

Department of Resources Recycling and Recovery
Dealer Registration and Dealer Cooperatives Permanent Regulations

INITIAL STATEMENT OF REASONS

INTRODUCTION

The Department of Resources Recycling and Recovery (CalRecycle) administers the California Beverage Container Recycling and Litter Reduction Act (Act), which was added to state law by Assembly Bill No. 2020 (1985-1986 Reg. Sess.). The Act mandated CalRecycle to notify all dealers in any convenience zone where a recycling location or locations were initially established, but had ceased to operate, to establish a recycling location. In a convenience zone unserved by a recycling center, the Act requires dealers to either redeem all beverage container types on the premises or pay CalRecycle \$100 per day until a recycling location is established. The intent of the Act is to encourage increased, and more convenient, beverage container redemption opportunities for all consumers, and to provide the opportunity to return beverage containers conveniently, efficiently, and economically, in every region of the State. The Act became effective on September 29, 1986, and since then there have been several amendments to Public Resources Code (PRC) section 14571.6 pertaining to the dealer requirements in unserved convenience zones where a recycling center is not established: Assem. Bill No. 20 (1987-1988 Reg. Sess.); Assem. Bill No. 1001 (1989-1990 Reg. Sess.); Assem. Bill No. 3417 (1989-1990 Reg. Sess.); Assem. Bill No. 87 (1991-1992 Reg. Sess.); and Assem. Bill No. 3752 (1993-1994 Reg. Sess.).

Senate Bill 1013 (2021-2022 Reg. Session, Chapter 610 of the Statutes of 2022) (SB 1013) amended the Act to establish a date of January 1, 2025, to repeal the requirements for dealers to redeem all beverage container types or pay CalRecycle \$100 per day in an unserved convenience zone. SB 1013 established PRC sections 14510.2, 14578, and 14578.5 pertaining to dealers and dealer cooperatives and mandates dealers in any convenience zone where no recycling location exists to, commencing January 1, 2025:

- Redeem all beverage container types on the premises with three requirements related to (1) redemption location, (2) redemption signage, and (3) delivery of empty beverage containers received from the public (PRC section 14578(a)(1)(A)-(C));
- or join a dealer cooperative to provide a dealer cooperative redemption plan to CalRecycle and implement the approved plan for redeeming beverage containers in the unserved convenience zone (PRC section 14578(a)(2)(A)).

The Act exempts a dealer from either requirement if its gross annual sales are less than \$1.5 million, excluding fuel sales, or if the dealer is less than 5,000 square feet (PRC section 14578(b)(1) and (2)).

SB 1013 bolsters the intent of the Act by expanding redemption opportunities for consumers to redeem beverage containers at a dealer cooperative redemption site in underserved communities, incentivizing formation of dealer cooperatives with eligibility for program payments, increasing clean streams of recyclable materials to support a circular economy, and reducing environmental litter by providing accessible and convenient recycling options.

CalRecycle has not previously promulgated regulations to clarify the dealer and dealer cooperative requirements enacted pursuant to SB 1013. CalRecycle has engaged interested parties at workshops held on April 25, 2023, and August 10, 2023, and solicited informal comments on proposed dealer cooperative concepts such as the registration process, redemption plan components, approval and amendment processes, payments to dealer cooperatives and processors, enforcement and revocation processes, and reporting requirements. Comments collected from these workshops informed draft regulatory language that was presented for additional interested party feedback at a workshop held on August 31, 2023. CalRecycle considered all comments received for revisions to the draft regulatory language during and after the August 31, 2023 informal workshop, and revisions were made to the regulation text in response to the comments.

PROBLEM STATEMENT

The Legislature enacted the new PRC sections 14510.2, 14578, and 14578.5 to create more opportunities for California consumers to redeem their empty beverage containers. The current law, PRC section 14571.6(a), allows dealers to either (1) submit an affidavit that they redeem empty beverage containers on-site or (2) pay \$100 per day to CalRecycle for deposit in the California Beverage Container Recycling Fund until a recycling location is established within the convenience zone where the dealer is operating. On January 1, 2025, section 14571.6 will be repealed and replaced with PRC section 14578, which will require dealers in an unserved convenience zone to either (1) submit an affidavit that they redeem empty beverage containers on site or (2) join a dealer cooperative which will redeem empty beverage containers under an approved plan. Pursuant to PRC section 14578.5(b)(1) and (2), the Legislature mandated CalRecycle to adopt regulations “that provide access and convenience for consumers that are comparable to subdivision (a) of Section 14571”. Therefore, the Legislature directed CalRecycle to address the current lack of access to California Redemption Value (CRV) recycling opportunities and consumer convenience problems in convenience zones where there are no recycling centers.

Specifically, pursuant to PRC section 14578.5, the Legislature mandated that CalRecycle address the problem of access and consumer problems by adopting regulations that “include the registration process for dealers, the application and registration process for the dealer cooperative, and the process for updating information after registration as needed, and other regulations necessary for the implementation and enforcement” of that subdivision. However, that section does not specifically dictate

the processes to be used or what other regulations are necessary for implementation and enforcement. Rather, that section leaves the development of those processes and other regulations to the discretion of CalRecycle. These proposed regulations will implement, interpret, and make specific PRC sections 14510.2, 14578 and 14578.5 and integrate these dealer cooperatives within the regulatory framework of chapter 5, division 2, title 14 of the California Code of Regulations (14 CCR).

SPECIFIC PURPOSE AND NECESSITY OF THE PROPOSED REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 2. DEPARTMENT OF CONSERVATION

CHAPTER 5. DIVISION OF RECYCLING

SUBCHAPTER 1. DEFINITIONS

SECTION 2000. DEFINITIONS

Subsection (a)(5)

The purpose of this amendment is to add dealer cooperatives as a type of classification of operation under the Beverage Container Recycling Program (BCRP).

This amendment is necessary as a conforming change to add dealer cooperatives to the list of classifications of operation because dealer cooperatives are a newly added type of operation under SB 1013. Without adding dealer cooperatives to this list, the list of classifications of operation would be incomplete and the definition would be inaccurate.

Subsection (a)(11.1)

The purpose of this amendment is to make the non-substantial, technical change of repealing the obsolete consolidated shipping report definition that references a specific subsection that no longer exists in Title 14.

This amendment is necessary to repeal an obsolete definition from the regulations. The definition is obsolete because subdivision 2090(f), which the provision cross-references, no longer exists. The amendment is necessary because regulations filed on January 18, 2010 that became operative on February 27, 2010 (Register 2010, No. 5) repealed subdivision 2090(f) that is referred in this definition. There is no longer a provision in the regulations relating to consolidated shipping reports, therefore the repeal of the obsolete definition is necessary to ensure consistency between the regulatory definitions and the regulations.

Subsection (a)(33)

The purpose of this amendment is to add dealer cooperatives to the list of operators under the BCRP.

This amendment is necessary as a conforming change to add dealer cooperatives to the list of operators because dealer cooperatives are a newly added type of operator under SB 1013. Without adding dealer cooperatives to this list, the list of operators would be incomplete and the definition would be inaccurate.

Subsection (a)(35)

The purpose of this amendment is to add dealer cooperatives as an entity from which a processor may purchase empty beverage containers. The purpose of this amendment is also to delete the phrase “of these regulations”.

This amendment is necessary as a conforming change to add dealer cooperatives as an entity from which a processor may purchase empty beverage containers because dealer cooperatives are a newly added type of beverage container recycling entity under SB 1013. Without adding dealer cooperatives, the list of entities from which a processor may purchase empty beverage containers would be incomplete and would interfere with a processor’s ability to purchase empty beverage containers from dealer cooperatives. It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (a)(42)

The purpose of this amendment is to add dealer cooperatives as an entity that may receive payments of scrap value for container material types.

This amendment is necessary as a conforming change to add dealer cooperatives as an entity that may receive payments of scrap value for container material types because dealer cooperatives are a newly added type of beverage container recycling entity under SB 1013. Without adding dealer cooperatives, the list of entities that may receive payments of scrap value for container material types would be incomplete and would interfere with a dealer cooperative’s ability to receive payments of scrap value for container material types.

Subsection (a)(44)

The purpose of this amendment is to add dealer cooperatives as an entity that may submit a shipping report to a recycling center for empty beverage containers shipped to the recycling center.

The purpose of this amendment is also to make the non-substantial, technical change of replacing “Division” with “Department”.

This amendment is necessary as a conforming change to add dealer cooperatives as an entity that may submit a shipping report to a recycling center for empty beverage containers shipped to the recycling center because dealer cooperatives are a newly added type of beverage container recycling entity under SB 1013. The amendment ensures that a dealer cooperative has the authority under the regulations to ship beverage containers to a recycling center, which makes the provision consistent with

the existing language of the regulations in this paragraph that allows a recycling center to submit a shipping report to another recycling center.

The amendment is necessary because Sen. Bill No. 353 (2023-2024 Reg. Sess., Chapter 868 of the Statutes of 2023) (SB 353) amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

SUBCHAPTER 2. GENERAL REQUIREMENTS

ARTICLE 1. CERTIFICATION APPLICATION PROCEDURES

SECTION 2030. REVIEW OF APPLICATIONS

Subsection (a)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (b)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (c)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (d)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (e)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (f)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (g)(1)

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (g)(7)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (g)(9)

The purpose of this paragraph is to interpret and clarify PRC section 14578.5(d)(1) which provides that a dealer cooperative may be eligible for various payments and fees “unless a certified recycling center operates in a convenience zone in which a dealer participating in the dealer cooperative is located”. The statute’s use of the term “operates” is unclear as to when the dealer cooperative is prohibited from receiving payments and fees. CalRecycle’s interpretation is that a dealer cooperative is eligible for such payments and fees if it becomes fully operational in an unserved zone where no certified recycling center operates; however, a dealer cooperative is not eligible for such fees if it becomes fully operational in a served convenience zone where a recycling center operates.

Under this interpretation, the purpose of this paragraph is to clarify that CalRecycle may deny the application for certification of a recycling center if the proposed recycling center is located within a convenience zone where a dealer cooperative is operating a stewardship plan approved by CalRecycle pursuant to the regulations. Additionally, the purpose is to prohibit CalRecycle from approving an application for certification of a recycling center if the proposed recycling center is located within a convenience zone where a dealer cooperative is in good standing.

This interpretation is necessary to clarify the ambiguous language of the statute in PRC section 14578.5(d)(1). If a dealer cooperative could be made ineligible to receive payments under PRC section 14578.5(d)(1) at any time a recycling center chooses to locate in the same convenience zone, this would deter the formation of dealer cooperatives. It is an unacceptable business risk for a dealer cooperative to make substantial investments of financial resources and time in forming and administering the dealer cooperative’s stewardship program if, the day after a dealer cooperative begins operating, a recycling center applied and was approved to operate in the same convenience zone, making the dealer cooperative ineligible to receive payments under PRC section 14578.5(d)(1). The total deterrence of the formation of dealer cooperatives contradicts the purpose of SB 1013, which introduces a new type of recycling entity under the Act, dealer cooperatives, to increase consumer convenience and redemption opportunities.

Therefore, it is necessary that this paragraph provide CalRecycle with discretion to deny a recycling center’s application to operate in a convenience zone where a dealer cooperative is already operating an approved stewardship plan. Additionally, it is necessary to prohibit CalRecycle from approving an application for certification of a recycling center if the proposed recycling center is located within a convenience zone where a dealer cooperative is in good standing because this provides certainty to a dealer cooperative that, if they remain in good standing, their investment in a dealer cooperative stewardship program will be protected.

Subsection (h)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

SUBCHAPTER 4.5. DEALERS AND DEALER COOPERATIVES

ARTICLE 1. DEFINITIONS

SECTION 2370. DEFINITIONS

Section 2370

The purpose of specifying that the defined terms apply “for purposes of this subchapter” is to clarify that the enumerated definitions only apply to terms used in Subchapter 4.5 and do not define terms used outside of Subchapter 4.5.

This is necessary to provide clarity as to what specific terms in this subchapter mean without impacting other sections of Chapter 5. By incorporating the definitions that are applicable to dealers and dealer cooperatives here, this will allow the regulated community to easily find and locate the definitions of specific terms that are applicable in a specific way to dealers and dealer cooperatives.

Subsection (a)

The purpose of this subdivision is to define the term “days”. This subdivision clarifies that “days” refers to all calendar days unless provided otherwise.

This definition is necessary to establish a uniform understanding of time periods referenced throughout the regulations. By defining “days” as all calendar days by default, the subdivision ensures clarity and consistency in the interpretation of time-related provisions within these regulations.

Subsection (b)

The purpose of this subdivision is to define “dealer cooperative stewardship fee”. This subdivision defines the term by referencing the fee assessment on a dealer member by a dealer cooperative in accordance with PRC section 14578.5(c)(2).

The definition is necessary to ensure that all parties involved have a consistent understanding of financial obligations and rights under the Act, thus aiding in the effective and fair implementation of the stewardship fee. There are many fees and payments defined by both the Act and Chapter 5 of Title 14 of the CCR. This definition

provides clarity on the nature and context of which fee CalRecycle is referring to in its proposed regulations.

Subsection (c)

The purpose of this subdivision is to define “dealer cooperative zone”. This subdivision specifies that a “dealer cooperative zone” refers to the unserved convenience zone(s) covered by a dealer cooperative’s stewardship plan.

The definition is necessary for delineating the geographical scope within which a dealer cooperative operates and for which it is responsible to implement its stewardship plan. Defining this term provides clarity and consistency throughout the regulations.

Subsection (d)

The purpose of this subdivision is to define “department”. This subdivision clarifies that “department” refers to the Department of Resources Recycling and Recovery.

The definition is necessary to clearly identify the specific governmental body responsible for overseeing and enforcing the provisions of the Act and these regulations. This clarity ensures that communications, compliance, and enforcement actions are directed appropriately.

Subsection (e)

The purpose of this subdivision is to define “fully operational”. This subdivision describes that “fully operational” means all elements specified in a stewardship plan or required pursuant to the Act or these regulations are operational in accordance with the terms set out in the stewardship plan and in compliance with the Act and these regulations. The definition clarifies the term “operational” as the term is used in PRC sections 14578 and 14578.5.

This definition is necessary to establish a clear standard for the operational status of stewardship plans, ensuring that they meet all required criteria for functionality and compliance, thereby ensuring effective environmental stewardship as intended by the Act.

Subsection (f)

The purpose of this subdivision is to define “GAAP”. This subdivision explains that “GAAP” refers to the generally accepted accounting principles adopted by the Federal Accounting Standards Advisory Board as published in the handbook entitled “FASAB Handbook of Federal Accounting Standards and Other Pronouncements, as Amended” dated December 15, 2023, which are incorporated by reference here:

https://files.fasab.gov/pdf/files/2023_FASAB_Handbook.pdf (accessed January 25, 2024).

Incorporating the entirety of the generally accepted accounting principles by reference is necessary to satisfy the requirements of the CCR, title 1, section 20. This definition is

necessary to provide notice to dealer cooperatives of what is required of them when they must comply with GAAP. Defining “GAAP” is necessary to provide clarity on what the acronym means when it is used in the regulation text.

