

**DRAFT**  
**Plastic Beverage Container Minimum Content**  
**Proposed Regulations**  
October 27, 2021

Additions are underlined.

~~Deletions are stricken.~~

**§ 2000. Definitions**

(a)(3.5) “Bottle grade plastic” means any food grade plastic suitable for use as beverage container by a beverage manufacturer.

(a)(24.5) “Food grade plastic” means any plastic suitable for contact with consumable food or drink products and which complies with any federally adopted standards.

(a)(29.9) “Manufacturer of Postconsumer Recycled Plastic” means any person(s) or entity that offers for sale in the state food-grade or bottle-grade flake, pellet, sheet, fines, or other precursor forms of plastic made from postconsumer recycled material.

(a)(34.1) “Postconsumer Recycled Material” means material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the product which has been used for its intended use or can no longer be used for its intended purpose. This includes return of material from the distribution chain.

(a)(34.2) “Post-Industrial Recycled Material” means material diverted from the waste stream during a manufacturing process. Included as PIR and excluded as PCR is reutilization of materials such as rework, regrind or scrap generated in a process and capable of being reclaimed with the same process that generated it.

(a)(34.3) “Plastic Material Reclaimer” means any person(s) or entity, excluding Processors, that collects and sells or transfers cancelled plastic beverage containers to a manufacturer of postconsumer recycled plastic in the state.

**§ 2235. Recordkeeping**

A beverage manufacturer shall maintain the following records in accordance with the general requirements set forth in section 2085 of subchapter 2 of these regulations.

(a) Transactions with a Container Manufacturer. A beverage manufacturer shall maintain the following records evidencing the receipt of beverage containers or components thereof. Such records shall include all bills of lading, other shipping documents, and the following information:

- (1) Date of receipt of shipment;
- (2) Quantity, material type, size, and component type, if applicable, of beverage containers or components in shipment;
- (3) Full name and address of shipper; and
- (4) Cancelled checks or other proof of payment (receipts), invoices, and statements regarding container manufacturers' payment or credit for processing fees pursuant to the Act.

(b) Rejected Containers. A beverage manufacturer shall maintain records of any recycling, processing, or other disposition of rejected containers and any payments therefor. These records shall include receipts or statements signed by the recycling center, processor, or other recipient. Such receipts or statements shall state the weight by material type of rejected containers and any payment made or credit granted therefor.

(c) Sales and Transfers of Beverage Containers by a Beverage Manufacturer. A beverage manufacturer shall maintain records, by individual sale or transfer, of all sales or transfers of beverage containers to distributors, dealers, or consumers, and any payments made therefor. The records shall include all of the following:

- (1) The number, by material type, of beverage containers sold or transferred to dealers, distributors, or consumers;
- (2) The date of the sale or transfer;
- (3) The full name and address of the buyer or other transferee, and shipping name and address if different; and
- (4) Proof of payment for the beverage containers sold or transferred, such as invoices and statements.

(d) Processing Fee Report Records. A beverage manufacturer shall retain a copy of the Beverage Manufacturer Report, submitted to the Division pursuant to section 2240 of this subchapter, and proof of payment and receipts for processing fee payments made to the Division.

*(e) Minimum recycled plastic content documentation. A beverage manufacturer shall maintain the following records evidencing the minimum recycled plastic content of beverage containers sold or transferred to distributors, dealers, or consumers. Suitable records for examination and audit by the Department shall include of the following:*

- (1) Material Data Sheets and purchase records associated with the beverage container,*
- (2) Manifest, bills of lading or other sales documents to show shipping of beverage containers with postconsumer material content,*

(3) Purchase records of Postconsumer Recycled Material and Virgin Material used to manufacture beverage containers.

(4) Certifications made by a Container Manufacturer of the postconsumer recycled material content of the beverage containers, and

(5) Financial, transactional, or legal documentation provided by the Container Manufacturer that documents the postconsumer recycled material content of the beverage containers.

#### **§ 2240. Reporting.**

(a) For each month during which a processing fee applies to any beverage container material type sold or transferred by a beverage manufacturer, the appropriate beverage manufacturer, as determined by section 2230, shall prepare and submit to the Division the Beverage Manufacturer Report. The Beverage Manufacturer Report shall contain the following information in accordance with the general requirements for reporting as contained in section 2090 of these regulations.

