

REQUEST FOR APPROVAL

To: Rachel Machi Wagoner
Director

From: Kate Nitta
Assistant Chief Counsel, Legal Affairs Office

Request Date: July 31, 2023

Subject: AB 793 Plastic Content Reporting and Compliance Permanent Regulations

Action By: August 11, 2023

Summary of Request:

Assembly Bill (AB) 793 (Chapter 115, Statutes of 2020), which amended Public Resources Code (Pub. Res. Code) section 14549.3 and added Pub. Res. Code sections 14547, places the primary responsibility for establishing minimum postconsumer recycled (PCR) plastic content standards for plastic beverage containers subject to California Redemption Value (CRV) on beverage manufacturers, as defined in Pub. Res. Code section 14506. AB 793 requires the total number of plastic beverage containers filled with a beverage sold by a beverage manufacturer to contain on average a minimum 15 percent PCR plastic beginning in 2022, increasing to 25 percent in 2025, and settling at 50 percent in 2030.

The Department of Resources Recycling and Recovery (CalRecycle) is seeking to permanently establish regulations to clarify the language introduced by AB 793 and implement its reporting requirements and penalties. Specifically, CalRecycle proposes to amend California Code of Regulations (CCR), Title 14, Division 2, Chapter 5, section 2000 to adopt definitions that are needed to clarify the statute, amend section 2100 to address compliance related to the new reporting requirements of AB 793, amend section 2235 to address recordkeeping, and amend section 2240 to address reporting and penalties assessed on beverage manufacturers for failing to meet the minimum PCR plastic standard. CalRecycle also proposes to adopt 14 CCR section 2250 in order to address the reduction of administrative penalties via a corrective action plan, adopt section 2260 to address the handling of a petition requesting a reduction in the minimum content threshold, adopt section 2265 to address a request for a reduction in the assessment of administrative penalties and adopt sections 2780, 2785, 2790, and 2795 to clarify reporting requirements associated with two new program participants (plastic material reclaimers and manufacturers of postconsumer recycled plastic) with reporting responsibilities set by AB 793.

Background Information, Analysis, and Findings:

The scope of these proposed regulations is generally limited to the form and manner of implementing the reporting requirements, administrative penalties, and relief measures from administrative penalties. The proposed amendments will provide the benefit of clarifying the language introduced by AB 793 and provide the method for implementing the reporting requirements and penalties. The proposed regulations are also in alignment with and are anticipated to provide benefits relating to the goal of AB 793 to help develop domestic markets for recycled plastic, reduce the amount of virgin plastic used, and provide a closed-loop solution for plastic beverage containers by establishing minimum PCR plastic content standards for plastic beverage containers subject to CRV.

Fiscal Impact:

CalRecycle made the following determinations: there is no fiscal impact to any state agency, no cost to any local agency or school district for which Government Code sections 17500-17630 require reimbursement, no nondiscretionary costs or savings to local agencies, and no costs or savings in federal funding to the state.

Recommendation:

The goal of AB 793 is to help develop domestic markets for recycled plastic, reduce the amount of virgin plastic used, and provide a closed-loop solution for plastic beverage containers by establishing minimum PCR plastic content standards for plastic beverage containers subject to CRV.

Based on the information presented in this Request for Approval, staff recommends the Director to approve the proposed regulatory text for the AB 793 regulations.

Upon approval of this request, staff will work with the Legal Office to make the necessary filings with the Office of Administrative Law to enact the regulations.

Director Action:

On the basis of the information and analysis in this Request for Approval, I hereby approve the amendments of the Plastic Minimum Content Standards (AB 793) detailed in 14 CCR, sections 2000, 2100, 2235, 2240 and adoptions in 14 CCR, sections 2250, 2260, 2265, 2780, 2785, 2790, and 2795, and in doing so, fulfill CalRecycle's obligations pursuant to PRC sections 14547 and 14549.

Rachel Machi Wagoner

Rachel Machi Wagoner
Director

August 1, 2023

Date Signed

Attachments:

1. Proposed Regulatory Language Title 14 California Code of Regulations, Chapter 5

AB 793 Plastic Content Reporting and Compliance Permanent Regulations

Proposed Regulatory Text

§ 2000. Definitions.

(a) In addition to the definitions provided in the California Beverage Container Recycling and Litter Reduction Act, except for subdivisions (a)(3.1), (10), (20), (21), (35), (37), (38), (40) and (42) below which modify definitions in the Act for purposes of these regulations, the following definitions shall apply whenever the terms are used in this chapter.