Subsection (g)

The purpose of this subdivision is to serve as an introduction to two new paragraphs clarifying the definition of “innovative method of redemption”.

This definition is necessary to provide clarity on what is required in the regulations when the term “innovative method of redemption” is used.

Subsection (g)(1)

The purpose of this paragraph is to define “innovative method of redemption” as including mobile collection programs in which beverage containers are picked up from consumers.

This definition is necessary to provide clarity on what is required in the regulations when the term “innovative method of redemption” is used. Also, mobile collection programs are necessary to classify as an innovative method of redemption because this method of redemption is not currently permitted under the existing Act and regulations while there is expansive authority for CalRecycle to determine what kinds of redemption methods may be utilized by a dealer cooperative under PRC 14578.5(b)(1).

Subsection (g)(2)

The purpose of this paragraph is to define “innovative method of redemption” as including bag drop, reverse vending machine (RVM), or other methods of redemption that do not require an attendant to accept materials.

This definition is necessary to provide clarity on what is required in the regulations when the term “innovative method of redemption” is used. Also, methods of redemption that do not require an attendant to accept materials are necessary to classify as an innovative method of redemption because this method of redemption is not currently permitted under the existing regulations while there is expansive authority for CalRecycle to determine what kinds of redemption methods may be utilized by a dealer cooperative under PRC 14578.5(b)(1). While bag drop and RVMs are specifically authorized by the Act, they are specifically authorized as means of redemption used by recycling centers (see PRC section 14538(d)(D)(B), 14571(f), and 14571(i)) and include specified requirements for staffing and addressing beverage containers of three liters or greater or are in pouches.

Subsection (h)

The purpose of this subdivision is to define “redemption contractor” and to clarify PRC section 14578.5(c)(3)(B), which permits a dealer cooperative to contract to provide redemption opportunities.

This definition is necessary because the term “contract” in PRC section 14578.5(c)(3)(B) is ambiguous, and clarification is required for a dealer cooperative to utilize contracting to accomplish the requirements outlined in PRC section 14578.5(c). Additionally, this subdivision is necessary to define a key term used in the proposed regulations and to maintain consistency in CalRecycle's proposed regulations.

Subsection (i)

The purpose of this subdivision is to define “redemption location” and “redemption site”. The definition establishes that, unlike a traditional recycling center, a redemption location or redemption site is not required to obtain a certification or registration number from CalRecycle in order to operate as part of a stewardship program. Additionally, the definition establishes that a redemption location or redemption site may accept materials with an attendant present at a set location or through an innovative method of redemption that does not require an attendant to accept materials.

This definition is necessary to define a key term used in the proposed regulations and to maintain consistency in CalRecycle's proposed regulations. The provision is necessary to illustrate how a redemption location or redemption site differs from a “recycling location” as defined by PRC section 14520.5. This subdivision also clarifies that a redemption location or redemption site operating as part of a dealer cooperative is not required to receive its own certification or registration number because it is operating under the registration number of the dealer cooperative as part of the dealer cooperative's stewardship plan. A dealer cooperative is issued a registration number by CalRecycle when its stewardship plan is approved, and it is this dealer cooperative registration number that the redemption site or redemption location operates under rather than being issued its own registration or certification number.

Subsection (j)

The purpose of this subdivision is to define “sales and storage area”. The definition makes the phrase “5,000 square feet” in section 14578(b)(1) of the PRC more specific in how the small dealer exemption is applied under the proposed regulations.

This subdivision is necessary to define a key term used in the proposed regulations. Specifically, the subdivision is necessary to add specificity to the provision “5,000 square feet” as it is used in section 14578(b)(1) of the PRC to exempt dealers that are less than 5,000 square feet from the provisions of section 14578 of the PRC. Since “5,000 square feet” is vague and susceptible to more than one interpretation, paragraphs (1) through (4) of this subdivision establish that the small dealer exemption applies to dealers that have a sales and storage area of less than 5,000 square feet. This is necessary to clarify the meaning of “5,000 square feet” as used in section 14578(b)(1) of the PRC. CalRecycle proposed this definition in a workshop on August 31, 2023, and received no negative feedback.

Subsection (j)(1)

The purpose of this paragraph is to include in the definition of “sales and storage area” the sales areas accessible to customers, including, but not limited to, aisles, foyers, sitting areas, and restrooms.

This paragraph is necessary to explicitly include sales areas accessible to customers in the 5,000 square feet threshold that determines whether a dealer is exempt from either redeeming in store or joining a dealer cooperative. The non-exhaustive examples of aisles, foyers, sitting areas, and restrooms are necessary to ensure a dealer understands what kind of sales areas are included. It is necessary not to make the list of sales area types exhaustive because there may be other sales areas accessible to customers that should be included for a particular dealer.

Subsection (j)(2)

The purpose of this paragraph is to include in the definition of “sales and storage area” employee areas, including, but not limited to, sales counters, preparation areas, offices, restrooms, and breakrooms.

This paragraph is necessary to explicitly include employee areas in the 5,000 square feet threshold that determines whether a dealer is exempt from either redeeming in store or joining a dealer cooperative. The non-exhaustive examples of sales counters, preparation areas, offices, restrooms, and breakrooms are necessary to ensure a dealer understands what kind of employee areas are included. It is necessary not to make the list of employee area types exhaustive because there may be other employee areas that should be included for a particular dealer.

Subsection (j)(3)

The purpose of this paragraph is to include in the definition of “sales and storage area” enclosed attached storage areas.

This paragraph is necessary to explicitly include enclosed attached storage areas in the 5,000 square feet threshold that determines whether a dealer is exempt from either redeeming in store or joining a dealer cooperative. Enclosed attached storage areas are necessary to include to ensure a dealer understands that a storage area is included if it is attached and enclosed. This inclusion guarantees that a dealer’s external storage unit that may be many miles away from the dealer’s primary business address is not unfairly included in the size determination of the dealer.

Subsection (j)(4)

The purpose of this paragraph is to include in the definition of “sales and storage area” outdoor sales areas accessible to customers, including, but not limited to, tents, lean-tos, gazebos, patios, and porches.

This paragraph is necessary to explicitly include outdoor sales areas in the 5,000 square feet threshold that determines whether a dealer is exempt from either redeeming in store or joining a dealer cooperative. The non-exhaustive examples of tents, lean-tos, gazebos, patios, and porches are necessary to ensure a dealer understands what kind of outdoor sales areas are included. It is necessary not to make the list of outdoor sales area types exhaustive because there may be other outdoor sales areas accessible to customers that should be included for a particular dealer. This inclusion guarantees that a dealer with outdoor sales areas is not able to circumvent the size determination merely on the basis that its sales area happens to be outdoors rather than indoors.

Subsection (k)

The purpose of this subdivision is to define “stewardship plan”. This section defines “stewardship plan” by referencing the definition of a redemption plan as described in section 14578.5(c)(1) of the PRC. “Redemption plan” is also referenced under the definition of “dealer cooperative” in section 14510.2 of the PRC. Making the references to “redemption plan” in the Act more specific by defining the term “stewardship plan” harmonizes the term with the requirement in PRC 14510.2 that a dealer cooperative be a stewardship organization.

This is necessary to clarify the environmental stewardship nature of the dealer cooperative plans for beverage container redemption in unserved convenience zones. The definition is also necessary to define a key term used in the proposed regulations and to maintain consistency in CalRecycle’s proposed regulations.

Subsection (l)

The purpose of this subdivision is to define “stewardship program”. This subdivision defines “stewardship program” by referencing a redemption program implemented by a dealer cooperative pursuant to its stewardship plan approved by CalRecycle. Making the references to “redemption program” in PRC sections 14578(a) and 14578.5(c)(1) more specific by defining the term “stewardship program” harmonizes the term with the requirement in section 14510.2 of the PRC that a dealer cooperative be a stewardship organization.

This is necessary to define a key term used in the proposed regulations and to maintain consistency in CalRecycle’s proposed regulations. The definition helps to illustrate the scope of the regulation’s requirements applicable to a stewardship plan, which entails the stewardship program that is implemented by the dealer cooperative. It also is necessary to clarify the environmental stewardship nature of the dealer cooperative program for beverage container redemption in unserved convenience zones.

ARTICLE 2. DEALERS

SECTION 2371. DEALER REGISTRATION

Subsection (a)(1)

The purpose of this paragraph is to clarify that each dealer operating in a convenience zone is required to register each of its sites. This provides clarification in the instances that a dealer operates multiple sites that each site must be registered separately. It also establishes a timeframe for when registration requirements must be met by dealers currently in operation after the effective date of the regulations. The 30-day timeframe gives a dealer ample time to register while ensuring CalRecycle has a deadline by which it will receive a dealer's registration.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. The 30-day timeline is necessary to ensure there is a firm, enforceable date by which dealers must provide their registration information to CalRecycle. This 30-day timeline was workshopped with the public on August 31, 2023.

Subsection (a)(2)

The purpose of this paragraph is to clarify that in the instance a new dealer begins operating in a convenience zone, it is required to register if it begins operations after the effective date of this section. It also establishes a timeframe for when registration requirements must be met by dealers coming into operation after the effective date. The 30-day timeframe gives a dealer ample time to register while ensuring CalRecycle has a deadline by which it will receive a dealer's registration.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. The instance in which dealers become operational after the effective date of the regulations must be addressed to ensure the obligation to register is continuously in effect for the period of time these regulations are effective. Additionally, the instance in which CalRecycle makes a determination that a dealer is located within a convenience zone must be included to address the possibility that, for instance, a new supermarket opens that creates a new convenience zone in which the dealer is located, even if the dealer did not change locations or begin a new operation.

Subsection (b)

The purpose of this subdivision is to serve as an introduction to 13 new paragraphs that more explicitly provide dealers with processes of registering and the information needed by CalRecycle to register. It also establishes that the registration must be completed online, unless the dealer is unable to use the online registration. The purpose of online registration is to streamline the dealer registration process as it is quicker and more

efficient both for dealers and CalRecycle. It also allows dealers to register through an alternative method other than online.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. Establishing the instances in which online registration or an alternative to online registration is used is necessary to provide clarity to registering dealers and to make the registering process efficient and achievable by all dealers. Some dealers may be small operations that are not familiar with the internet, and to address that instance an alternative method of registration is necessary by providing a specific address to submit a written request for an alternative format of the dealer registration.

Subsection (b)(1)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes the legal name of the owner of the dealer and the store “doing business as” (DBA) name.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to know the owner’s legal name to be able to correctly refer to the dealer in legal documents. Also, CalRecycle needs to know the store’s DBA name to knowledgeably be able to identify the dealer in any complaints that CalRecycle may receive from the public using the DBA name.

Subsection (b)(2)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes, for dealers that also sell fuel, the associated gas station name, if different than the store’s DBA name. The purpose of providing this information is to provide CalRecycle with the name of any gas station name that differs from the dealer name since associated gas stations are not included in the maximum sales allowed for a small dealer exemption under section 14578(b)(2) of the PRC.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. The information is necessary for CalRecycle to correctly determine whether a dealer falls under the small dealer exemption in section 14578(b)(1) of the PRC, which does not include sales of fuel under section 14578(b)(2) of the PRC. Therefore, any associated gas station name must be submitted to CalRecycle separately.

Subsection (b)(3)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes the dealer’s federal tax identification number, also known as an “employer identification number” (EIN).

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to know the federal tax identification number of a registering dealer for the identification and verification of the dealer as a legitimate and recognized entity for tax and regulatory purposes. The alternative reference to EIN is necessary because some dealers may know the federal tax identification number as an “employer identification number” or “EIN” and CalRecycle needs to ensure it receives the correct information.

Subsection (b)(4)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes the store manager’s name, title, phone number, and email address.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs this information in case the dealer must be contacted regarding compliance with the Act or the regulations. For that reason, the contact information for the manager in charge of the dealer store must be submitted with the registration. The title is necessary to verify that the contact is in fact the store manager. The phone number and email address are both necessary to provide so that CalRecycle has an alternative method of communication in case the first method is unsuccessful. A store manager contact is necessary in addition to the general dealer contact information because the general phone line for a business is sometimes not answered as frequently as the direct line to a supervisor at the business.

Subsection (b)(5)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes the name, title, phone number, and email address of a secondary contact, who shall be different than the store manager.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. To address the instance in which CalRecycle needs to contact the dealer and the store manager is unavailable, contact information for a secondary contact must be submitted with the registration. The title is necessary to verify that the contact is in fact associated with the dealer. The phone number and email address are both necessary to provide so that CalRecycle has an alternative method of communication in case the first method is unsuccessful.

Subsection (b)(6)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes the dealer’s physical business address.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to know the

physical business address of the dealer because this determines what convenience zone a dealer site is located within.

Subsection (b)(7)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes the dealer's mailing address.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to know the dealer's mailing address in case CalRecycle needs to send postal mail to the dealer, which is required in certain instances such as service of legal documents. Further, the mailing address may be different than the dealer's physical business address, and CalRecycle wants to ensure that it is effectively communicating with the dealer.

Subsection (b)(8)

The purpose of this paragraph is to specify dealer information needed when registering with the CalRecycle, which includes the primary phone number and email address for the dealer, and internet website address of the dealer, if such an internet website exists.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to know the general contact information of the dealer that is available to the public to address the instance in which CalRecycle needs to verify information about the dealer that may be available on a business voicemail or website, such as operating hours or types of beverages sold.

Subsection (b)(9)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes a declaration of whether or not the dealer has a combined sales and storage area of less than 5,000 square feet at that physical location.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. This declaration is necessary for CalRecycle to determine whether the dealer qualifies for the small dealer exemption specified in section 14578(b)(1) of the PRC based on whether it has a combined sales and storage area of less than 5,000 square feet at that physical location.

Subsection (b)(10)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes a declaration of whether or not the gross annual sales of the dealer at that physical location are less than one million five hundred thousand dollars (\$1,500,000) based on the most recent tax return filed with the federal Internal Revenue Service, excluding any fuel sales.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. This declaration is necessary for CalRecycle to determine whether the dealer qualifies for the small dealer exemption specified in section 14578(b)(1) of the PRC based on whether it has gross annual sales at that physical location of less than one million five hundred thousand dollars (\$1,500,000). The requirement that the gross annual sales be based on the most recent tax return filed with the federal Internal Revenue Service is necessary to standardize the information being reported to CalRecycle from each dealer to ensure that the small dealer exemption is applied uniformly.

Subsection (b)(11)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes the date the dealer began business at that physical location.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to know when a dealer began business at a physical location because certain requirements in the Act and the regulations are contingent upon when a dealer began business, such as the timeline in which a dealer must register under proposed section 2371(a). Knowing the date the dealer began business is therefore necessary for determining compliance with those requirements.

Subsection (b)(12)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes types of beverages sold in beverage containers by the dealer at that physical location, such as water, soda, wine, or distilled spirits. The purpose of providing examples of types of beverages is to help dealers understand what information they are expected to provide for this registration item.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to know what kind of beverages a dealer sells, if any, because entities may be mischaracterized as dealers in initial CalRecycle outreach. By providing this information, a potential dealer registrant may be identified as not being a dealer as defined in PRC section 14510 and there would be no further need to register the dealer.

