containers which encouraged citizens who were financially motivated to collect them. That prompted scavenging which has resulted in making California one of the most litter-free states when it comes to beverage containers. People pick up containers for money when littered. They also remove them from the trash in parks, gas stations and shopping centers just to name a few. Businesses, such as bars and restaurants, either redeemed themselves or assigned the responsibility to others. They deal in larger volumes than this proposal acknowledges.		
16.15	Group of 15 Commenters		Group of 15 Commenters	The Department has provided no justification as to how they adopted those limits; just that they believe this will help. As a part of that limiting, they hope to prompt a reduction in curbside scavenging. Not only does the Department lack authority in statute, there is no harm to the integrity of the Fund. They create a burden on recyclers who have no knowledge of the source nor are they required to but they increase the burden to the Division. This increase burden translates into increased costs to a program that's a year from insolvency.	See the department's response to comment 37.2.	None
4	Marin Recycling	Lori	Dowell	We recommend the recycling center consumer redemption daily load limits be reduced to the following amounts: Aluminum From 500 pounds to 200 pounds Plastic From 500 pounds to 250 pounds	See the department's response to comment 37.2.	None

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				Glass From 2,500 pounds to 1,500 pounds		
16.16	Group of 15 Commenters		Group of 15 Commenters	As the Department states in the ISOR and other documents, this change will not significantly impact their ability to combat program related fraud. It should also be noted that this reporting was never required for plastic which is now the dominant material type in containers. As we understand from conversations with its representatives, the DOR is not looking at these reports in a timely manner or possibly not at all. Not only does this demonstrate ineffective management, it demonstrates incompetence in understanding the benefit of this control in overcoming fraud. Reporting is a burden imposed on the industry that is not necessary and exposes us to unwarranted violations used to fabricate justification for revocation of recycling center operators' certifications.	The department rejects this comment. Presumably, the commenter is referring to the reporting requirement currently imposed on certified recycling centers pursuant to section 2530(i) of the regulations. This report is required to be submitted to the department by recycling centers for all aluminum transactions of more than 250 pounds. The comment, "As we understand from conversations with its representatives, the DOR is not looking at these reports in a timely manner or possibly not at all," is an unsubstantiated and false allegation. Multiple criminal prosecutions have resulted from referrals by CalRecycle to the California Department of Justice based on analysis of these 250 pound reports. The Department of Justice has been provided 250 pound report data on a regular basis for over two years for use in investigating recycling fraud. Also, see the department's responses to comments 1.2 and 1.3, and 3.2(b).	None
16.17	Group of 15 Commenters		Group of 15 Commenters	According to the ISOR, the Department bases its decisions on observations and anecdotal evidence. Observations are subject to interpretation and the qualifications and competence of staff. Anecdotal evidence is unreliable.	See the department's response to comment 37.2	None
16.18	Group of 15 Commenters		Group of 15 Commenters	The Department presents some statistical analysis but does not present the support for that analysis. We have no assurance that the sampling was accurate or representative of the conditions we face daily. The act of applying that analysis	The department rejects this comment. The commenter makes general statements about the data used in the department's analysis as presented in this rulemaking package without providing any supporting data or	None

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				<p>will cause consumers, scavengers and other collectors to have their material arbitrarily excluded from their right of redemption. Therefore this analysis should not be considered as support for this change.</p> <p>...</p> <p>We are given statistics and charts which are unsupported and therefore unprovable, unreconcilable and unreliable. There are highly questionable differences in their data. It's invalid justification.</p>	<p>information. The department stands behind the veracity and accuracy of the data presented in the report. Moreover, the majority of information referenced and used in the analysis was reported to the department by certified recycling centers in the ordinary course of business.</p>	
16.19	Group of 15 Commenters		Group of 15 Commenters	<p>A revenue plan is provided for those working 50 weeks a year with two weeks for vacation. The numbers are unsupported and highly questionable. They state that the large load limits provide an economic incentive but it's really the price they can receive. It is high prices and excessive competition fueled by a subsidy, not load limits. This is the actual corruption of legitimate markets.</p>	<p>See the department's response to comment 1.3 and 16.18.</p>	None
16.20	Group of 15 Commenters		Group of 15 Commenters	<p>The ISOR informs us that CRV was 50% less at one point in time than it is today. They don't mention that aluminum load limits have already been reduced 33%.</p>	<p>See the department's response to comment 1.3. Also, even if the commenter is correct that there were previous reductions in the load limits, it does not change the rationale and justification for the proposed amendments as stated in the ISOR and NOPA.</p>	None
16.21	Group of 15 Commenters		Group of 15 Commenters	<p>The Department states that large quantities of non-CRV material are included in CRV payments. This is an inspection issue not addressed in this proposal and they provide no evidence. The DOR is responsible to protect the Fund by minimizing, not reducing the quantity of non-CRV material</p>	<p>See the department's responses to comment 1.3 and 16.18.</p>	None