~~(a)~~ (1) Sales and Transfers of Beverage Containers Subject to a Processing Fee. Each report shall contain all of the following information:

~~(1)~~ (A) The beverage manufacturer's name, address, manufacturer identification number, contact person, and telephone number of contact person;

~~(2)~~ (B) The reporting period;

~~(3)~~ (C) The number of beverage containers, by material type, sold or transferred in or into this state during the reporting period which are subject to a processing fee;

~~(4)~~ (D) The amount of the processing fee per beverage container and material type ("unit fee");

~~(5)~~ (E) The amount of the processing fee payment for each material type, calculated by multiplying the beverage container count for each material type by the applicable processing fee per container;

~~(6)~~ (F) The amount of the total processing fee payment due, which is equal to the sum of the processing fee payments by material type pursuant to subsection (5); and

~~(7)~~ (G) The signature of an authorized representative and date signed.

~~(b)~~ (2) The Beverage Manufacturer Report shall be submitted no later than the tenth day of the second month following the month of sales. For example, sales of January 2010 shall be reported no later than March 10, 2010; sales of February 2010 shall be reported no later than April 10, 2010; sales of March 2010 shall be reported no later than May 10, 2010, etc.

(b) For each year, a beverage manufacturer shall prepare and submit to the Division the Plastic Beverage Container Virgin and Postconsumer Resin Report. The Plastic Beverage Container Virgin and Postconsumer Resin Report shall contain the following information in accordance with the general requirements for reporting as contained in section 2090 of these regulations.

(1) Plastic Beverage Container Virgin and Postconsumer Resin Report. Each report shall contain all of the following information:

(A) The Beverage Manufacturer's name and Manufacturer identification number; and

(B) The reporting period; and

(C) The amount of virgin plastic, by resin type and in pounds, used by the manufacturer for plastic beverage containers subject to the California Redemption Value for sale in the state; and

(D) The amount of postconsumer recycled plastic, by resin type and in pounds, used by the manufacturer for plastic beverage containers, including caps and labels, subject to the California Redemption Value for sale in the state; and

(E) The printed name, title, and signature of the person preparing the report; and

1. The Signature block shall state the information in the report is true and correct, subject to penalty of perjury, and the person signing is authorized to do so; and

(F) The date and the place the report was signed.

(2) The Plastic Beverage Container Virgin and Postconsumer Resin Report shall be submitted no later than March 1 of each year for plastic beverage containers subject to the California Redemption Value for sale in the state for the previous calendar year.

**§2250. Petition to the Director to adjust the minimum postconsumer recycled content percentage.**

(a) On or after January 1, 2025, and annually thereafter, an association that represents companies that manufacture beverages may petition to the director to adjust the minimum postconsumer recycled content percentage required to meet the minimum recycled plastic content requirements for plastic beverage containers.

(b) The petition shall be submitted as a written request to the director of the Department of Resources Recycling and Recovery and shall include:

(1) The name of the association; and

(2) The percentage, above 35%, of registered Beverage Manufacturers that the association represents; and

(3) The Filer identification number granted by the Secretary of State that demonstrates the association is registered to engage in lobbying the legislature or a state administrative agency; and

(4) Information documenting the following factors to be considered by the director of the Department of Resources Recycling and Recovery:

(A) Changes in market conditions, including supply and demand for postconsumer recycled plastics, collection rates, and bale availability both domestically and globally;

(B) Recycling rates as determined by the Department of Resources Recycling and Recovery; and

(C) The availability of recycled plastic suitable to meet the minimum recycled content requirements, including the availability of high-quality recycled plastic, and food-grade recycled plastic from the state's and other beverage container recycling programs; and

(D) The capacity of recycling or processing infrastructure; and

(E) The progress made by beverage manufacturers in achieving the goals related to meeting the minimum recycled plastic content requirements.

(5) The association's preferred reduced minimum postconsumer recycled content percentage as supported by the factors identified in the petition.

#### **§2260. Corrective Action Plan**

(a) A beverage manufacturer shall submit, in writing, to the director of the Department of Resources Recycling and Recovery a corrective action plan before the beverage manufacturer obtains a reduction of an administrative penalty.

(b) Each corrective plan shall include the following:

(1) The beverage manufacturer's name and manufacturer identification number; and

(2) The reporting period; and

(3) Reasons why the beverage manufacturer will fail to meet or has failed to meet the minimum postconsumer recycled content standard; and

(4) Steps the beverage manufacturer will take to comply with the minimum postconsumer recycled standard within the next reporting year; and

(5) Dates for when the beverage manufacturer will implement the identified steps.