Subsection (b)(13)

The purpose of this paragraph is to specify dealer information needed when registering with CalRecycle, which includes the name, title, email address, and signature of the person signing the registration on behalf of the dealer, with the signature block indicating the date the registration was signed.

This is necessary because section 14578.5(b)(1) of the PRC mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to know who specifically is signing the registration on behalf of the dealer accompanied by a signature and date to verify that someone authorized by the dealer is submitting the registration information. The name and date are necessary to ensure accountability for the dealer of the submitted information.

Subsection (c)(1)

The purpose of this paragraph is to clarify that dealers registering with CalRecycle may be required to submit additional information and that dealers shall provide it within a specific deadline and format to complete their registration.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. CalRecycle needs to reserve the ability to require additional information be submitted to corroborate or clarify the registration information provided by a dealer in the instance that registration information provided by a dealer is unclear or inadequate. The requirement for a dealer to then submit that information by the requested deadline and format is necessary to ensure that CalRecycle can complete a dealer's registration, even if the information submitted by the dealer in the initial registration did not adequately address all of the information required to be submitted under section 2371(b). CalRecycle needs to retain the authority to establish the deadline and format for the information in order to tailor the information request to the type of information needed from the dealer.

Subsection (c)(2)

The purpose of this paragraph is to add specificity to the instance dealers are required to submit additional information to CalRecycle and that may include, but is not limited to, a current lease agreement or floor plan.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. This is necessary for CalRecycle to retain the ability to verify whether the dealer qualifies for the small dealer exemption specified in PRC section 14578(b)(1) based on whether it has a combined sales and storage area of less than 5,000 square feet at that physical location. If CalRecycle has reason to believe, such as from a received complaint, that a dealer is larger than previously indicated and may not qualify for the small dealer exemption, CalRecycle must be able to obtain information from the dealer to verify the square footage of the dealer.

Subsection (c)(3)

The purpose of this paragraph is to add specificity to the instance dealers are required to submit additional information to CalRecycle and that may include, but is not limited to, evidence of cumulative gross annual sales.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. This is necessary for CalRecycle to verify whether the dealer qualifies for the small dealer exemption specified in section 14578(b)(1) of the PRC based on whether it has gross annual sales at that physical location of less than one million five hundred thousand dollars (\$1,500,000). If CalRecycle has reason to believe, such as from a received complaint, that a dealer has more sales than previously indicated and may not qualify for the small dealer exemption, CalRecycle must be able to obtain information from the dealer to verify the gross annual sales of the dealer.

Subsection (d)

The purpose of this subdivision is to establish that, when dealer registration has been determined to be complete, CalRecycle will provide the dealer with a registration number within 45 working days of the receipt of the completed application.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include a registration process for dealers in the regulations. This 45-day timeframe is necessary to provide assurance to dealers regarding when they will receive their dealer registration while also providing CalRecycle with adequate time to process dealer registration applications. This 45-day timeline was workshopped with the public on August 31, 2023.

SECTION 2372. DEALER NOTIFICATION REQUIREMENTS AND NEW REGISTRATION REQUIRED

Subsection (a)

The purpose of this subdivision is to establish criteria for dealers to notify CalRecycle electronically in writing before changes are made that would impact their registration information. It also establishes a timeframe for when requirements must be met by dealers updating registration information. The 30-day timeframe gives CalRecycle time to process a dealer's updated registration information received before the change in registration information goes into effect.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. CalRecycle needs to be informed of changes to a dealer's contact information in advance of the change so that CalRecycle does not at any time have outdated contact information and is unable to contact the dealer. Additionally, a change to federal tax identification number or physical business address needs to be submitted in advance of the change occurring because CalRecycle needs time to analyze the effects of the change, such as the dealer no longer being located within the same convenience zone. Thirty days' prior notice of these changes is necessary because CalRecycle is not able to process and analyze information immediately and any fewer days would not provide adequate time considering the large number of dealers across the state that CalRecycle regulates. More than 30 days may be difficult for dealers to know in advance that the

changes will be occurring. Providing the information electronically in writing is necessary to ensure that all the information is submitted through a standardized and efficient method. This 30-day timeline was workshopped with the public on August 31, 2023.

Subsection (a)(1)

The purpose of this paragraph is to clarify changes to mailing address, phone number, email address, or internet website address constitute a change that requires CalRecycle be notified 30 days prior to the change.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. CalRecycle needs to be informed of changes to a dealer's contact information in advance of the change so that CalRecycle does not at any time have outdated contact information and is unable to contact the dealer. Additionally, CalRecycle needs to be kept abreast of changes to the dealer's public contact information such as its internet website to make sure CalRecycle has access to the most up to date information about the dealer to use to verify the dealer's compliance with the Act and regulations.

Subsection (a)(2)

The purpose of this paragraph is to clarify changes to federal tax identification number, also known as an EIN, or physical business address, constitute a change that requires that CalRecycle be notified 30 days prior to the change.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. A change to a federal tax identification number needs to be submitted in advance of the change occurring because a federal tax identification number essentially makes the dealer a new company, and CalRecycle needs to know in advance when a dealer will be operating under a new federal tax identification number. Additionally, CalRecycle needs to know in advance of a change to a dealer's physical business address because many requirements of the Act and regulations are dependent on whether a dealer is located in a convenience zone and the availability of beverage container redemption opportunities in proximity to a dealer's location.

Subsection (b)

The purpose of this subdivision is to add specificity that when the dealer's federal tax identification number, also known as an EIN, or physical business address changes, the dealer must submit a new registration within 30 days; however, if the new physical business address is not within a convenience zone, the dealer is not required to submit a new registration.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. A change to a dealer's federal tax identification number essentially makes the dealer a new business entity, and in that instance, it is necessary for a dealer to submit a new

registration so CalRecycle can review the new registration application based on the new federal tax identification number. Additionally, a change to a dealer's physical business address requires a new registration because CalRecycle needs to review the new registration application based on the new physical business address. Specifying that a new registration is not required if the dealer's new physical business address is not within a convenience zone is necessary to provide clarity to dealers that registration is only required for dealers within a convenience zone.

Subsection (c)

The purpose of this subdivision is to establish criteria for dealers to notify CalRecycle electronically in writing when changes are made that would impact their registration information. It also establishes a 30-day timeframe for when registration requirements must be met by dealers updating registration information.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. Providing the information electronically in writing is necessary to ensure that all of the information is submitted through a standardized and efficient method. The 30-day timeframe following the change is necessary to give a dealer ample time to submit changes while ensuring CalRecycle has a deadline by which it will receive a dealer's update. This 30-day timeline was workshopped with the public on August 31, 2023.

Subsection (c)(1)

The purpose of this paragraph is to specify changes to the store's size or sales totals previously submitted in the dealer registration would require the dealer to inform CalRecycle electronically in writing within 30 days.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. The submission of this updated information is necessary for CalRecycle to verify whether the dealer qualifies for the small dealer exemption specified in section 14578(b)(1) of the PRC based on whether it has a combined sales and storage area of less than 5,000 square feet at that physical location or whether it has gross annual sales at that physical location of less than one million five hundred thousand dollars (\$1,500,000). This information is crucial to CalRecycle in determining which dealers qualify for the small dealer exemption, therefore dealers must update CalRecycle when this information changes.

Subsection (c)(2)

The purpose of this paragraph is to require the dealer to inform CalRecycle electronically in writing within 30 days if it ceases operation.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed.

CalRecycle needs to know whether a dealer ceases operation because this would affect how the dealer must comply with the Act and regulations and also may affect the compliance required of recycling centers and dealer cooperatives under the Act and regulations.

Subsection (c)(3)

The purpose of this paragraph is to specify changes to the store manager's or secondary contact's information previously submitted in the dealer registration would require the dealer to inform CalRecycle electronically in writing within 30 days.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. CalRecycle needs to be informed if the contact information it is using to communicate critical information to the dealer has changed.

Subsection (d)

The purpose of this subdivision is to require registered dealers to submit an annual declaration acknowledging registration information as described in section 2371(b)(9) and (10) regarding the dealer's store size or gross annual sales is still accurate. It also establishes the annual report due date of the first of July following the dealer's registration, and every first of July thereafter. It further iterates that, if at the time of the annual submission, any previously submitted documentation is no longer accurate, the dealer must update those documents to support the declaration.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. CalRecycle needs to be abreast of any changes to the dealer's store size or gross annual sales, because that affects whether the dealer qualifies for the small dealer exemption specified in PRC section 14578(b)(1). Requiring confirmation on an annual basis is necessary as evidence of cumulative gross annual sales can be identified by a dealer through annual tax filings. The establishment of a July 1 annual deadline is necessary to standardize the receipt of information by CalRecycle to make processing more efficient. Knowing that the July 1 annual deadline is approaching, CalRecycle staff can prepare and appropriately allocate resources to reviewing the submitted information. If the annual information could be submitted at any time throughout the year, CalRecycle could not accomplish this annual coordination of time and resources to dedicate to reviewing the submitted information. Requiring submission of information that, at any time, is no longer accurate that relates to a dealer's store size or gross annual sales is necessary so that CalRecycle will know when a dealer's eligibility for the small dealer exemption specified in PRC section 14578(b)(1) is affected.

Subsection (e)

The purpose of this subdivision is to clarify that if the dealer is able to demonstrate it is unable to submit the updated registration information electronically in writing and

CalRecycle approves of the process of submittal, that the dealer may have the choice to submit via certified postal mail instead of electronically in writing.

This is necessary because PRC section 14578.5(b)(1) mandates CalRecycle to include in the regulations the process for updating information after registration as needed. While submitting electronically in writing ensures that all the information is submitted through a standardized and efficient method, an alternative method is necessary for dealers who may be unfamiliar with or unable to use the internet. In that instance, an option to submit updates to registration information via certified postal mail is necessary to ensure all dealers remain compliant with these regulations. Additionally, because the updates may affect legal liability under the Act and regulations, it is necessary that they be submitted through the secure and reliable method of certified postal mail, so that the dealer has evidence of providing timely notification to CalRecycle in the event the notification is lost in the mail. The requirement for prior written approval by CalRecycle is necessary to ensure that only those who have a demonstrated inability to submit the information electronically can submit this form through certified postal mail so as to prevent documentation being lost or civil penalties being assessed too prematurely.

SECTION 2373. DEALER REDEMPTION REQUIREMENTS

Subsection (a)

The purpose of this subdivision is to clarify that a dealer located in an unserved convenience zone that is not a member of a dealer cooperative with an operational stewardship plan approved by CalRecycle must redeem beverage containers on the dealer's premises. It also serves as an introduction to three new paragraphs specifying the circumstances where a dealer would need to immediately redeem beverage containers on premises.

This is necessary because PRC section 14578(a)(1)(A) mandates dealers redeem all empty beverage container types at all open cash registers or one designated location on the dealer's premises, during all hours that the dealer is open for business, if the dealer is not a member of a dealer cooperative with an approved and operational stewardship plan. The provision is necessary to make clear that if a dealer is not complying with PRC section 14578(a)(2) by joining a dealer cooperative with an approved and operational stewardship plan, then it must instead comply with PRC section 14578(a)(1) by redeeming beverage containers on its premises. Immediate compliance is necessary rather than a longer timeframe to ensure that a consumer's ability to redeem beverage containers in the convenience zone is not extinguished in the instance that the dealer is no longer a member of a dealer cooperative with an approved and operational stewardship plan.

Subsection (a)(1)

The purpose of this paragraph is to clarify that the dealer must immediately redeem beverage containers on its premises if the dealer's membership in a dealer cooperative is terminated.

This is necessary because PRC section 14578(a)(1)(A) mandates dealers redeem all empty beverage container types at all open cash registers or one designated location on the dealer's premises, during all hours that the dealer is open for business, if the dealer is not a member of a dealer cooperative with an approved and operational stewardship plan. The provision is necessary to make clear that if a dealer's membership in a dealer cooperative is terminated, then the dealer must instead immediately comply with PRC section 14578(a)(1) by redeeming empty beverage containers on its premises.

Subsection (a)(2)

The purpose of this paragraph is to clarify the dealer must immediately redeem beverage containers on its premises if the dealer is a member of a dealer cooperative with a stewardship plan that is revoked by CalRecycle pursuant to section 2385.

This is necessary because PRC section 14578(a)(1)(A) mandates dealers redeem all empty beverage container types at all open cash registers or one designated location on the dealer's premises, during all hours that the dealer is open for business, if the dealer is not a member of a dealer cooperative with an approved and operational stewardship plan. The provision is necessary to make clear that if a dealer is a member of a dealer cooperative with a stewardship plan that is revoked by CalRecycle, then the dealer must immediately comply with PRC section 14578(a)(1) by redeeming empty beverage containers on its premises.

Subsection (a)(3)

The purpose of this paragraph is to clarify a dealer must immediately redeem beverage containers on its premises if the dealer is a member of a dealer cooperative that dissolves or that has its registration revoked by CalRecycle pursuant to section 2385.

This is necessary because PRC section 14578(a)(1)(A) mandates dealers redeem all empty beverage container types at all open cash registers or one designated location on the dealer's premises, during all hours that the dealer is open for business, if the dealer is not a member of a dealer cooperative with an approved and operational stewardship plan. The provision is necessary to make clear that if a dealer is a member of a dealer cooperative that dissolves or that has its registration revoked, then the dealer must instead immediately comply with section 14578(a)(1) of the PRC by redeeming empty beverage containers on its premises.

Subsection (b)

The purpose of this subdivision is to clarify that a dealer in an unserved convenience zone that is a member of a dealer cooperative must redeem beverage containers on its premises, in accordance with section 2376(e) of the regulations and PRC section

14578(a)(1), until the dealer cooperative's approved stewardship plan is fully operational.

This is necessary because PRC section 14578(a)(1)(A) mandates dealers redeem all empty beverage container types at all open cash registers or one designated location on the dealer's premises, during all hours that the dealer is open for business, if the dealer is not a member of a dealer cooperative with an approved and operational stewardship plan. The provision is necessary to make clear that mere membership in a dealer cooperative is not enough to satisfy a dealer's obligation under PRC section 14578(a)(2). Rather, the provision establishes that the dealer must be a member of a dealer cooperative with an approved and operational stewardship plan to satisfy the dealer's obligation under PRC section 14578(a)(2). If PRC section 14578(a)(2) is not satisfied by a dealer cooperative, then it is necessary to direct a dealer to instead comply with PRC section 14578(a)(1) by redeeming containers on the dealer's premises. The cross-reference to section 2376(e) is necessary to harmonize this requirement with the mandate that dealer members of a dealer cooperative continue to redeem beverage containers on the dealer's premises until the dealer cooperative provides notice to CalRecycle that its approved stewardship plan is fully operational.

Subsection (c)

The purpose of this subdivision is to clarify that a dealer is not required to redeem beverage containers on the dealer's premises if it is a member of a dealer cooperative with a fully operational stewardship plan approved by CalRecycle.

This is necessary because PRC section 14578(a)(2)(A) provides dealers with the option to join a dealer cooperative rather than redeeming containers on the dealer's premises under PRC section 14578(a)(1). The provision is necessary to clarify that a dealer has no legal obligations under PRC section 14578(a)(1) to redeem in store if the dealer is a member of a dealer cooperative with an approved and fully operational stewardship plan in accordance with PRC section 14578(a)(2)(A).