(1) "Act" means the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 of the Public Resources Code).

(2) "Administrative Costs" means the cost of recordkeeping and accounting required of curbside programs, distributors, recycling centers and processors to comply with the requirements of the Act and these regulations.

(2.1) "Amended Processor Invoice" means an invoice submitted by a processor correcting an original report that has been processed and paid.

(2.2) "Amended Shipping Report" means a shipping report submitted by a processor correcting an original shipping report that has been processed and paid.

(2.5) "Alternative Methodology" means an individual commingled rate survey methodology, which either employs the Division's methodology with variations or creates a proposed methodology for the dropoff or collection, community service or curbside programs to arrive at an individual commingled rate.

(3) "Applicant" means the person(s) who has authority to legally bind the operator to a contract.

(3.1) "Beneficiating Processor" means any processor certified by the department who sells cullet to another certified processor or to a glass container manufacturer during the three months preceding the month in which scrap value data is reported to the Division and who beneficiates purchased cullet so that the cullet either:

(A) meets the American Society for Testing and Materials (ASTM) standard specification for waste glass as a raw material for the manufacture of glass containers [E708-79 (Reapproved 1988) Standard Specification for Waste Glass As A Raw Material For The Manufacture of Glass Containers. Current Edition Approved Nov. 30, 1979; published January 1980, see appendix A]; or,

(B) is free from nonglass contaminants and non-container glass compositions, cleansed, crushed to size, free-flowing with minimum water content, absent of hazardous material residue and passes furnace ready sampling and testing methods of a purchasing glass container manufacturer.

(C) Notwithstanding, the other provisions of this section, any certified processor shall not be considered a beneficiating processor if fifty percent (50%) or more of the cullet purchased by that processor during the survey month in which the scrap value data is reported was purchased as beneficiated cullet.

(3.2) "Beverage manufacturer" shall have the same definition as provided in Public Resources Code section 14506, and "any person ... who imports", as provided in that section, shall include, in the following order of preference:

(A) Any consignee of filled beverage containers brought into this State from without this State, when the filled beverage containers are for delivery, use, or sale within this State.

(B) Any person or entity to whom delivery is first made in this State of filled beverage containers brought into this State from without this State, when the filled beverage containers are for delivery, use, or sale within this State.

(C) Any person or entity bringing filled beverage containers into this State from without this State which are not consigned to any person, when the filled beverage containers are for delivery, use, or sale within this State.

[\(3.5\) "Bottle-grade" means any food-grade material suitable for use as beverage container by a beverage manufacturer.](#)

(4) "Cancellation" means the act of removing the refund value of an empty beverage container by any of the following actions:

(A) Aluminum empty beverage containers shall be deemed cancelled when such containers can no longer be physically reconstituted or distinguished as container units. Except as provided in section 2110(b), this may be accomplished by shredding or densification to thirty pounds per cubic foot or more.

(B) Glass empty beverage containers shall be deemed cancelled when such containers have been substantially cleaned of non-glass contaminants and they are crushed size in such a manner as to be acceptable without further processing by a willing user.

(C) Plastic empty beverage containers shall be deemed cancelled when the original form has been so altered as to make its reconstitution physically impossible.

(D) Bimetal empty beverage containers shall be deemed cancelled by densification sufficient to ensure that separation of a single container is no longer possible, or by shredding, milling, or nuggeting.

(E) Any empty beverage container shall be deemed cancelled when it is permanently exported from the State and export verified in accordance with subsections 2420(d)(1), (2) and (3) of these regulations provided that, if aluminum beverage containers, they are first densified to no less than 15 pounds per cubic foot, or shredded.

(F) Any empty beverage container shall be deemed cancelled when it is delivered to a location of end use and the delivery verified in accordance with subsections 2420(d)(1), (2) and (3) of these regulations provided that the following requirements are met:

1. aluminum beverage containers are first densified to not less than 15 pounds per cubic foot, or shredded.

2. glass beverage containers are delivered to a location of end use, which includes a beneficiating processor, as defined in Public Resources Code section 14503.6.

(5) "Category" means the classification of operation, i.e., processor, recycling center, grandfathered recycling center, dropoff or collection program, or community service program.