(c) The Department will approve or deny the corrective action plan 60 calendar days after receipts of the corrective action plan.

**§2265. Reduction in Administrative Penalties**

(a) The Department shall consider granting a reduction of the administrative penalties assessed to beverage manufacturers that does not meet the minimum recycled plastic content requirements for a reporting year based on the following factors:

(1) Anomalous market conditions; and

(2) Disruption in, or lack of supply, of recycled plastics; and

(3) Other factors that have prevented a beverage manufacturer from meeting the minimum recycled plastic content requirements; and

(A) Other factors that have prevented a beverage manufacturer from meeting the minimum recycled plastic content requirements shall not include :

1. A beverage manufacturer's inability to obtain supporting documentation from the container manufacturer or other vendor; or

2. A beverage manufacturer's inability to pay the assessed administrative penalty.

(4) The department approved beverage manufacturer corrective action plan.

(b) The department will either grant or deny the reduction in administrative penalties 30 calendar days after the acceptance of a corrective action plan.

**§2780. Plastic Material Reclaimer Identification Number**

The Division will issue a reporting identification number to all eligible Plastic Material Reclaimers to facilitate the collection of information and reports related to the amount in pounds and by resin type of empty plastic beverage containers, subject to the California Redemption Value, collected and sold in the previous calendar year.

**§2785. Plastic Material Reclaimer Report**

On March 1, 2024 and for every year after, a Plastic Material Reclaimer shall prepare and submit to the Division the Plastic Material Reclaimer Form. The Plastic Material Reclaimer Form shall contain the following information in accordance with the general requirements for reporting as contained in section 2090 of these regulations.

(a) The Plastic Material Reclaimer Form. Each Form shall contain all of the following information:

(1) The year of the reporting period;

(2) The reporting identification number;

(3) The facility name;

(4) The mailing address;

(5) The contact person;

(6) The Telephone Number of the contact person;

(7) The email address of the contact person;

(8) The amount of empty plastic beverage containers subject to the California Redemption Value collected and sold, by resin type and in pounds;

(9) The amount of empty plastic containers sold or transferred in the state to a Manufacturer of Postconsumer Recycled Plastic for beverage processing, by resin type and in pounds;

(10) The printed name, title, and signature of the person preparing the report; and

(A) The signature block shall state the information in the report is true and correct, subject to penalty of perjury, and the person signing is authorized to do so.

(11) The date and the place the report was signed.

**§2790. Manufacturer of Postconsumer Recycled Plastic Identification Number**

The Division will issue a reporting identification number to all eligible Manufacturers of Postconsumer Recycled Plastic to facilitate the collection of information and reports related to the amount in pounds of food-grade flake, pellet, sheet, fines, or other forms that were sold in the previous calendar year, their capacity to produce food-grade material, the amounts in pounds of plastic material that meets beverage manufacturer specifications for bottle-grade material, and the amount in pounds of food-grade material sold in the state for use in beverage containers.

**§2795. Manufacturer of Postconsumer Recycled Plastic Report**

On March 1, 2024 and for every year after, a manufacturer of postconsumer recycled plastic shall prepare and submit to the Division the Manufacturer of Postconsumer Recycled Plastic Form. The Manufacturer of Postconsumer Recycled Plastic Form shall contain the following information in accordance with the general requirements for reporting as contained in section 2090 of these regulations.

(a) The Manufacturer of Postconsumer Recycled Plastic Form. Each Form shall contain all of the following information:

(1) The year of the reporting period;

(2) The reporting identification number;

(3) The facility name;

(4) The mailing address;

(5) The contact person;

(6) The Telephone Number of the contact person;

(7) The Email Address of the contact person;

(8) The amount of food-grade flake, pellet, sheet, fines or other forms, by resin type and in pounds, that were sold;

(9) The capacity to produce food-grade material, by resin type and in pounds;

(10) The amount of food grade plastic material offered for sale that meets beverage manufacturer specifications for bottle-grade material, by resin type and in pounds;

(11) The amount of food grade plastic material sold that meets beverage manufacturer specifications for bottle-grade material, by resin type and in pounds;

(12) The printed name, title, and signature of the person preparing the report; and

(A) The signature block shall state the information in the report is true and correct, subject to penalty of perjury, and the person signing is authorized to do so.

(13) The date and the place the report was signed.