Subsection (d)

The purpose of this subdivision is to clarify that location within an unserved convenience zone with an operational dealer cooperative does not mean dealers are de facto members of the dealer cooperative and that dealers must comply with PRC section 14578(a)(1).

This is necessary because PRC section 14578(a)(1)(A) mandates dealers redeem all empty beverage container types at all open cash registers or one designated location on the dealer's premises, during all hours that the dealer is open for business if the dealer is not a member of a dealer cooperative with an approved and operational stewardship plan. The provision is necessary to prevent dealers acting as free riders by not complying with PRC section 14578(a) themselves and instead relying on a dealer cooperative of which it is not a member. Under the Act, a dealer must contribute to the redemption of beverage containers in the unserved convenience zone by either paying

dealer cooperative stewardship fees to the dealer cooperative to satisfy its legal obligation under PRC sections 14578(a)(2)(A) and 14578.5(c)(2) or redeeming beverage containers in store under PRC section 14578(a)(1)(A).

Subsection (e)(1)

The purpose of this paragraph is to clarify that the dealer redemption requirements under PRC section 14578 and the corresponding requirements in proposed section 2373 do not apply to a dealer that meets the small dealer exemption specified in PRC section 14578(b)(1).

This is necessary to establish the dealers that are not subject to redemption requirements, which fulfills the Act's direction to exempt small dealers from redemption requirements under PRC section 14578(b)(1).

Subsection (e)(2)

The purpose of this paragraph is to clarify what gross annual sales means in subsection (e)(1). When determining whether a dealer has gross annual sales of less than one million five hundred thousand dollars (\$1,500,000), fuel sales are not counted as part of gross annual sales.

This is necessary because PRC section 14578(b)(2) excludes the sales of fuel when determining whether a dealer qualifies for the small dealer exemption based on gross annual sales of less than one million five hundred thousand dollars (\$1,500,000). The provision is therefore necessary to ensure the exemption from dealer redemption requirements for small dealers is accurately applied and is repeated from statutory language here only for providing clarity to a dealer that is only reviewing the regulations for their obligations in a convenience zone not served by a recycling center.

SECTION 2374. IMPLEMENTATION PERIOD FOR STEWARDSHIP PLAN SUBMISSION AND DEALER REDEMPTION REQUIREMENTS

Subsection (a)

The purpose of this subdivision is to establish that, if a dealer cooperative submits a stewardship plan within 120 days of the effective date of the regulations, then the submittal constitutes satisfaction of the requirements of PRC section 14578(a) for dealer members of the dealer cooperative.

This is necessary to ensure that dealers who plan to join a dealer cooperative and submit a stewardship plan are not required to redeem in store under PRC section 14578(a)(1) until their stewardship plan is reviewed by CalRecycle. The necessity of this provision only applying for 120 days following the effective date of the regulations is that the regulations will likely become effective simultaneously with the operation of PRC sections 14578 and 14578.5: on or around January 1, 2025. This timing will cause difficulty for dealer cooperatives, such as not having the ability for their stewardship plan

to be approved by CalRecycle until the regulations are in effect. To address this difficulty, it is necessary to give dealers that are members of a dealer cooperative or that plan to join a dealer cooperative a 120 days' transition period after the regulations are effective to submit a stewardship plan, during which they will not be required to redeem beverage containers on their premises in accordance with PRC section 14578(a)(1). They can spend that time forming the dealer cooperative and preparing a stewardship plan rather than redeeming beverage containers on the premises. One hundred twenty days is a necessary timeframe, rather than a shorter timeframe, because it gives dealers and dealer cooperatives adequate time to formulate and submit a thorough stewardship plan to CalRecycle that contains the elements required by the regulations. One hundred twenty days is a necessary timeframe, rather than a longer timeframe, because extending the timeframe would deprive consumers of redemption opportunities provided by dealers redeeming in store longer than is necessary for a stewardship plan to be formulated and submitted.

Subsection (b)

The purpose of this subdivision is to clarify that the satisfaction of the requirements of PRC section 14578(a) for dealer members of a dealer cooperative applies retroactively to the effective date of the regulations.

This retroactive satisfaction of the requirements of PRC section 14578(a) for dealer members of a dealer cooperative is necessary to provide 120 days' transition period after the regulations are effective to submit a stewardship plan. The transition period is made necessary by the timing of the regulation package, which includes the regulations becoming effective the same day when PRC sections 14578 and 14578.5. become operative: January 1, 2025. To give dealers time to formulate and submit a plan without having to redeem beverage containers on the premises, satisfaction of the requirement to redeem in store must commence the effective date of the regulations. No regulatory burden is imposed retroactively, only the benefit of not redeeming in store for dealers is being applied retroactively.

Subsection (c)

The purpose of this subdivision is to establish that, if a stewardship plan submitted under the section is approved by CalRecycle, the satisfaction of the requirements of PRC section 14578(a) for each dealer member terminates as of the date the stewardship plan becomes fully operational as approved by CalRecycle pursuant to section 2375.1(a)(10).

This is necessary to give a dealer cooperative time after stewardship plan approval to prepare for implementation of its stewardship plan during which the dealer members are not required to redeem beverage containers on the premises. This transition period is necessary to alleviate difficulty that will be experienced by a dealer cooperative and its dealer members due to the regulations and PRC sections 14578 and 14578.5 having concurrent or nearly concurrent effective dates (CalRecycle anticipates the regulations

will be adopted on or around January 1, 2025). This simultaneous effective date does not grant dealer members enough time to form a dealer cooperative and prepare and submit a stewardship plan. Therefore, dealer members must be excused from redeeming on the premises during the transition period so that they have the capacity to prepare for plan implementation by the operational date specified in the stewardship plan.

Setting the timeframe to terminate as of the date the approved stewardship plan becomes fully operational, as specified in the stewardship plan, is necessary to make the satisfaction of the requirements of PRC section 14578(a) consistent with the operational date established by the dealer cooperative. Setting this timeframe to terminate within a specified number of days would be arbitrary and inconsistent with the operational date specified by the dealer cooperative in the stewardship plan and approved by CalRecycle.

Subsection (d)

The purpose of this subdivision is to establish that, if a stewardship plan submitted under the section is disapproved by CalRecycle, the satisfaction of the requirements of PRC section 14578(a) for each dealer member terminates 30 days following the date of disapproval.

This 30-day timeframe is necessary to give the dealer members of the dealer cooperative time to prepare for redemption on the premises. Once they receive notice of the disapproval, it would be difficult to immediately redeem on the premises considering that the dealers had been counting on the stewardship plan being approved by CalRecycle. Thirty days' time to prepare for that redemption gives the dealer members adequate time to plan how they will redeem containers in light of the stewardship plan disapproval. Any shorter time would be burdensome on the dealer members to plan redemption since this may involve acquiring redemption equipment or changing job duties of employees. Any longer time would unfairly deprive consumers of the ability to redeem beverage containers at the dealer for longer than is necessary.

ARTICLE 3. STEWARDSHIP PLAN

SECTION 2375. STEWARDSHIP PLAN SUBMISSION

Subsection (a)(1)

The purpose of this paragraph is to establish the requirements for a dealer cooperative seeking approval for a stewardship plan. It mandates that a stewardship plan must be submitted to CalRecycle, including all information as specified in section 2375.1, for the stewardship plan to be approved.

This is necessary to ensure that all relevant and essential information is provided to CalRecycle for a thorough evaluation of the stewardship plan, thereby facilitating

informed decision-making and maintaining a consistent standard of review for all stewardship plans submitted.

Subsection (a)(2)

The purpose of this paragraph is to stipulate the mode of submitting a stewardship plan to CalRecycle. It requires that the submission be done electronically, with the electronic submittal date being regarded as the date of receipt by CalRecycle.

Electronic submittal is necessary to streamline the submission process, ensuring efficiency and timeliness. Clarity on the date of receipt also aids in tracking and responding to submissions within set timeframes, which is essential for efficient administrative processing and CalRecycle complying with the 90-day stewardship plan review timeline established in section 2376(b)(1) of the regulations.

Subsection (a)(3)

The purpose of this paragraph is to require that the dealer cooperative publicly post the submitted stewardship plan on an internet website.

Posting online is necessary for ensuring transparency and public accessibility to the stewardship plans. By mandating online posting, it enables interested persons, including the public and others interested in dealer cooperative stewardship plans, to review and understand the stewardship initiatives proposed by the dealer cooperative. Requiring the dealer cooperative to identify an internet website in its stewardship plan allows the dealer cooperative to use an existing internet website or to coordinate with other dealer cooperatives rather than requiring the dealer cooperative to create an entirely new website for this purpose.

Subsection (a)(4)(A)

The purpose of this subparagraph is to establish the standards for the submission and online publication of the stewardship plan. It requires consistency with the standards set forth in Government Code (Gov. Code) section 7405 and the Web Content Accessibility Guidelines (WCAG) 2.0 as published in 2008.

Incorporating the WCAG document by reference is necessary to satisfy the requirements of 1 CCR section 20 and to provide notice to dealer cooperatives of what is required of them when they must comply with WCAG 2.0. Imposing accessibility requirements on the submitted stewardship plans is necessary to ensure that the published information is accessible to all individuals, including those with disabilities, thereby promoting inclusivity and community access to the information. It also is necessary to ensure any CalRecycle staff with a disability or other accessibility needs who review the stewardship plan are able to do so. The accessibility standards set forth in Gov. Code section 7405 specifically are necessary because they incorporate federally recognized accessibility standards for individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons. The WCAG 2.0 standards

specifically are necessary because they are the most recent accessibility standards published by the main international standards organization for the World Wide Web.

Subsection (a)(4)(B)

The purpose of this subparagraph is to clarify the implications of non-compliance with the accessibility standards set forth in subparagraph (a)(4)(A). It specifies that, notwithstanding the provisions in the proposed regulations dictating how CalRecycle approves or disapproves a stewardship plan, failure to comply with these accessibility standards shall not be a basis for disapproving a stewardship plan.

This is necessary to distinguish between essential criteria for plan approval and supplementary requirements for publication, ensuring that non-compliance with the latter does not impede the approval of a stewardship plan. This is necessary because a dealer cooperative's failure to comply with accessibility standards for the stewardship plan should not be a basis for plan disapproval, which would have the effect of depriving consumers within the unserved convenience zone in which the dealer cooperative is located of the beverage container redemption opportunities the dealer cooperative will provide. In lieu of disapproval, CalRecycle has the option to impose civil penalties for the enforcement of this proposed requirement if the proposed stewardship plan is approved.

Subsection (b)

The purpose of this subdivision is to establish the liability and compliance declaration associated with the submission of a stewardship plan. Stewardship plan submission necessitates a declaration from the dealer cooperative and its members regarding their adherence to all applicable requirements of the Act and proposed regulations.

This is necessary to establish a formal acknowledgement of compliance and legal responsibility, reinforcing the accountability of the dealer cooperative and its members in the implementation of the stewardship plan.

Subsection (b)(1)

The purpose of this paragraph is to specifically state that the dealer cooperative and its members declare their compliance with all applicable requirements of the Act and this CCR chapter upon submitting the stewardship plan.

This is necessary to ensure that all parties involved are aware of and adhere to the regulatory and statutory requirements, thereby fostering a compliant and responsible approach to stewardship activities.

Subsection (b)(2)

The purpose of this paragraph is to clarify the legal liability of the dealer members and the dealer cooperative concerning the approved stewardship plan. It emphasizes the

legal responsibility that comes with the approval and implementation of the stewardship plan under the Act and this CCR chapter.

This is necessary to ensure that all parties involved understand and acknowledge their legal obligations and the potential consequences of non-compliance, thereby promoting adherence to the plan and the overarching regulatory framework. It also provides clarity to CalRecycle enforcement staff regarding the entities against whom enforcement actions may be taken, with those entities being both the dealer members and the dealer cooperative. Holding dealer members legally liable for the approved stewardship plan in addition to the dealer cooperative is necessary to ensure that the dealer members take responsibility for the dealer cooperative of which they are a member and are contributing financially in the form of dealer cooperative stewardship fees. Just as a dealer is legally liable for compliance with PRC section 14578(a)(1) if it chooses to redeem containers on its premises, it also must be legally liable for the implementation of its dealer cooperative's stewardship plan if it chooses to comply with PRC section 14578(a)(2) by joining a dealer cooperative.

SECTION 2375.1. STEWARDSHIP PLAN CONTENTS

Subsection (a)

The purpose of this subdivision is to establish comprehensive and specific guidelines for the content of a stewardship plan to be submitted by dealer cooperatives.

This is necessary to ensure that all relevant information is provided for effective oversight and management of the stewardship program, facilitating transparency and accountability in the beverage container redemption process.

Subsection (a)(1)(A)

The purpose of this subparagraph is to require dealer cooperatives to provide their federal tax identification number, also known as an employer identification number (EIN), in their stewardship plan.

This is necessary for the identification and verification of the dealer cooperative as a legitimate and recognized entity for tax and regulatory purposes. The alternative reference to employer identification number (EIN) is necessary because some dealer cooperatives may know the federal tax identification number as an "employer identification number" or "EIN" and CalRecycle needs to ensure it receives the correct information.

Subsection (a)(1)(B)

The purpose of this subparagraph is to allow dealer cooperatives the option to redact their EIN when posting their stewardship plan online, balancing the need for public transparency concerning the contents of the stewardship plan with the protection of sensitive financial information.

This is necessary to prevent potential misuse or fraudulent activities related to the dealer cooperative's tax identification number. While the dealer cooperative is required to submit its EIN to CalRecycle for regulatory purposes, posting the EIN online would unnecessarily impede the dealer cooperative's right to privacy.

Subsection (a)(2)(A) through (F)

The purpose of these subparagraphs is to mandate the inclusion of contact information for responsible individuals submitting and overseeing the stewardship plan, including, at a minimum, contact name, title, name of dealer cooperative, mailing address, phone number, and e-mail address.

This is necessary to ensure clear lines of communication and accountability, allowing for efficient management and oversight of the stewardship program. CalRecycle needs this information to ensure it can contact a person at the dealer cooperative knowledgeable about the stewardship plan. Additionally, CalRecycle needs to know who specifically is submitting the stewardship plan on behalf of the dealer cooperative in case it needs to verify that someone authorized by the dealer cooperative is submitting the stewardship plan.

The contact name and contact title are necessary to ensure accountability for the dealer cooperative of the submitted information within the stewardship plan. The name of the dealer cooperative is necessary to ensure proper identification of the dealer cooperative when CalRecycle is reviewing the stewardship plan. Mailing address specifically is required because certain legal documents CalRecycle may serve the dealer cooperative with are legally required to be sent through postal mail. Both a phone number and e-mail address are required because if one contact method is unsuccessful, CalRecycle needs a backup contact method to contact the dealer cooperative.

Subsection (a)(3)

The purpose of this paragraph is to require the disclosure of names and titles of decision-makers in the dealer cooperative, including each member of the board of directors.

