

ADDENDUM TO FINDING OF EMERGENCY

CALIFORNIA CODE OF REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 2. DEPARTMENT OF CONSERVATION

CHAPTER 5. DIVISION OF RECYCLING

FINDING OF NECESSITY

The Department finds that an emergency exists to promulgate new regulations in order to implement the statutory mandates of Public Resources Code section 14571.9, which authorizes the Department to approve up to five pilot projects. This Addendum to the Finding of Emergency serves to further clarify the necessity of these proposed new regulations.

There are no existing regulations for pilot projects or jurisdictions. Sections 2750, 2752, 2754, 2756, 2758, 2760, and 2774 of the proposed regulations are necessary to establish the application process for jurisdictions, as well as to establish jurisdictions' responsibilities in the pilot project program.

Existing regulations do provide some standards for the operators of pilot projects, with Public Resources Code section 14571.9(a)(3) providing that unless otherwise specified . . . an operator of a pilot project shall be subject to all requirements imposed on recycling centers as specified in this division and any implementing regulations." However, many of the existing requirements imposed on recycling centers in statute and regulation are incompatible and insufficiently flexible for the pilot projects to achieve the Legislature's intent for the pilot projects to "create new, convenient recycling opportunities to improve consumer redemption of eligible beverage containers and increase recycling rates in jurisdictions served by pilot projects."

As such, proposed sections 2750, 2762, 2764, 2766, 2768, 2770, 2772, 2774, 2776, and 2778 are necessary to provide clear requirements for pilot project operators and pilot project recyclers. Specifically, proposed sections 2750, 2762, 2764, and 2766 establish a clear, distinct certification process for pilot project recyclers from that of recycling centers, and distinguish the application process for pilot project recyclers from that of jurisdictions who wish to operate a pilot project.

Proposed sections 2768, 2770, 2772, 2774, 2776, and 2778 provide specific operational requirements for pilot project recyclers. These standards are necessary to provide pilot project recyclers with the flexibility to innovate and create new recycling opportunities while at the same time maintaining consistency with existing recycling center requirements. Additionally, the proposed operational standards will provide the

Department with additional tools necessary for combating fraud (e.g., through the recordkeeping and notification requirements), thereby protecting the integrity of the Beverage Container Recycling Fund. Finally, these proposed sections clarify the claims process for pilot project recyclers that seek handling fees.