(6) "Certificate" means the official document issued by the Division which identifies an operator of a recycling center, dropoff or collection program, community service program or processing facility as meeting the requirements for certification by the Division.

(7) "Certified" means an operator of a recycling center, dropoff or collection program, community service program or processing facility has met the minimum requirements established by the Division to receive the certificate defined in (6) above.

(8) "Certification Sign" means a sign or decal issued by the Division for display which identifies the operator of a recycling center as meeting the requirements for certification by the Division.

(9) "Clearly and Prominently" means that the redemption message is displayed so that it is easily found and read by consumers and recyclers. Each letter comprising the message is complete, legible, and cannot be readily obscured. Other factors include boldness, width, spacing, and location of lettering. The message must be distinguishable from refund messages of other states.

(9.5) "Close proximity" means the area within, or adjacent to, a convenience zone, as determined by the Division on a case-by-case basis considering geographic and demographic factors, and consumer convenience.

(10) "Commingled" means a mix of empty beverage containers and other containers of the same material type. Any broken glass empty beverage container(s) purchased from consumers, dropoff or collection programs, or community service programs shall be deemed commingled. Any broken or partial beverage container(s) or rejected, line breakage or out-of-state containers shall not be included when performing a survey methodology to arrive at an individual commingled rate or statewide average commingled rate. Dropoff or collection, curbside and community service programs' individual commingled rate shall be determined pursuant to subsection 2620 through 2645, 2660 through 2685, and 2720 through 2745, respectively. The statewide average commingled rates shall be determined by the Division pursuant to subsections 2900(a)(1)(B) and section 2930 of these regulations.

(11) "Community Service Program" means a program, certified by the Division, which does not pay refund value and accepts or collects empty beverage containers at a specific location or locations and meets one of the following criteria:

(A) The program is organized under Section 501(c) or 501(d) of the Internal Revenue Code [26 U.S.C. 501(c) and 501(d)], or

(B) The program is a charitable group organized under Section 23701 of the California Revenue and Taxation Code, or

(C) The program is operated by, or caused to be operated by, a city, county or other public agency.

(11.1) "Consolidated Shipping Report" documents the delivery and receipt of material for processors or recycling centers that operate multiple recycling centers or receive material from dropoff or collection programs, community service programs, or curbside programs and is prepared pursuant to subsection 2090(f) of these regulations.

(12) "Contrasting Colors" as used in reference to the redemption message lettering means a clear differentiation in hue, value, and intensity with the background on which the redemption message appears, surrounding artwork, and other nearby printed information.

(13) "Days" means all calendar days unless provided otherwise.

(14) "Delivered" or "Delivery", as used in subchapters 5 & 6 of these regulations, means physically taking possession of the material.

(15) “Dual Certified Entity” means any person who is certified as a processor and also a recycling center at the same location as the processor.

(16) “Densification” means the process of compressing material for the purpose of increasing the weight to volume ratio.

(17) “Disposal Cost” means the transportation cost for hauling postfilled beverage container types to a state-permitted disposal site (landfill, incinerator, or other type of state-permitted site), plus the specified disposal fee.

(18) “Division” means the Division of Recycling which is within the Department of Conservation.

(19) (Reserved)

(20) “Dropoff or Collection Program” means a recycling program which does not pay refund value and accepts or collects empty beverage containers, and which cannot qualify as a curbside program as defined in Section 14509.5 of the Act. “Dropoff or Collection Program” also means a program which separates recyclables from mixed municipal waste. “Dropoff or Collection Program” does not mean a program which accepts or collects recyclable materials which have already been separated from mixed municipal waste. Dropoff or Collection Program includes a Neighborhood Dropoff Program which meets all of the criteria in Section 14514.4.1 of the Act.

(21) “Empty Beverage Container” means a beverage container which meets all the requirements in Section 14512 of the Act except that such term does not include refillable beverage containers.

(22) “Exemption” means an exclusion to the requirement that a recycling center must be established in a convenience zone.

(22.5) “Exempt convenience zone” or “Exempt zone” means a convenience zone which has been granted an exemption pursuant to Section 14571.8 of the Act.

(23) “Exporting” means the act of sending a filled or unfilled empty beverage container or empty beverage container component permanently out of this State.

(24) “Facility” means a recycling or processing operation that has been built, installed or established to serve as a collection or processing point for redeemable beverage containers.