This is necessary for transparency and accountability, ensuring that interested parties and CalRecycle are aware of who holds decision-making power within the dealer cooperative. It also is necessary for CalRecycle to know who is responsible for the dealer cooperative in the instance that legal action needs to be taken against the dealer cooperative for noncompliance with the Act and the regulations. PRC section 14591.2(a) references "responsible party" for purposes of imposing disciplinary action, identification of people responsible for making decisions on behalf of the dealer cooperative will assist CalRecycle in identifying those responsible parties.

Subsection (a)(4)

The purpose of this paragraph is to mandate the verification of the dealer cooperative's tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986.

This is necessary to confirm the nonprofit status of the dealer cooperative, which is a legal requirement for a dealer cooperative under PRC section 14510.2 and therefore impacts its regulatory requirements and eligibility. It is infeasible for CalRecycle to spend the resources to research each dealer cooperative's 501(c)(3) status online when CalRecycle will have oversight over numerous dealer cooperatives. Rather, it is more efficient and a better expenditure of resources for each dealer cooperative to provide confirmation of their 501(c)(3) status to CalRecycle since it is simple to include in the stewardship plan. Including confirmation of 501(c)(3) status in the stewardship plan also allows the public to see the confirmation of 501(c)(3) status when the stewardship plan is posted online by the dealer cooperative, which is necessary for accountability and transparency.

Subsection (a)(5)

The purpose of this paragraph is to require the submission of the dealer cooperative's latest articles of incorporation or equivalent formation documents.

This is necessary for regulatory compliance and to ensure the legal and legitimate operation of the dealer cooperative. The dealer cooperative needs to supply the articles of incorporation to CalRecycle in the instance CalRecycle is required to utilize the information contained within, such as using the agent for service of process to serve legal documents on the dealer cooperative. It is infeasible for CalRecycle to spend the resources to research each dealer cooperative's articles of incorporation online when CalRecycle will have oversight over numerous dealer cooperatives. Rather, it is more efficient and a better expenditure of resources for each dealer cooperative to provide their articles of incorporation to CalRecycle since it is simple to include it in the stewardship plan. Including the articles of incorporation in the stewardship plan also allows the public to see the articles of incorporation when the stewardship plan is posted online by the dealer cooperative, which is necessary for accountability and transparency.

Allowing equivalent formation documents to the articles of incorporation most recently filed with the California Secretary of State is necessary because the dealer cooperative does not necessarily have to incorporate with the California Secretary of State. It may be incorporated in another state.

Subsection (a)(6)

The purpose of this paragraph is to mandate the inclusion of a list of all dealer members within the dealer cooperative, including their registration numbers.

This is necessary for regulatory oversight and to ensure that all dealer members are properly identified and accountable within the stewardship plan. The Act requires a dealer cooperative to be composed of dealer members and to assess fees on those dealer members. Therefore, CalRecycle is required to be informed by the dealer cooperative of the name and identifying registration number of its dealer members to verify compliance with the Act's legal requirements imposed in relation to dealer

members. Specifically, for purposes of the requirement for CalRecycle to audit each dealer cooperative every two years under PRC section 14578.5(f), providing the names and registration numbers of each dealer member will allow CalRecycle to cross-reference the number of dealer members with the amount of fees imposed by the dealer cooperative to verify the cooperative fees are being utilized appropriately for the operation of the approved stewardship plan, as required under PRC section 14578.5(f).

Subsection (a)(7)

The purpose of this paragraph is to require a list of unserved convenience zones be included in the stewardship plan where the dealer cooperative will provide redemption services.

This is necessary for CalRecycle to ensure that the dealer cooperative is only operating in unserved convenience zones in which it has dealer members, as required by the Act. This serves to address areas that lack sufficient redemption options, fulfilling the stewardship plan's purpose of improving accessibility and efficiency in beverage container redemption. CalRecycle needs to know in which unserved convenience zones the dealer cooperative will operate so that CalRecycle can exercise oversight and enforcement over the operation of the dealer cooperative. Additionally, CalRecycle needs this information to verify that the dealer cooperative is only proposing to operate and receive program payments in unserved convenience zones in which it has dealer members, as required by the Act.

Subsection (a)(8)

The purpose of this paragraph is to mandate the inclusion in the stewardship plan of a list of processors and recycling centers to which the dealer cooperative will ship beverage containers.

This is necessary for transparency and to ensure that these facilities are identified for regulatory and operational oversight. CalRecycle needs to know to whom the dealer cooperative proposes to ship beverage containers for recycling to assess whether the dealer cooperative is capable of meeting its performance standards for redemption established in section 2375.1(b)(8) and whether it has the capacity to provide sufficient redemption opportunities that are convenient for consumers, as required under section 14578.5(c)(1) of the PRC. A dealer cooperative cannot merely redeem beverage containers from consumers. It must then ship the containers to a processor or recycler for recycling after redemption. Therefore, it is necessary for the dealer cooperative to include in its stewardship plan the identities of the processors and recyclers to which it will ship beverage containers.

Subsection (a)(9)

The purpose of this paragraph is to require a list of known redemption sites at the time of the stewardship plan submission.

This is necessary to provide an initial framework of operational redemption sites, facilitating early planning and public awareness of the program. Whether the stewardship plan receives approval or disapproval is based on the level of redemption it will provide, and therefore CalRecycle needs to know at least the initial planned redemption sites to determine whether the dealer cooperative's stewardship plan will provide convenient consumer redemption as required under the Act.

Subsection (a)(10)

The purpose of this paragraph is to mandate the inclusion of a timeline for the stewardship plan to become fully operational.

This is necessary to establish clear expectations and goals for the implementation and operational readiness of the stewardship plan. A dealer's obligation under PRC section 14578(a)(2)(A) is not satisfied until the stewardship plan of the dealer cooperative of which it is a member is operational, and therefore the stewardship plan must include a timeline for the operation of the stewardship plan so that CalRecycle can accurately enforce the provisions of the Act depending on the operational date. Additionally, including this information in the stewardship plan is necessary to put consumers on notice within the unserved convenience zones of when they can expect to be able to begin redeeming empty beverage containers at the dealer cooperative redemption sites.

Subsection (b)

The purpose of this subdivision is to require detailed descriptions of various aspects of the stewardship plan, including redemption processes and educational programs.

This is necessary to ensure a comprehensive and well-understood plan that addresses all facets of the stewardship program, from operational details to community engagement and consumer education. This provision is also necessary as an introduction to the stewardship plan provisions, considering one of the core requirements of the Act in PRC sections 14578 and 14578.5 is for the dealer cooperative to submit a stewardship plan to CalRecycle to establish a stewardship program for redeeming empty beverage containers from consumers.

Subsection (b)(1)

The purpose of this paragraph is to detail how each type of beverage container material will be redeemed under the stewardship plan.

This is necessary to ensure that the stewardship plan addresses the specific redemption processes for different materials, accommodating their unique handling and recycling requirements. Providing this information in the stewardship plan is necessary for CalRecycle to verify the dealer cooperative's ability to comply with PRC section 14578.5(c)(3), which requires redemption of all material types. Including this information in the stewardship plan is also necessary to provide notice to the public and interested parties of how redemption of each material type will be accessible in the unserved convenience zones covered by the stewardship plan.

Subsection (b)(2)

The purpose of this paragraph is to require the stewardship plan to describe each method of redemption offered by the dealer cooperative.

This is necessary to provide clear information on the available redemption options, ensuring that they are accessible and understood by consumers and other interested parties. CalRecycle needs to know this information in making a determination of whether to approve and disapprove the stewardship plan because requirements of the Act and regulations hinge on the type of redemption method offered, such as the Act's requirement under PRC section 14578.5(c)(1) to provide redemption opportunities that are sufficiently convenient for consumers.

Subsection (b)(3)

The purpose of this paragraph is to outline an education and outreach program as part of the stewardship plan.

This is necessary to ensure active engagement and participation of consumers and dealers in the stewardship program, enhancing the effectiveness of the beverage container redemption program. A key requirement under PRC section 14578.5 is that all stewardship programs "include sufficient redemption opportunities for consumers that have comparable consumer convenience to the requirements of Section 14571". PRC section 14571 includes standardized operational requirements for traditional beverage container recycling centers such as the hours that recycling centers must operate and signage that must be posted that indicates those hours of operation. In contrast to recycling centers, each dealer cooperative in the state could potentially have different operating hours and redemption methods since they may decide those operating hours and methods for themselves in their stewardship plan rather than being dictated by PRC section 14571. Therefore, an education and outreach program that includes elements in addition to just signage is required for consumers to have a genuine opportunity to be informed of the different operating hours and redemption methods of each dealer cooperative that operates near the consumer. Consumer awareness of differing dealer cooperative stewardship programs necessitates an education and outreach program to ensure that the dealer cooperative provides redemption opportunities that are truly accessible and convenient to the consumer.

Subsection (b)(3)(A)

The purpose of this subparagraph is to detail activities for promoting awareness and maximizing consumer and dealer participation in the stewardship program. The subparagraph provides the following example of these activities that are required: providing educational and outreach materials to persons selling and purchasing beverages in beverage containers in the dealer cooperative zone.

This is necessary to ensure that the dealer cooperative stewardship program reaches a wide audience and effectively communicates its purpose and benefits. Activities for

promoting awareness of the stewardship program are necessary because the redemption opportunities for consumers cannot be convenient as required by the Act if consumers are not aware of the opportunities. In addition to convenience, participation by consumers in the stewardship program is also necessary to effectuate the Act's purpose of reducing litter of beverage containers and increasing recycling of beverage containers.

Dealer awareness and participation is also necessary as dealers in the unserved convenience zone may not be aware of the dealer cooperative, and therefore need to be informed that they have the opportunity to join a dealer cooperative as an alternative to redeeming on the premises as required by PRC section 14578(a). Additionally, for dealer members of the dealer cooperative, involving them in participating in the outreach to consumers is invaluable. This is because the place of purchase of beverage containers is likely the most effective place to educate consumers on redemption opportunities of the beverage containers they've purchased.

Listing "providing educational and outreach materials to persons selling and purchasing beverages in beverage containers in the dealer cooperative zone" as an activity that is required is necessary because educational and outreach materials are the most effective way to communicate regarding the stewardship plan. Educational and outreach materials are a tangible source of information that can be referred to at any time. These materials are required as a minimum. However, the "including, but not limited to" phrase makes it clear that a dealer cooperative can also choose to engage in additional activities to promote awareness and maximize participation in the stewardship program.

Subsection (b)(3)(B)

The purpose of this subparagraph is to specify the languages in which materials will be distributed, ensuring they meet community needs and regulatory goals. This subparagraph also clarifies CalRecycle's authority to disapprove a stewardship plan if it finds that materials in one or more additional languages are needed and serves as the introductory paragraph for the types of materials required within the education and outreach program.

This is necessary to ensure that the educational and outreach materials are accessible to all members of the community, regardless of their primary language. Promoting awareness of the stewardship program in languages that are spoken within the dealer cooperative zone(s) is necessary because the redemption opportunities for consumers cannot be convenient as required by the Act if consumers are not aware of the opportunities, which they may not be if the education and outreach is not in a language they can understand. A list of these languages must be included in the stewardship plan for CalRecycle to be able to review whether the languages are suitable to the dealer cooperative zone and inform consumers within the dealer cooperative zone of the redemption opportunities. It is necessary that the dealer cooperative demonstrate that the needs of the community and goals of the Act will be best served by distribution in the identified languages because the dealer cooperative, who operates in that zone, is

better suited than CalRecycle to know the needs of the community. Even so, CalRecycle needs to reserve the right to disapprove the plan if the stewardship plan does not include enough languages to best serve the needs of the dealer cooperative zone because in that instance the stewardship plan would not be providing sufficient redemption to consumers. Providing education and outreach tailored in the languages prominently spoken in the dealer cooperative zone is especially important for dealer cooperatives rather than recycling centers because each dealer cooperative stewardship program will differ from other dealer cooperative redemption models and effective communication about the hours and methods of operations unique to the nearby dealer cooperatives is critical to informing the community of the various redemption opportunities.

Subsection (b)(3)(B)(i)

The purpose of this clause is to detail the printed materials to be used in the stewardship program's education and outreach program.

This is necessary to ensure that tangible, easily accessible materials are available to effectively disseminate information about the program, which may differ from aspects of other dealer cooperative redemption programs. Signage at dealer sites or redemption sites is necessary because a consumer that purchases beverage containers is very likely to see signage at the dealer site at which the consumer purchased the beverage container that the consumer can then later redeem. Additionally, a consumer that redeems beverage containers at a redemption site is very likely to see signage there that may inform the consumer of critical information, such as if the redemption site is going to move to a different location or have different hours the following week.

Subsection (b)(3)(B)(ii) and (b)(3)(B)(ii)(I) through (III)

The purpose of this clause and its subclauses is to mandate the inclusion of information on an internet website with mobile platform functionality. The purpose of requiring the inclusion of this information on an internet website rather than requiring the dealer cooperative to create an entirely new internet website is to allow the dealer cooperative to use an existing website or to coordinate with other dealer cooperatives rather than having to expend the resources to create a new web platform from scratch.

This is necessary to leverage digital platforms for wider reach and accessibility, ensuring up-to-date and accurate information is readily available. Internet websites are widely used and the most efficient way in today's society to disseminate information. Therefore, an internet website is necessary to provide education and outreach to ensure consumers have a genuine opportunity to be informed of the different operating hours and redemption methods of each dealer cooperative that operates near the consumer. Some consumers, especially low-income consumers, may not have access to computers and only use smart phones to access the internet. To facilitate the outreach to those consumers, the internet website with the redemption information is necessary to include functionality for mobile platforms. Up to date information on the location,

telephone number, days and hours of operation, and material types redeemed at redemption sites is the basic information necessary to include on the internet website to communicate to consumers when, where, and how they can conveniently redeem their empty beverage containers.

Subsection (b)(3)(B)(iii)

The purpose of this clause is to incorporate optional non-printed materials in the education and outreach program, such as a toll-free telephone number, with provisions for hearing and speech-impaired individuals.

This is necessary to ensure the program is inclusive and accessible to all potential users, regardless of their access to printed materials or internet services. This provision is necessary to include to authorize a dealer cooperative to offer a general telephone number associated with the dealer cooperative redemption program in addition to a dealer cooperative internet website in acknowledgement that there are persons in the community that redeem beverage containers that may not have access to the internet. The requirement that such a telephone number be used to provide services for hearing-impaired and speech-impaired individuals is necessary to ensure that individuals with a disability are able to use the telephone services. The requirement that the telephone number be toll-free is necessary so that community members wishing to redeem empty beverage containers who may not be able to afford a telephone, such as persons who are experiencing homelessness, are not unfairly excluded from receiving redemption information through the telephone number.

Subsection (b)(4)

The purpose of this paragraph is to require the stewardship plan to establish a dispute resolution process and a method for handling complaints about the stewardship program.

This is necessary to provide clear and effective avenues for addressing any issues with redemption or payments, ensuring consumer trust and program integrity. Because the dealer cooperatives are a novel method of beverage container redemption under California state law, a method to receive feedback and complaints by the dealer cooperative is necessary for dealer cooperatives that must interact with consumers by returning CRV back to consumers that consumers paid at the point of initial sale. Additionally, being required to accept complaints from the public is necessary to facilitate pathways of communication if the community is unhappy with an aspect of a redemption site. This will give the dealer cooperative the opportunity to make the redemption site more acceptable to the public which will in turn increase the likelihood that the redemption site will continue in operation and continue to provide redemption opportunities to the public. This method to receive complaints and the associated dispute resolution process for consumers in the event of non-payment or underpayment by a redemption contractor is necessary to ensure that the dealer cooperatives are

aware of any failings in their redemption program and to document the process by which a consumer dispute can be addressed.