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				included in CRV payments. This is an issue of commingling and those regulations are not a part of this rulemaking package. The rest is creative justification and rationalization.		
16.22	Group of 15 Commenters		Group of 15 Commenters	Staff, as stated in the ISOR, is unable to identify a reasonable alternative. Staff believes that this proposal which lacks clarity, authority and imposes additional burden on recyclers to be the best possible solution.	See the department's response to comment 1.3. Moreover, the department's proposal is clear and does have authority (NOPA p. 8). Further, as discussed in the Economic Impact Analysis / Assessment: (Addendum To STD 399), the department finds that any potential burdens on recyclers are outweighed by the potential benefits to the overall program that will result from adoption of the proposed regulations.	None
16.23	Group of 15 Commenters		Group of 15 Commenters	The Department discloses the real problem, bias. The behavior demonstrated by the DOR shows a belief the recycling centers knowingly purchase OOS material even if they suspect it is ineligible. Suspicion is not defined in the regulations or statute. How do you teach suspicion to an employee? They go on to say that honest recycling centers that suspect materials are ineligible do the right thing by refusing to purchase those containers. To do so is without statutory or regulatory authority. In the California Regulatory Notice Register dated May 24, 2013 OAL finds: CalRecycle has created a system whereby its investigators may impose regulatory sanctions upon recycling centers for alleged violation of standards which are void and which have no force of law. As shown by the Notice of Action and Prepayment Inspection Status, these regulatory sanctions are imposed by bureaucratic decree, allowing no due process or right of	The department rejects this comment because it is directed at policies outside the scope of this rulemaking. That portion of the comment referring to an underground regulation petition is not relevant to this rulemaking. As a point of clarification, it should be noted that the statements described as the findings of OAL are, in fact, the allegations contained in the petition being described in the Notice Register.	

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				<p>appeal.</p> <p>The Department presents some statistical analysis but does not present the support for that analysis. We have no assurance that the sampling was accurate or representative of the conditions we face daily. The act of applying that analysis will cause consumers, scavengers and other collectors to have their material arbitrarily excluded from their right of redemption. Therefore this analysis should not be considered as support for this change.</p> <p>In Purpose, Benefits, Goals the Department professes expertise in the intent of statute 14538. The Department believes that the statute imposes conditions on recyclers by focusing on two phrases taken out of context. They are: That operators demonstrate that they will operate to the satisfaction of the Department.</p> <p>That the operator not purchase ineligible material that the center knew, or should have known originated from out-of-state.</p> <p>In the first phrase DOR staff has demonstrated that they truly believe operators must do what they say which has spawned numerous underground regulations.</p> <p>In the second phrase the DOR takes the position that even if they (the operator) didn't know, then they just should have, and then impose a standard of suspicion. This standard was already being imposed but was formalized by a Notice To: All Certified Recycling Centers. This notice imposed those standards of suspicion and were arbitrarily imposed on some</p>		

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				<p>recyclers. In a number of cases the admitted underground regulation was the foundation for accusations against the operators. This has hurt many good, hard-working people and their families. Most are immigrants and the majority is Hispanic.</p> <p>What the DOR fails to recognize is the intent of 14538 imposes conditions on the DOR to certify operators based upon adopted regulation. Those regulations are to include standards and requirements to obtain the certification. Since they have failed to adequately do that in the past, they then focus the phrases mentioned and impose them on the operations post certification. This is additional enforcement of arbitrary standards.</p> <p>PRC Section 14552. This section states DOR has the authority to adopt and implement an auditing system. They have never done that. Compare this program to the Board of Equalization that's much more qualified to audit businesses. They have adopted audit regulations according to the APA to ensure the protection and safety of the tax payers against errors in procedure and interpretation by the state. To the contrary, the DOR has a history of preferring to work outside of the APA. Yet they have a goal to ensure that the Department has an ability to review documentation and determine whether claims were valid (a subjective standard) and accurate. (You're guilty if you're not accurate!) To ensure that you're not accurate, auditors are instructed to arbitrarily disqualify an entry to justify inaccuracy. In a hearing, an auditor for the Department testified that the Department had a "zero tolerance policy" for errors.</p>		

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16.23	Group of 15 Commenters		Group of 15 Commenters	The Department has no mandate to prevent curbside scavenging or involve themselves with local ordinances. This has absolutely no affect on the Fund.	As stated in the ISOR (p. 8), it is true that scavenging from curbside recycling bins does not pose the same threat to the Fund that illegal importation and redemption of UBC material does. Such activity does, however, reduce the profitability of legitimate operators of curbside programs, who play a critical role in the continuing success of the CBCRP. The fact that the proposed regulations may have a benefit to some elements of the program separate from preventing losses to the Fund does not reduce the need for this rulemaking.	
14	NexCycle	John	Ferrari	NexCycle supports the decrease of the load limits for aluminum and plastic per transaction from the current limit of five hundred pounds (500 lbs.) to one hundred pounds (100 lbs.). We also support the decrease of the load limit for glass from the current threshold of two thousand five hundred pounds (2,500 lbs.) to one thousand pounds (1,000 lbs.) per transaction.	No change is requested.	None
15	rePlanet	Rodney	Rougelot	<p>In examining the impact of the proposed amendments, reducing the load limits will have very little impact on rePlanet’s day-to-day operations. The resulting impact of eliminating certain previously necessary reporting requirements will ease some of the administrative burden on rePlanet as a participant in the program.</p> <p>rePlanet believes reduced load limits will be a valuable step towards inhibiting fraudulent recycling transactions and ultimately will benefit recycling companies participating in the program, as well as Californians who choose to recycle at certified recycling centers throughout the State.</p>	No change is requested	None

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34	Cedar Avenue Recycling & Transfer Station, L.P.	Ray	Medley	CARTS does support the proposed regulations regarding the amount of CRY material which can be delivered to a recycling facility per day. Out of state beverage containers can not be accepted as CRV material in California.	No change requested.	None
2, 5, 6, 7, 8	Various		Various	These are records of telephonic inquiries received by the department.	These were not written comments. CalRecycle only accepted written comments during this rulemaking. CalRecycle did not accept oral comments for this rulemaking. None of these calls were actual comments on the proposed regulations. They were general questions about the rulemaking process or they were specific non-rulemaking questions about the CBCRP that had been misrouted.	