[\(24.5\) “Food-grade” means any material suitable for contact with consumable food or drink products and which complies with any federally adopted standards.](#)

(25) “Grandfathered” is a term which refers to recycling centers that meet the requirements of section 2500(c) of these regulations.

(26) [Reserved]

(27) “Indelibly” means that the redemption message is permanently affixed on the beverage container from the point of purchase until the point of redemption and cannot be smeared or removed during regular use.

(27.1) “Individual Commingled Rate” means a commingled rate approved by the Division which is applicable to dropoff or collection, community service, or curbside programs, which have obtained prior approval from the Division.

(27.5) “Interested person” means a supermarket, dealer, certified recycling center, person with a pending certification application, located in or in close proximity to the zone under consideration for an exemption or revocation of an exemption, or a local

government agency with jurisdiction over the area where the zone under consideration for an exemption or revocation is located.

(27.6) "Line Breakage," for purposes of these regulations, means preconsumer material that is recycled or disposed of by a container manufacturer, beverage manufacturer, distributor, or dealer.

(27.7) "Letter of Denial" (LED) means a notice sent to program participants denying requests to conduct an individual commingled rate survey or denying approval of an individual commingled rate, or revoking an individual commingled rate for reason(s) indicated in the LED.

(28) "Location" means the street address where the facility operates.

(29) "Location of End Use" means the place where beverage containers or materials are physically reconstituted for purposes other than sorting, shredding, stripping, compressing, storing, landfilling, disposing, or other activities which do not result in recycling.

(29.5) "Low volume" means an average monthly volume, as defined at Section 14503.5 of the Act, which is less than the statewide average monthly volume of recycling centers in convenience zones. Average monthly volumes shall be calculated annually and shall apply during the calendar year immediately following the calculation.

(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.

(30) "Material" means the physical substance used to manufacture a beverage container or food and drink package including, but not limited to, aluminum, bimetal, glass, and plastic.

(30.7) "Milk" means the lacteal secretion which is obtained from the udder of a cow or goat.

(31) "Minimum Lettering Size" is applicable to the height of all the letters in the redemption message.

(32) "Nonaffiliated seller" means any person who sells scrap beverage container material types to a certified processor and is neither owned nor managed in common with such processor.

(32.4) "Notice of Denial" (NOD) means a notice sent to program participants denying requests for program payments, including handling fees, for reason(s) indicated on the notice. Handling fee notices will be sent for each denied site and will explain why the site was denied during a particular month.

(33) "Operator" means the person(s) or entity who has ultimate responsibility for a recycling facility, processing facility, dropoff or collection program, or community service program.

(34) "Person" means an individual, corporation, operation, or other entity, regardless of its form, subject to the Act.

(34.1) "Plastic Material Reclaimer" means any person(s) or entity that collects and sells or transfers cancelled plastic beverage containers to a manufacturer of postconsumer recycled plastic in the state.

(34.2) "Post-Industrial Recycled Material" means material diverted from the waste stream during a manufacturing process. Included as Post-Industrial Recycled Material

and excluded as Postconsumer Recycled Material 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.

(34.3) "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.

(35) "Processor" means any person, including a scrap dealer, who purchases or offers to purchase empty beverage containers from more than one recycling center in this state and is responsible for cancelling empty beverage container(s) in a manner prescribed in section 2000(a)(4) of these regulations.

(35.1) "Processor Invoice" means the report required in section 2425 of these regulations which the Department uses to determine payment to a certified processor.

(36) "Public Agency" means the city, county, district or other government entity which operates a curbside program or which has the authority to approve or acknowledge the operation of a curbside program.

(36.5) "Recycling Center" means those operations defined in Section 14520 of the Act and includes "Nonprofit Convenience Zone Recycler" as defined in Section 14514.7 of the Act and "Rural Region Recycler" as defined in Section 14525.5.1 of the Act.

(37) "Redeem" means to return an empty beverage container which bears the message as required in Section 14561 of the Act to a certified recycling or processing facility and receive refund value for the container.

(38) "Redeemable Beverage Container" means a container which bears the message as required in Section 14561 of the Act and has an established refund value.

(39) "Redemption Weight" is the weight of empty California redemption-labeled beverage containers.

(40) "Refund Value" means, in addition to the definition provided in Section 14524 of the Act, any amount paid by a noncertified recycler, dropoff or collection program, or community service program, or any payments received by a noncertified recycler, in excess of:

(A) For aluminum, the scrap price as listed in the American Metal Market publication.