Subsection (b)(5)

The purpose of this paragraph is to require the stewardship plan to detail opportunities for community input, especially in areas facing unique challenges in beverage container redemption.

This is necessary to ensure that the dealer cooperative's stewardship program is responsive to the needs of different communities and can adapt to address specific local challenges. Maintaining open channels of communication regarding unique challenges associated with empty beverage container redemption in the dealer cooperative zone is necessary for the dealer cooperative to become aware of these challenges and to develop solutions to mitigate or overcome the challenges. Addressing these unique challenges is a strength of the dealer cooperative legal framework due to each dealer cooperative being able to tailor their stewardship plan to their distinct community. This is necessary to increase the likelihood that the dealer cooperative will continue in operation and continue to provide convenient redemption opportunities for the public as required by the Act.

Subsection (b)(6)

The purpose of this paragraph is to mandate that the stewardship plan includes at least one innovative redemption method per convenience zone.

This is necessary to encourage creative and efficient approaches to redemption, potentially enhancing accessibility and convenience for consumers. Specifically, requiring a minimum of one innovative method of redemption is necessary to fulfil the key requirement under PRC section 14578.5 that all stewardship plans "include sufficient redemption opportunities for consumers that have comparable consumer convenience to the requirements of Section 14571". PRC section 14571 includes standardized operational requirements for traditional recycling centers such as the hours that recycling centers must operate. In order for a dealer cooperative to provide comparable but not identical redemption opportunities to traditional recycling centers, innovative methods of redemption are required.

It is necessary to have one innovative method of redemption per convenience zone rather than the entirety of the stewardship plan because the stewardship plan may encompass multiple convenience zones that, together, compose the dealer cooperative zone. An innovative method of redemption is therefore required in each convenience zone so that a consumer has access to an innovative method of redemption that is in geographical proximity to the consumer rather than located somewhere in the dealer cooperative zone that is in a non-adjacent convenience zone that is not geographically convenient to the consumer.

Authorizing the innovative method of redemption to include a corresponding daily limit is necessary because, unlike a traditional recycling center where beverage containers are redeemed at a stationary physical location with an open lot to store beverage containers, this is not the case for all innovative methods of redemption. For example, a RVM or a mobile recycling truck are only able to hold a limited amount of beverage containers due to their physical size. Therefore, the dealer cooperative needs the ability to establish redemption limits for these innovative methods of redemption.

Subsection (b)(7)(A)

The purpose of this subparagraph is to outline how a dealer cooperative must have the capability to offer convenient redemption of all material types and ensure the capacity to redeem 100 percent of the beverage containers sold by its dealer members into convenience zones. It also serves to prohibit a dealer cooperative from refusing to redeem a beverage container on the basis that the beverage container material type or the beverage type is not sold by a dealer member of the dealer cooperative.

The capability to offer convenient redemption of all material types and beverage types is necessary to ensure that consumers have consistent and reliable access to redemption services, regardless of the material type of the beverage container or the types of beverages sold by the dealer members. The requirement is necessary to include in the stewardship plan to implement PRC section 14578.5(c)(3), which requires the dealer cooperative to redeem all material types.

Requiring the dealer cooperative to have the capacity to redeem 100 percent of the beverage containers sold by dealer members into convenience zones in which any of the dealer members operate is necessary to ensure that the dealer members, through the dealer cooperative, provide stewardship of the containers they sell from the point of purchase at the dealer store, to the redemption through the dealer cooperative, and ultimately to be recycled at a processor. This approach aims to increase the efficiency and effectiveness of recycling efforts and aligns with the broader objectives of waste management and environmental sustainability. The 100 percent standard is necessary to ensure responsibility for the beverages sold into the market and introduced into the waste stream, while also ensuring that the dealer cooperative is not forced to take in a volume of containers that far exceeds what the dealer members of the dealer cooperative sell. For instance, if a small dealer cooperative with only two dealer sites sells a small number of beverages, the dealer cooperative is only responsible for the capacity to redeem that number of beverages. If the dealer sites happen to be located within the same convenience zone as a large bulk warehouse store that also sells beverages, this proximity to a large volume seller of beverages should not impose additional redemption obligations on the small dealer cooperative. Therefore, the 100 percent redemption capacity is necessary to ensure product stewardship of the beverage containers introduced into the market by the member dealers while also protecting the dealer cooperative from having to build capacity to redeem containers at a rate disproportionate to the number of containers the dealer cooperative members

sell. The 100 percent threshold is also necessary to ensure that the redemption infrastructure is adequately scaled to meet consumer demand and prevent any potential backlog or service gaps in container redemption.

Prohibiting a dealer cooperative from refusing to redeem a beverage container on the basis that the beverage container material type or the beverage type is not sold by a dealer member of the dealer cooperative is necessary to ensure that consumers have the certainty that they can redeem any container in the convenience zone in which they are located. This is necessary to implement the requirement in PRC section 14578.5 (c)(3)(A) that a dealer cooperative must redeem all material types.

Subsection (b)(7)(B)

The purpose of this subparagraph is to define "convenient redemption" in the context of beverage container redemption, aligning it with the requirement in PRC section 14578.5 that each dealer cooperative stewardship program provide convenient redemption for consumers comparable to that set out in PRC sections 14571 and 14571.9.

This is necessary to interpret and make more specific the requirement in PRC section 14578.5 that dealer cooperative stewardship programs offer comparable consumer convenience to PRC sections 14571 and 14571.9. This definition establishes a clear and consistent understanding of what constitutes convenient redemption, thereby ensuring that a consumer redemption experience is provided by dealer cooperatives that is comparable to that offered by traditional recycling centers. This definition is pivotal in maintaining a minimum threshold of redemption opportunities across different convenience zones and dealer cooperatives.

Subsection (b)(7)(B)(i)

The purpose of this clause is to mandate the redemption of all types of beverage containers by dealer cooperatives, and to set forth a requirement necessary to meet the standard of convenient redemption established in proposed subsection (b)(7)(B).

This is necessary to prevent selective redemption practices and to ensure that all consumers have equal opportunities to return their beverage containers, irrespective of their material. It emphasizes the inclusivity of the recycling program and supports the goal of comprehensive waste reduction. It is also necessary to tie in the requirement for dealer cooperatives in PRC section 14578.5(c)(3) to redeem all material types with the standard to offer comparable redemption to traditional recycling centers since traditional recycling centers are also required to redeem all beverage container material types under PRC section 14572(a).

Subsection (b)(7)(B)(ii)

The purpose of this clause is to specify the requirements for the location of redemption locations, and to set forth a requirement necessary to meet the standard of convenient redemption established in proposed subsection (b)(7)(B). It mandates that these

facilities should be within one mile of any dealer member of the dealer cooperative in unserved convenience zones and may include innovative redemption methods.

This is necessary to ensure that redemption services are readily accessible to consumers, thereby encouraging participation in recycling and making the process more convenient and efficient. Additionally, this provision is necessary to effectuate the requirement in PRC section 14578.5(c)(1) that dealer cooperative stewardship programs offer redemption opportunities that are sufficient to provide comparable consumer convenience to traditional recycling centers. Specifically, one mile proximity is necessary because it reflects the maximum distance a consumer must travel from the defining supermarket at the center of a served convenience zone to a recycling center anywhere located within a served convenience zone because a convenience zone's radius is established at one mile under PRC section 14509.4. Establishing the proximity requirement of a redemption site of a dealer cooperative at one mile within each member dealer is necessary to ensure that a comparable level of consumer redemption convenience is provided by the dealer cooperative as is provided by traditional recycling centers.

Specifying that a redemption location may consist of an innovative method of redemption is necessary to clarify that a full-service redemption site at a fixed location is not required for the dealer cooperative to satisfy this requirement and instead may be satisfied with an innovative method of redemption. This is necessary to reduce the burden on dealer cooperatives so that each redemption site is not required to be full service, meaning redeeming all material types at that location with an attendant present.

Subsection (b)(7)(B)(iii)(I)

The purpose of this subclause is to set the operating hours for each redemption location, aligning them with the operating hours of the closest dealer member, or the one with the longest operating hours in cases of equal distance, as a requirement necessary to meet the standard of convenient redemption established in proposed subsection (b)(7)(B).

This is necessary to ensure that redemption service availability is aligned with the shopping patterns of consumers buying beverage containers from the member dealers. This default hourly requirement is necessary to reflect the requirement in PRC section 14578(a)(1)(A) that a dealer redeeming beverage containers on its premises does so during all hours that the dealer is open for business. By requiring the hours of the redemption site to match the hours of the closest dealer member, this ensures that a consumer buying a beverage during the hours a dealer member is open can immediately visit a nearby redemption site to redeem empty beverage containers previously bought in that unserved convenience zone.

Subsection (b)(7)(B)(iii)(II)

The purpose of this subclause is to allow for deviations in the default operating hours of redemption locations from those of the closest dealer member when justified in the

stewardship plan, as a requirement necessary to meet the standard of convenient redemption established in subsection (b)(7)(B).

This is necessary to provide flexibility to a dealer cooperative in accommodating unique community needs or operational challenges while still ensuring that the goals of the Act are met. While matching the redemption hours of a dealer redeeming in store is necessary as the default number of hours of operation for a redemption site, providing an alternative option is necessary to allow the dealer cooperative to tailor its redemption opportunities to best serve the needs of the community and the goals of the Act. The provision for departmental review and disapproval of insufficient justifications ensures that such deviations are in the best interest of the community and the effectiveness of the program. If differing hours do not best serve the needs of the community and the goals of the Act, CalRecycle shall disapprove the stewardship plan and require the redemption site to operate at the same hours of the closest member dealer.

Subsection (b)(7)(C)

The purpose of this subparagraph is to require the stewardship plan to describe how the dealer cooperative will address factors affecting consumer convenience at redemption locations.

This is necessary to ensure that considerations such as safety, cleanliness, parking, and accessibility are adequately addressed by the dealer cooperative. These factors are key in enhancing the overall user experience and fulfilling the requirement of the Act that a dealer cooperative provide convenient redemption opportunities to consumers. If a redemption site is unclean or unsafe, has inadequate parking, or is not accessible via public transportation or walking, consumers are less likely to redeem their beverage containers at the redemption site and fewer beverage containers will be recycled. Therefore, it is necessary for the dealer cooperative to describe how it will address these factors in the stewardship plan for CalRecycle to assess whether the dealer cooperative is capable of providing convenient beverage container redemption opportunities to consumers.

Subsection (b)(7)(D) and (b)(7)(D)(i) through (iv)

The purpose of this subparagraph and its clauses is to enumerate allowable methods for achieving convenient redemption as part of a stewardship plan and to explicitly specify who may provide the redemption and that it can be an innovative method of redemption.

This is necessary to provide flexibility in how dealer cooperatives provide convenient redemption opportunities while ensuring that all methods contribute effectively to the stewardship program's goals. Allowing either the dealer cooperative itself, dealer members, or redemption contractors to administer the redemption locations, and also allowing innovative methods of redemption, provides maximum flexibility for dealer cooperatives to tailor their stewardship programs to the unserved convenience zones in which they operate.

Subsection (b)(7)(E)

The purpose of this subparagraph is to clarify that not all redemption locations need to accept all types of beverage containers, but all types must be redeemed within each convenience zone.

This is necessary to balance operational flexibility of dealer cooperatives with the statutory requirement in PRC section 14578.5(c)(3) that a dealer cooperative redeem all material types. The more flexibility a dealer cooperative has in operating, the more convenient redemption opportunities it can provide to consumers within the unserved convenience zone. For instance, the dealer cooperative could provide an RVM that accepts only glass outside of a winery tasting room to supplement a full-service redemption site outside of a nearby supermarket to best serve the needs of the community.

Subsection (b)(7)(F)

The purpose of this subparagraph is to allow dealer cooperatives to operate across multiple unserved convenience zones.

This is necessary to enhance the reach and efficiency of the stewardship program, allowing for broader service coverage. Allowing a single dealer cooperative to operate in multiple convenience zones, regardless of whether the convenience zones overlap or are adjacent, allows the dealer cooperative to achieve economies of scale and save on costs by offering more redemption opportunities. It also allows more dealer members across different unserved convenience zones, or a single dealer with sites in multiple unserved convenience zones, to join the dealer cooperative and pay dealer cooperative stewardship fees to fund the stewardship program.

Subsection (b)(8)(A)

The purpose of this subparagraph is to require dealer cooperatives to clearly define and document performance standards for their stewardship program, how these standards will be achieved, and the methods used for measuring achievement on a quarterly basis.

This is necessary to ensure that the dealer cooperatives' performance in beverage container redemption is regularly and systematically evaluated, promoting continuous improvement and adherence to statutory and regulatory requirements. Performance standards are a hallmark of product stewardship plans because they facilitate measurement of the success of the stewardship program through concrete metrics.

Measuring the achievement of the performance standards on a quarterly basis rather than another timeframe is necessary to utilize the information in the quarterly reports the dealer cooperative is submitting to CalRecycle, which is the best source of data to determine whether the stewardship program is achieving its performance standards.

Subsection (b)(8)(A)(i)

The purpose of this clause is to ensure that dealer cooperatives provide a thorough explanation and quantification of the geographic distribution of redemption sites. By requiring a breakdown of the number of sites per convenience zone per person, this clause aims to promote equitable access to redemption facilities.

This is necessary to prevent regional disparities in redemption site availability, ensuring that all individuals have convenient access to these services regardless of their location. This facilitates the dealer cooperative's satisfaction of the Act's requirement that the dealer cooperative provides convenient redemption opportunities to consumers. Additionally, allowing the dealer cooperative to establish its own standard of X number of redemption sites per X number of persons in the unserved convenience zone rather than prescribing this ratio for dealer cooperatives ensures maximum flexibility to provide convenient redemption opportunities to consumers in the specific geographical region in which the dealer cooperative is located.

Subsection (b)(8)(A)(ii)

The purpose of this clause is to mandate that dealer cooperatives maintain a specified minimum redemption capacity per quarter in each convenience zone. This capacity must be sufficient to redeem 100 percent of beverage containers sold by dealer members in those convenience zones.

The 100 percent threshold is necessary to ensure that the redemption infrastructure is adequately scaled to meet consumer demand and prevent any potential backlog or service gaps in container redemption. Allowing the dealer cooperative to establish its own redemption capacity per quarter in the unserved convenience zone rather than prescribing this capacity, so long as it meets or exceeds 100 percent of the beverage containers sold by the dealer members, ensures dealer cooperatives have maximum flexibility to provide convenient redemption opportunities to consumers in the specific geographical region in which they are located.

Subsection (b)(8)(A)(iii)

The purpose of this clause is to set a minimum threshold for the redemption of beverage containers, which is at least 80 percent of the beverage containers sold by dealer members in each convenience zone.