(B) For glass, plastic and bimetal, the portion of the processing payment which are the costs for the recycler, as determined by the Division pursuant to Section 14575 of the Act.

(41) "Rejected Container" means a California redemption-labeled beverage container, which a container manufacturer or beverage manufacturer elects to recycle or dispose of without paying any applicable processing fee, or which a distributor elects to recycle or dispose of without paying the redemption payment. "Rejected containers" includes container tops, lids, or other components which bear the message as required in Section 14561 of the Act.

(41.05) "Representation of Materials" means a typical collection of commingled container materials, of the same material type, representing a ratio of empty beverage containers and all other containers collected by the program and surveyed by the

operator to determine an individual commingled rate for dropoff or collection, community service, or curbside programs.

(41.1) "Rural Region" means a non-urban area identified by the Division on an annual basis using Farmers Home Administration criteria. Such criteria for area include, but are not limited to, places, open country, cities, towns, or census designated places with populations less than 10,000. Areas with populations between 10,000 and 50,000 may be designated as rural unless identified as part of, or associated with, urban areas, as determined by the Department on a case by case basis.

(41.2) "Scrap", for purposes of these regulations, is any recyclable container, including food or drink packaging material, other beverage containers, other nonredeemable containers, out-of-state beverage containers, line breakage or rejected containers, of the same material composition as redeemable containers covered by the Act.

(42) "Scrap Value" is the total net payment per ton to any nonaffiliated sellers in each of the following categories: Certified recycling centers, dropoff or collection programs, community service programs, registered curbside programs, and certified processors, for container material types.

(43) "Segregated" means divided by material type and that such divided load consists of 100% California Refund Value material.

(44) "Shipping Report" is the documentation of the receipt of material by a processor, or by a recycling center from another recycling center, dropoff or collection program, community service program, or curbside program. The shipping report is the basis for payments by the Division pursuant to Section 14573 of the Act.

(45) "Shrinkage" means the reduced value due to contamination of empty beverage containers by dirt, moisture, or other foreign substances.

(45.5) "Signature" or "signed" means either of the following:

(A) An original handwritten signature; or

(B) An electronic signature. An electronic signature includes an electronic sound, symbol, or process attached to or logically associated with an electronic record, executed or adopted by a party with the intent to represent an original handwritten signature.

1. An electronic signature shall consist of a unique username and password or other security measures as required by the Division.

2. An electronic signature may not be denied legal effect, validity, or enforceability solely on the ground that it is electronic.

3. An electronic signature shall be binding on all persons and for all purposes under the law, as if the signature had been handwritten on an equivalent paper document.

(46) "Size" means the capacity of the beverage container in fluid ounces.

(47) "Statistical Sample" means an estimate with an 85% confidence level.

(47.1) "Supplemental Processor Invoice" means:

(A) A report to correct any shipping report(s) denied on the original processor invoice and/or

(B) A report to add any shipping report(s) to the original processor invoice for transactions that occurred within the same specific reporting period.

(47.2) "Total Net Payment", as used in subparagraph (a)(42) of this section and section 2425, means the amount paid for the reported monthly weight after deductions (e.g.,

transportation service) and additions (e.g., freight allowance) pertinent to the specific sales transaction have been made. "Total net payment" includes positive, zero and negative dollar amounts, as applicable. This subsection is not intended to relieve a processor of its obligation to pay refund value, administrative and processing payments pursuant to Sections 14539(b)(3) of the Act and sections 2400 and 2430 of this chapter.

(47.3) "Urban Area" means an area identified by the Division on an annual basis using Farmers Home Administration criteria. Such criteria for area include, but are not limited to, densely settled areas of continuous residential development with minimum population of 50,000. Areas with populations less than 50,000 and greater than 10,000 may be designated as urban unless identified as part of, or associated with, rural areas, as determined by the Department on a case by case basis.

(47.5) "Vegetable juice" means one hundred percent vegetable juice as described in 21 CFR 102.33.

(48) "Working Days" means all days except Saturdays, Sundays, and official California State Holidays.

(49) "Zonemate" means a supermarket which lies within the boundaries of a convenience zone other than the one that it creates.