This is necessary to ensure a high level of efficiency and effectiveness in the redemption process, contributing to the overall goals of waste reduction and recycling. If the dealer cooperative has the capacity to redeem 100 percent of the beverage containers its member dealers sell but then actual redemption falls below 80 percent, this means that the dealer cooperative is not providing adequate redemption to consumers. This could be due to a lack of education and outreach, unappealing redemption sites, or a multitude of other factors that a dealer cooperative would need to address to ensure beverage containers are actually being redeemed and recycled as part of the stewardship program in the unserved convenience zone.

The threshold of 80 percent redemption is necessary rather than a different percentage because this reflects the statutory goal in PRC section 14501(c) that 80 percent of beverage containers be recycled.

Subsection (b)(8)(A)(iv)

The purpose of this clause is to require the stewardship plan to establish standards for the average wait time for consumers redeeming beverage containers and to outline the factors that may influence this wait time.

This is necessary to enhance customer experience and ensure that the redemption process is convenient and accessible. By requiring the dealer cooperative to consider factors that affect average consumer wait time such as location, staffing, and hours of operation, this clause aims to optimize the redemption process offered by the dealer cooperative to consumers. As wait time is one of most important factors that determines whether a redemption opportunity is convenient for a consumer, a dealer cooperative must consider this factor and provide a numerical average wait time in its stewardship plan. Allowing the dealer cooperative to establish its own average wait time rather than prescribing a number, such as five minutes, is necessary to ensure dealer cooperatives have maximum flexibility to provide convenient redemption opportunities to consumers in the specific geographical region in which they are located.

Subsection (b)(8)(B)

The purpose of this subparagraph is to allow the establishment of redemption limits within the stewardship plan, provided they are justified and serve the community's needs and the goals of the Act.

This is necessary to allow flexibility in managing redemption operations while ensuring that any limitations imposed do not hinder the effectiveness and accessibility of redemption services. These redemption limits could be implemented in a similar manner to the daily load limits established for recycling centers in existing section 2535(f). However, rather than prescribing poundage or container number limits, it's necessary to allow the dealer cooperative to establish its own redemption limits since a one-size-fits-all approach would hinder a dealer cooperative's ability to tailor its redemption opportunities to the unique facts and circumstances of its unserved convenience zone. Additionally, allowing a dealer cooperative to establish redemption limits is particularly important since dealer cooperatives will be utilizing innovative methods of redemption that are often capacity limited. For instance, a bag drop machine or an RVM have a limitation on their physical capacity, therefore the dealer cooperatives need the authority to establish corresponding redemption limits.

While it's crucial for a dealer cooperative to be able to establish redemption limits, it is equally important that these limits do not hinder convenient consumer redemption or impede the goals of the Act to reduce beverage container litter and increase beverage container recycling. Therefore, the dealer cooperative must justify the redemption limit

and CalRecycle must reserve the authority to disapprove a plan if the justification is insufficient.

Subsection (b)(9)

The purpose of this paragraph is to require the stewardship plan to provide a clear framework for the financial management of the dealer cooperative, ensuring transparency and accountability in how stewardship fees are used to support the cooperative's budget.

This is necessary for the dealer cooperative to operate in a financially sustainable, prudent, and responsible manner. The dealer cooperative stewardship fees imposed on dealer members are statutorily required under PRC section 14578.5(c)(2) to be used to cover operational costs and implementation of the approved stewardship plan. Therefore, the stewardship plan must detail the dealer cooperative's budget and how those fees will be used to support that budget so that CalRecycle can verify in reviewing the stewardship plan that the dealer cooperative will utilize the fees as required by the Act to provide convenient redemption opportunities to consumers.

Subsection (b)(9)(A)

The purpose of this subparagraph is to require the stewardship plan to include a detailed, GAAP-compliant itemization of anticipated costs for the administration and implementation of the stewardship plan.

This is necessary to ensure financial transparency and accountability of the stewardship program, allowing for effective oversight by CalRecycle and ensuring that dealer cooperative funds are used appropriately and effectively. The dealer cooperative stewardship fees imposed on dealer members are statutorily required under PRC section 14578.5(c)(2) to be used to cover operational costs and implementation of the approved stewardship plan and therefore the stewardship plan must describe the purpose for which funds will be spent. CalRecycle needs the opportunity to review the purpose and amount on which the dealer cooperative will be spending stewardship funds to accurately assess whether the dealer cooperative is capable of providing convenient consumer redemption in accordance with its stewardship plan.

It is necessary that this list be prepared in accordance with GAAP to ensure CalRecycle receives this information in the same format from all dealer cooperatives to streamline review. Additionally, using generally accepted accounting principles ensures that the dealer cooperative is using a proven and effective method of accounting that will reduce the chance of accounting mistakes.

Subsection (b)(9)(B)

The purpose of this subparagraph is to require the stewardship plan to include a necessary funding level for covering the stewardship program's budgeted costs and to outline the management of monetary reserves and deficits.

This is necessary to ensure the financial stability of the stewardship program, enabling it to address surplus funds and deficits effectively and maintain operational integrity. Without financial stability, a dealer cooperative will be unable to provide convenient consumer redemption as required by the Act. Specifically, requiring the stewardship plan to include the target amount for monetary reserves, and the operating deficit amounts that the target monetary reserves will be able to cover, and a description of how surplus funds and operating deficits that exceed those amounts will be addressed, gives CalRecycle concrete numbers it can use to assess the financial status of the dealer cooperative and whether it is operating in a prudent and responsible manner within the parameters of its established budget.

SECTION 2376. STEWARDSHIP PLAN REVIEW AND APPROVAL OR DISAPPROVAL; OPERATIONAL NOTICE

Subsection (a)

This subdivision allows CalRecycle to require additional information, within a set timeframe and a specific format, from dealer cooperatives that submit a stewardship plan to corroborate or clarify information in the submitted plan. The purpose of this subdivision is to ensure that CalRecycle has sufficient and clear information to accurately assess a stewardship plan submitted by a dealer cooperative.

This requirement for additional information is necessary to verify that the proposed stewardship plan will fulfill the obligations of the dealers in the dealer cooperative under PRC section 14578(a)(2)(A) and PRC section 14578.5(c). The stipulation for providing this information within a requested deadline and format is essential for maintaining an efficient and orderly review process. CalRecycle needs to retain the authority to establish the deadline and format for the information in order to tailor the information request to the type of information needed from the dealer cooperative regarding its stewardship plan.

Subsection (b)(1)

The purpose of this paragraph is to establish a definitive timeframe and set a specific deadline of 90 days for CalRecycle to complete its review of a stewardship plan.

This ensures a prompt and predictable response from CalRecycle, facilitating better planning and compliance by dealer cooperatives. The 90-day timeframe is necessary to provide certainty to dealer cooperatives regarding the duration of the review process and to ensure that CalRecycle addresses these submissions in a timely manner.

The 90 day review period allows CalRecycle time to notify interested parties regarding the receipt of the stewardship plan; conduct a transparent public comment period as required under section 2376(b)(2); consider feedback from interested parties; critically analyze each element of the stewardship plan; systematically document CalRecycle's analysis and areas where the stewardship plan does and does not meet the statutory or regulatory requirements; conduct review of the that analysis; conduct briefings for the

Director and other executives for guidance on key decision points; remediate the analysis document for accessibility; post the accessible proposed analysis; obtain a signature from the Director on the analysis reflecting the Director's decision; and allow staff time to communicate the decision to the submitting dealer cooperative, post an accessible signed analysis, and inform interested parties prior to the deadline.

A 90-day period is necessary as the amount of time needed for CalRecycle to complete a comprehensive review of a stewardship plan. The need to give CalRecycle enough time to review a stewardship plan is balanced with the necessity to give dealer cooperatives a response on whether their stewardship plan is approved or disapproved within a reasonable timeframe. This acknowledges the financial resources and time that the dealer cooperative may have invested in the stewardship plan, which relies on confirmation of whether or not the stewardship plan is approved to move forward.

This timeframe was workshopped with the public on August 31, 2023, as 120 days for CalRecycle to review a stewardship plan. In response to public feedback that this timeframe was too long, the review timeframe was reduced from 120 days to 90 days.

Subsection (b)(2)

The purpose of this paragraph is to mandate a public comment process as part of CalRecycle's review of a stewardship plan.

This process is necessary to allow the public, particularly communities that the proposed stewardship plan is intended to include, to voice any questions, comments, or concerns it has about the proposed stewardship plan. By allowing for this comment period and feedback as part of the review and approval process, CalRecycle will be able to request any additional information from the dealer cooperative in regard to the stewardship plan that might be necessary for the community in which it is meant to serve. It also ensures transparency and allows for a broader range of input and perspectives on the proposed stewardship plan.

Subsection (c)

The purpose of this subdivision is to outline the criteria for CalRecycle's approval of a stewardship plan and to ensure that the plan meets all applicable requirements of the Act and these regulations.

This is necessary to ensure that the stewardship plans are comprehensive, effective, and in full compliance with established standards and laws applicable to the stewardship plan. It is necessary for CalRecycle to have sole discretion for approval because CalRecycle alone is statutorily bestowed with the responsibility for regulation of dealer cooperatives.

Subsection (d)(1)

The purpose of this paragraph is to ensure that every dealer cooperative with an approved stewardship plan has a dealer cooperative registration number.

This is necessary for administrative purposes as it allows CalRecycle to organize and maintain records associated with the dealer cooperative in a uniform and consistent manner. Additionally, this is necessary to implement the requirement in PRC section 14578.5(c)(5) that dealer cooperatives register with CalRecycle.

Subsection (d)(2)

The purpose of this paragraph is to provide a clear process for situations where a stewardship plan is disapproved. It specifies CalRecycle's obligation to explain its decision within 30 days of disapproval, and it outlines that a dealer cooperative may resubmit a revised plan, which CalRecycle will review within 90 days of resubmittal.

This is necessary to ensure transparency, fairness, and an opportunity for dealer cooperatives to address any deficiencies in their plans. Thirty days' notice of disapproval is necessary because it provides CalRecycle with enough time to explain why the proposed stewardship plan does not comply with the Act and regulations. Providing less time for such notice would not provide adequate time for CalRecycle to communicate its findings considering the numerous amount of dealers, and potentially dealer cooperatives, across the state that CalRecycle regulates. Providing more than 30 days would make it difficult for the dealer cooperatives to know the outcome of their plan submittal and would delay their ability to revise and resubmit a plan that they can put into effect. Requiring CalRecycle to review a resubmitted plan within 90 days is necessary to provide CalRecycle with enough time to review the plan while not unduly delaying the dealer cooperative from moving forward with the stewardship plan if approved.

Subsection (e)(1)

The purpose of this paragraph is to establish a clear process for the transition to a stewardship plan by a dealer cooperative once it is approved. This paragraph mandates that the dealer cooperative must notify CalRecycle electronically in writing when its stewardship plan becomes fully operational. It also clarifies that dealers who are members of the dealer cooperative must continue to redeem beverage containers on the dealer's premises in accordance with section 14578(a)(1) of the Act until the stewardship plan is fully operational.

This is necessary to provide a clear, documented transition point for the dealer cooperative, CalRecycle, and other interested parties (such as contractors) when the dealer moves from redeeming beverage containers on premises to the new operational framework under a stewardship plan. This continuity is essential to prevent any disruption in the redemption services during the transition period and to ensure compliance with existing statutory obligations. The specification of electronic written notification streamlines the communication process, ensuring there is a timely and verifiable record of this transition. This clarity and efficiency are crucial for the effective implementation and enforcement of the stewardship plan, and for maintaining the integrity of the beverage container redemption system during the transition phase.

Subsection (e)(2)

The purpose of this paragraph is to mandate that dealer cooperatives inform CalRecycle of any changes in the processors or recycling centers involved in their stewardship plan that were not previously included.

This is necessary for CalRecycle to have current and complete information about the stewardship plan's operational aspects. It allows CalRecycle to ensure that the empty beverage containers are shipped to certified facilities and are properly handled according to the Act and regulations.

Subsection (e)(3) and (e)(3)(A) through (C)

The purpose of this paragraph and its subparagraphs is to specify the information that must be included in the notification for each redemption site operated by the dealer cooperative. This includes: (A) The address of the site; (B) the name, title, and contact information of a contact person at the site; and (C) any certification or registration number held or previously held by individuals responsible for the site's operation.

The inclusion of this information is necessary to provide CalRecycle with sufficient details to ensure effective regulation, oversight, and direct communication with each redemption site, thereby facilitating the proper functioning and compliance of the stewardship plan. It also allows CalRecycle to review any operational history for the individual(s) responsible for the site, helping to ensure that those individuals who will be running a redemption site are knowledgeable about the Act and regulations and will abide by the applicable requirements. This information is required for CalRecycle to enforce the prohibition in section 2382(d) that "a person who has had a certification or registration revoked under the Act or regulations within the past five years or has been found to have violated PRC section 14597 is ineligible to operate as a redemption contractor or dealer cooperative".

Subsection (f)

The purpose of this subdivision is to require dealer cooperatives to notify CalRecycle 30 days in advance of any changes in their redemption contractors or sites, including the commencement of new operations or the closure of existing ones.

This advanced notice is necessary to keep CalRecycle informed of operational changes within the stewardship program, allowing for timely adjustments in monitoring and enforcement strategies to ensure ongoing compliance and program effectiveness. Thirty days' notice is necessary because it provides CalRecycle with enough time to review the changes while not unduly delaying the redemption site from making the changes it needs to make to function efficiently and effectively.

SECTION 2377. STEWARDSHIP PLAN UPDATES

Subsection (a)

The purpose of this subdivision is to establish a regular five-year review cycle for a dealer cooperative's stewardship plan to determine if any updates are needed.

This is necessary to ensure that CalRecycle has the most current information so as to ensure the plan continues to meet the goals and requirements set forth by the Act and regulations. The most critical updates are required to be provided in shorter timeframes, as specified in section 2378(b). However, other information can change and may need updating, so a five-year review period provides a balanced approach between maintaining an up-to-date plan and not overburdening the dealer cooperative with frequent reviews.

Subsection (b)(1)

The purpose of this paragraph is to specify the protocol a dealer cooperative must follow when it concludes that its stewardship plan does not require an update. This involves submitting their determination to CalRecycle within at least nine months before the review deadline.

It is necessary that a determination that a stewardship plan does not need to be updated be submitted to CalRecycle nine months before the five-year deadline to update the stewardship plan. This is because a nine-month time period contains roughly three sets of 90-day review periods. The first 90-day review period is necessary for CalRecycle to verify that the dealer cooperative is correct in determining that an update to the stewardship plan is not necessary.

The second 90-day timeframe within the nine months is allotted to the dealer cooperative to update its stewardship plan. The third 90-day timeframe within the nine months is allotted to CalRecycle to complete its review of the updated stewardship plan. Therefore, in total, a nine-month time period is necessary to allow time for all of the following after a dealer cooperative submits a determination that a stewardship plan need not be updated: (1) the review and potential rejection of that determination by CalRecycle, (2) preparation and submittal of an updated stewardship plan by the dealer cooperative, and (3) CalRecycle review of an updated stewardship plan.