Authority cited: Sections 14530.5(b), 14536(b), 14536.1 and 14599, Public Resources Code. Reference: Sections 14500, 14501(f), 14503, 14503.6, 14504, 14505, 14506.5, 14509.5(b), 14511.7, 14512, 14512.5, 14513, 14514.4.1, 14514.7, 14517, 14518, 14518.5, 14519.5, 14520, 14520.5, 14520.6, 14522.5, 14524, 14525.5.1, 14526, 14530, 14530.2, 14536(a), 14537, 14538, 14539, [14547](#), [14549.3](#), 14550, 14552, 14561, 14571.2, 14571.8(b), 14572, 14573, 14573.5, 14573.51, 14574, 14575(a) and 14575(b), Public Resources Code.

§ 2100. Penalties and Interest Charges.

(a) For violations of subchapters 1, 6, 7 and 9 and Sections 2010, 2015, 2020, 2025, 2030, 2035, 2040, 2045, 2050, 2055, 2060, 2065, 2125, 2130, 2400, 2405, 2415, 2420, 2425, 2430 of chapter 5, division 2, title 14 of the California Code of Regulations and Sections [14549.3](#), 14560.5(a), 14561(c), 14561(d), 14570, 14571.6 and 14572 of the Act, the Division shall issue a Notice of Violation. The Notice of Violation shall be issued to a responsible party (i.e., the manager or other person in authority) at the site of the violation and shall contain the information in subsections (1) and (4) below. A copy shall be served upon the legal owner of the entity, (respondent), within ten (10) working days. The Notice of Violation served upon the legal owner shall contain all of the following:

(1) A brief statement of the violation(s) alleged.

(2) A statement to the effect that the respondent has the right to a formal hearing, upon request, at which they may be represented by counsel.

(3) A statement that the respondent's right to a hearing will be deemed waived if respondent fails to respond in writing within 15 days from the date service of the Notice of Violation was received by the respondent, or respondent's agent for service, stating that he/she wishes to assert that right and that, in the event of such failure to respond,

the Department may assess the maximum civil penalty permitted by law without a hearing.

(4) A sworn statement, signed by the Division inspector issuing the violation(s), verifying the acts or omissions which form the basis of the violation(s).

(b) For civil penalties sought by the Department pursuant to Sections 14591.1, 14591.2, 14593, or 14594 of the Act, the Division shall provide for notice and a hearing regarding such penalties in accordance with the provisions of chapter 5 of the Administrative Procedure Act (Government Code Section 11500 et seq.); except that notice for violations of the Act, and the regulations enacted thereunder, enumerated in subdivision (a) shall be effected pursuant to the procedures in subdivision (a).

(c) Interest shall accrue from the date the payment was due.

Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14591.1, 14591.2, 14593 and 14594, Public Resources Code; and Section 11500 et seq., Government Code.

§ 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) Documentation of minimum recycled plastic content for beverage containers containing any percentage of minimum recycled plastic content evidencing the 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 all of the following:

(1) Material data sheets and purchase records associated with the beverage container and beverage container components,

(2) Manifests, 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.

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14537, [14547](#), [14549.3](#), 14552 and 14575, Public Resources Code.

§ 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 of a beverage sold in a plastic beverage container 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 all of 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 unique manufacturer identification number; and

(i) A separate report must be submitted for each manufacturer identification number.

(B) The reporting period; and

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

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

(i) Any non-numerical answer for the amount of postconsumer recycled plastic material in pounds shall be treated as a zero for purposes of calculating the postconsumer recycled plastic material content of a plastic beverage container and potential administrative penalties pursuant to subdivision c of section 14547 of the Public Resources Code.

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

(i) 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 and to the Division by email to MarketInformation@CalRecycle.ca.gov or by mail to Statistical Information Section, Division of Recycling, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, California, 95812-4025.

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14505, [14547](#), [14549.3](#), 14552 and 14575, Public Resources Code.

§ 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. The association must represent at least 35% of beverage manufacturers who reported plastic beverage containers pursuant to section 2240(a) of these regulations during the previous calendar year to submit the petition.

(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 list of registered beverage manufacturers that the association represents which must include:

(A) Each unique manufacturer identification number; and

(B) The name of the beverage manufacturer;

(3) A confirmatory statement that the association represents at least 35% of beverage manufacturers who reported plastic beverage containers pursuant to section 2240(a) of these regulations during the previous calendar year; and

(4) 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

(5) 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 requirements of subdivision (a) of section 14547 of the Public Resources Code.

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

(c) The petition to the director of the Department of Resources Recycling and Recovery shall be submitted by December 1 and delivered to either the Division by email to

MarketInformation@CalRecycle.ca.gov or by mail to Statistical Information Section, Division of Recycling, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, California, 95812-4025.

(d) The director will grant or deny the petition by publishing the decision on minimum content standards on the Department's website on or before May 1 of the subsequent year.

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14517 and 14547, Public Resources Code.

§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 assessment for not meeting the minimum recycled plastic content requirements.

(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; and

(6) Steps the beverage manufacturer took to implement any previously approved corrective action plans.

(c) A beverage manufacturer shall submit a corrective action plan within 30 days of receipt of an invoice for an administrative penalty.

(d) A beverage manufacturer shall submit any corrective action plan by email to MarketInformation@CalRecycle.ca.gov or by mail to Statistical Information Section, Division of Recycling, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, California, 95812-4025.

(e) The Department will approve or deny the corrective action plan in writing within 60 calendar days after receipt of the corrective action plan

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14547, Public Resources Code.

§ 2265

Reduction in Administrative Penalties

(a) A beverage manufacturer shall submit a written request to the director of the Department of Resources Recycling and Recovery to request a reduction of an administrative penalty assessment for not meeting the minimum recycled plastic content

requirements, and the request must include the administrative penalty reduction sought by the beverage manufacturer.

(b) The Department shall consider granting a reduction of the administrative penalties assessed to beverage manufacturers that do 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:

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

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

(4) The beverage manufacturer corrective action plan approved by the department in section 2260 of these regulations; and

(5) The totality of the implementation of any prior approved corrective action plans for a beverage manufacturer.

(c) A beverage manufacturer shall submit any request for a reduction in administrative penalties with the corrective action plan required in section 2260 of these regulations.

(d) The department will grant or deny the reduction in administrative penalties in writing within 30 calendar days after the approval of a corrective action plan.

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14547, Public Resources Code.

Subchapter 9.1. Plastic Material Reclaimer

§2780

Plastic Material Reclaimer Identification Number

The Division will issue in writing a plastic material reclaimer identification number to all 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.

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14549.3, Public Resources Code.

§2785

Plastic Material Reclaimer Report

(a) On March 1, 2024 and for every year after, a plastic material reclaimer shall prepare and submit to the Division the plastic material reclaimer report. The plastic material

reclaimer report shall contain the following information in accordance with the general requirements for reporting as contained in section 2090 of these regulations.

(b) The plastic material reclaimer report. Each report shall contain all of the following information:

(1) The year of the reporting period;

(2) The plastic material reclaimer identification number reporting identification number;

(3) The facility name;

(4) The address for the facility and any other location where empty plastic beverage containers subject to this report are stored;

(5) The mailing address;

(6) The contact person;

(7) The Telephone Number of the contact person;

(8) The email address of the contact person;

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

(10) 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;

(11) 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.

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

(c) The plastic material reclaimer report shall be submitted to the Division by email to MarketInformation@CalRecycle.ca.gov or by mail to Statistical Information Section, Division of Recycling, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, California, 95812-4025., Division of Recycling, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, California, 95812-4025.

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14549.3, Public Resources Code.

Subchapter 9.2. Manufacturer of Postconsumer Recycled Plastic

§2790

Manufacturer of Postconsumer Recycled Plastic Identification Number

The Division will issue in writing a manufacturer of postconsumer recycled plastic reporting identification number to all 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 meet 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.

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14549.3, Public Resources Code.

§2795

Manufacturer of Postconsumer Recycled Plastic Report

(a) 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 report. The manufacturer of postconsumer recycled plastic report shall contain the following information in accordance with the general requirements for reporting as contained in section 2090 of these regulations.

(b) The manufacturer of postconsumer recycled plastic report. Each report shall contain all of the following information:

(1) The year of the reporting period;

(2) The manufacturer of postconsumer recycled plastic identification number;

(3) The facility name;

(4) The address for the facility and any other location where food-grade plastic material subject to this report is stored;

(5) The mailing address;

(6) The contact person;

(7) The Telephone Number of the contact person;

(8) The Email Address of the contact person;

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

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

(11) 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;

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

(13) 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.

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

(c) The manufacturer of postconsumer recycled plastic report shall be submitted to to the Division by email to MarketInformation@CalRecycle.ca.gov or by mail to Statistical Information Section, Division of Recycling, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, California, 95812-4025.

Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference:
Section 14549.3, Public Resources Code.