The 90-day period for CalRecycle review of a dealer cooperative determination that a stewardship plan need not be updated is the same timeframe as that established for an initial review of a stewardship plan by CalRecycle under section 2376. This is necessary because all the information and factual circumstances in the previous stewardship plan will need to be reviewed by CalRecycle due to four years and three months having passed since the initial approval, and many circumstances may have changed. This nine-month timeframe was workshopped with the public on August 31, 2023.

Subsection (b)(2)

The purpose of this paragraph is to provide CalRecycle with the authority to require an update to the stewardship plan within 90 days if CalRecycle does not agree with a dealer cooperative's determination that their plan does not need to be updated and

instead deems the existing plan inadequate for meeting the requirements of the Act and these regulations.

This is necessary to ensure that stewardship plans are not only up-to-date but also effective and in compliance with current standards and requirements. The 90-day timeline is necessary because it ensures that the dealer cooperative will submit its updated plan to CalRecycle six months before the five-year review deadline, which provides CalRecycle with the same amount of time it is given to review updated plans submitted under section 2377(c).

Subsection (c)

The purpose of this subdivision is to outline the procedure for a dealer cooperative when it determines that its stewardship plan needs updating per subsection (a). This includes submitting the updated plan to CalRecycle six months prior to the five-year review deadline.

This is necessary to ensure that updates to the stewardship plan are timely and effectively communicated to CalRecycle, allowing for adequate review and implementation. Six months is necessary because it allows CalRecycle enough time to review and consider the proposed updates and, if necessary, require the dealer cooperative to resubmit the updated plan with any requested revisions within the timelines prescribed by section 2376.

Six months is necessary as a timeframe because it consists of two 90-day periods. The first 90-day period is allotted to CalRecycle to review the updated stewardship plan. The second 90-day period is allotted for the dealer cooperative to resubmit, and for CalRecycle to review, an updated stewardship plan in the instance that the dealer cooperative's first updated stewardship plan was disapproved by CalRecycle. Therefore, six months before the five-year review deadline is necessary to ensure enough time for resubmitting an updated plan before the five-year deadline in the instance that the first updated plan is disapproved.

This six-month timeframe was workshopped with the public on August 31, 2023.

Subsection (d)

The purpose of this subdivision is to detail CalRecycle's role in reviewing and approving updated stewardship plans. It specifies that CalRecycle must follow the same timelines for reviewing the updated plans as it did for reviewing the initial plans under section 2376. It also requires dealer cooperatives to notify CalRecycle electronically in writing once the updated plan is operational.

This is necessary to establish a clear and consistent process for the approval of stewardship plans and to ensure that CalRecycle is informed about the operational status of these plans, thereby facilitating ongoing compliance and oversight. It also provides that the timelines for CalRecycle review established in section 2376 are followed so that a uniform process of review is adhered to, and it ensures that the

reviews are done efficiently and effectively. Requiring dealer cooperatives to notify CalRecycle electronically in writing once the stewardship plan is fully operational is a confirmable way to ensure that CalRecycle is aware of the activities of the dealer cooperative and can verify the stewardship plan is operating within the guidelines of the Act and regulations.

SECTION 2378. STEWARDSHIP PLAN CHANGES AND NOTIFICATION

Subsection (a)(1)

The purpose of this paragraph is to establish a formal procedure for dealer cooperatives to submit changes to their stewardship plans for review and approval by CalRecycle. The paragraph requires dealer cooperatives to submit any changes to their stewardship plans electronically and in writing for approval by CalRecycle before implementation.

This is necessary to ensure that, as a default, all changes are thoroughly reviewed and vetted for compliance with statutory and regulatory standards before they are implemented, thereby safeguarding the integrity of stewardship efforts and aligning them with established environmental objectives. This process serves to maintain consistency and accountability in environmental stewardship practices. It is necessary to prohibit changes to the stewardship plan from being implemented by a dealer cooperative before CalRecycle has reviewed the change because this would be the equivalent of a dealer cooperative operating an unapproved stewardship plan.

Subsection (a)(2)

The purpose of this paragraph is to outline CalRecycle's responsibility to review and make a decision on stewardship plan changes submitted under subdivision (a)(1). The paragraph mandates CalRecycle to follow the timeline and procedures specified in section 2376 during the review process.

This is necessary to establish a clear, standardized, and uniform process of review so that reviews are done efficiently and effectively while promoting transparency. While some changes may be minor and not require the full 90 days to review, CalRecycle needs to reserve the 90 days allotted for review of the initial stewardship plan because a stewardship plan change may be fundamental to the structure of the stewardship plan and require a comprehensive review.

Subsection (a)(3)

The purpose of this paragraph is to provide a specific exception to the requirements stated in paragraphs (1) and (2), allowing CalRecycle to notify a dealer cooperative in writing that a specified change to implementing a stewardship plan is approved and does not require the submission of the stewardship plan change to CalRecycle.

This is necessary to offer flexibility in situations where prior discussions or agreements with CalRecycle have already established the acceptability of certain changes. If the

approval to make those stewardship plan changes are sent in writing by CalRecycle to the dealer cooperative, the dealer cooperative is not required to submit the stewardship plan to CalRecycle, thus streamlining the process and avoiding unnecessary delays so that dealer cooperatives can operate in the most efficient and effective manner.

Subsection (b)

The purpose of this subdivision is to create an alternative, simplified notification process for dealer cooperatives when changes are made to specific information outlined in section 2375.1(a). Instead of the full submission and approval process, dealer cooperatives are required only to notify CalRecycle 30 days in advance when only these specific changes are made.

This is necessary to reduce the administrative burden for minor, administrative, or routine changes that do not significantly impact the stewardship plan's overall compliance or effectiveness. The stewardship plan criteria specified in section 2375.1(a) is mostly informational in nature and CalRecycle need only be made aware of these changes rather than review whether the changes comply with the Act and the regulations.

Subsection (c)

The purpose of this subdivision is to grant CalRecycle the discretion to request a full stewardship plan change submission under subdivision (a), even if the dealer cooperative has initially followed the notification process described in subdivision (b). This ensures that CalRecycle retains oversight authority and can require more thorough review when deemed necessary.

This is necessary to safeguard environmental standards and objectives, ensuring that even minor changes are subject to scrutiny if they potentially impact the efficacy or compliance of stewardship plans. If CalRecycle determines a change to the stewardship plan criteria specified in section 2375.1(a) could potentially affect the stewardship plan's compliance with the Act and the regulations, CalRecycle needs to reserve the authority to require the dealer cooperative to submit a stewardship plan change in that instance.

ARTICLE 4. RECORDKEEPING, REPORTING, AND OPERATION

SECTION 2380. RECORDKEEPING

Subsection (a)(1)

The purpose of this paragraph is to specify that dealer cooperative records are prepared and maintained according to "GAAP". "GAAP" is defined in section 2370(f).

This paragraph is necessary to establish a uniform standard for financial reporting and accounting practices among entities governed by the Act and these regulations. It ensures consistency, transparency, and reliability in financial documentation and practices, facilitating better governance and oversight. Using generally accepted

accounting principles ensures that the dealer cooperative is using a proven and effective method of recordkeeping that will reduce the chance of accounting mistakes. Additionally, mandating recordkeeping in accordance with GAAP is necessary to ensure that CalRecycle has competent records to review when it is auditing the dealer cooperative every 24 months as required by PRC section 14578.5(f).

Subsection (a)(2)

The purpose of this paragraph is to specify a minimum time period of five years for dealers to maintain customer transaction related documents or any other documents required by this section.

This paragraph is necessary because PRC section 14578.5(f) mandates CalRecycle audit each dealer cooperative to ensure that proper program payments are made to consumers and cooperative fees are being utilized appropriately for the operation of the approved stewardship plan. Additionally, the statute of limitations for CalRecycle to audit or investigate actions to determine compliance with the Act and regulations is five years under PRC section 14552. Therefore, dealer cooperatives must retain records for a minimum of five years to provide to CalRecycle in the instance of such an audit or investigation. The provision ensures that, even if GAAP standards call for a record retention period that differs from five years, dealer cooperatives maintain their records so that CalRecycle is able to implement its investigation and auditing powers under the Act. This is consistent with section 2085(b) of the current regulations, which requires a record retention period of five years. This five-year retention period is necessary for the BCRP to track the five-year statute of limitations under PRC section 14552.

Subsection (b)

The purpose of this subdivision is to serve as an introduction to five paragraphs that enumerate the recordkeeping information required for each beverage container redemption transaction.

This paragraph is necessary because PRC section 14578.5 (c)(3)(A) mandates dealer cooperatives to redeem all material types and offer one or more redemption locations within each dealer cooperative zone. The dealer cooperatives must keep records to demonstrate their compliance with this law in the instance that CalRecycle audits or investigates actions taken by a dealer cooperative.

Subsection (b)(1)

The purpose of this paragraph is to specify the dealer cooperative recordkeeping requirements for each beverage container redemption transaction includes the date the beverage container material was received from the customer redeeming the empty beverage containers. The recordkeeping is also required to include a daily customer log that collects the customer's printed first and last name and signature, or by another method that is sufficient to track the redemption of individual customers described in the dealer cooperative's stewardship plan.

This paragraph is necessary because reviewing logs and/or receipts with this customer information and redemption transaction date is the best way CalRecycle can guard against fraudulent redemptions and verify legitimate customer transactions.

Contemporaneous recordkeeping of transactions that dictate the amount of payments to which the dealer cooperative is entitled (see section 2380(b)(4)) allows CalRecycle to verify that the dealer cooperative is in fact owed payments that it claims under the Act based on the amount of redemption undertaken by the dealer cooperative. If the dealer cooperative attempts to defraud the state by claiming more payments than it is due, corresponding daily customer logs are a tool to obtain evidence of this fraud.

By allowing for alternative methods sufficient to track redemption of individual customers, this paragraph provides flexibility to dealer cooperatives to gather and retain information in the manner best suited to their specific circumstances while also providing the information needed by CalRecycle. For example, a dealer cooperative may opt to provide consumers with machine readable payment cards that can be swiped for each transaction. Each time the card is swiped, the dealer cooperative can track information such as the date of the transaction, the name of the consumer, and other details required by paragraphs (b)(2)-(5). Allowing the alternative compliance option of another method sufficient to track the redemption of individual customers is necessary to give dealer cooperatives flexibility to implement innovative models of redemption while ensuring the necessary records are maintained to verify that correct program payments are made.

Subsection (b)(2)

The purpose of this paragraph is to specify the dealer cooperative recordkeeping requirements for each beverage container redemption transaction includes the date when payment is made to the customer.

This paragraph is necessary because reviewing the dates when payment is made to a particular customer(s) is one way CalRecycle can check for fraudulent redemptions. It is important for CalRecycle to have contemporaneous transaction records so that it can compare these records with the shipping records it receives from the dealer cooperative reporting the amount of beverage container redemption to ensure that there are no fraudulent payments of CRV. This paragraph requires the same information CalRecycle collects from recycling centers pursuant to existing sections 2525(a)(5) and 2525(b) of the regulations, which require recycling centers to maintain consumer receipts and/or logs that include the date when material is received from a customer.

Subsection (b)(3)

The purpose of this paragraph is to specify the dealer cooperative recordkeeping requirements for each beverage container redemption transaction includes the address where the customer redeemed or delivered the material.

This paragraph is necessary because it allows CalRecycle to track the sites where customers are redeeming their material. It also helps CalRecycle to track the material so as to prevent fraud through cross-referencing the reported number of beverage containers redeemed with the stated location at which they are redeemed. It also is necessary to allow CalRecycle to verify that redemption is not occurring outside of an unserved convenience zone, outside of the area covered by the dealer cooperative's stewardship plan, or another location not in compliance with the Act or regulations.

Subsection (b)(4)

The purpose of this paragraph is to specify the dealer cooperative recordkeeping requirements for each beverage container redemption transaction includes the method of redemption used in each transaction.

This paragraph is necessary because it allows CalRecycle to track the methods in which consumers are redeeming their empty beverage containers, which provides valuable information about the program and may inform CalRecycle's decisions on program implementation. This information is also necessary for CalRecycle to determine compliance with provisions of the Act and regulations that are contingent on the method of redemption.

Subsection (b)(5)

The purpose of this paragraph is to specify the dealer cooperative recordkeeping requirements for each beverage container redemption transaction includes the payment amount made to the customer by material type.

It is necessary for the dealer cooperative to maintain records of this information because it allows CalRecycle to verify the types of material that are being redeemed in the instance of an audit or an investigation of a dealer cooperative. Also, requirements and payments under the Act and regulations are contingent on the material type, therefore a dealer cooperative must retain records of this information for CalRecycle to verify compliance and to ensure customers are receiving the proper refund value for each material type. This paragraph is consistent with existing sections 2525(a)(2) and 2525(b), which require recycling centers to maintain records of payments made for each material type, which has helped CalRecycle to investigate and protect against fraud.

Subsection (c)

The purpose of this subdivision is to serve as an introduction to five paragraphs that explicitly require dealer cooperative stewardship program recordkeeping necessary for any material received for which the refund value was not paid to the customer.

This subdivision is necessary so that CalRecycle may track materials that are not redeemed for a refund value, which allows CalRecycle to review the efficiency of the program and to ensure the material is being properly handled. The dealer cooperative needs to maintain records of any material it received for which the refund value was not

paid in the case of an audit or investigation during which CalRecycle must verify that payments were not unlawfully made for ineligible material.

Subsection (c)(1)

The purpose of this paragraph is to specify that dealer cooperative recordkeeping requirements for any material received for which the refund value was not paid to the customer includes the date the material was received.

The paragraph is necessary because it helps CalRecycle to verify that ineligible materials are not redeemed for a refund value and that a dealer cooperative is paying the refund value for eligible material as required by the Act and that the material is being properly and lawfully handled. The date specifically is necessary because it can be cross-referenced with shipping reports submitted to CalRecycle that specify the date and amount of beverage containers redeemed.

Subsection (c)(2)

The purpose of this paragraph is to specify that dealer cooperative recordkeeping requirements for any material received for which the refund value was not paid to the customer includes an explanation as to why the refund value was not paid to the customer (e.g., system failure, ineligible for refund value, or customer not identifiable).

This paragraph is necessary because it helps CalRecycle to verify that ineligible materials are not redeemed for a refund value and that a dealer cooperative is paying the refund value for eligible material as required by the Act. Specifically, it is necessary for the dealer cooperative to keep records of an explanation as to why the refund value was not paid because it can be later verified by CalRecycle in the case of an audit or investigation to determine whether the explanation complies with the Act and regulations.

Subsection (c)(3)

The purpose of this paragraph is to specify that dealer cooperative recordkeeping requirements for any material received for which the refund value was not paid to the customer includes the total weight or count of materials by material type.

This paragraph is necessary because it allows CalRecycle to verify the amount and types of material that are being delivered but not redeemed for the refund value, which helps CalRecycle to determine in the instance of an audit or investigation whether the dealer cooperative was acting in compliance with the Act and regulations. CalRecycle can use the information regarding total weight or count of the accepted materials for which the refund value was allegedly not paid to cross-reference the refund value that was paid to the dealer cooperative to ensure that no refund value was paid for ineligible containers that were accepted by a stewardship program. Requiring the information to be categorized by material type is consistent with sections 2525(a)(2) and 2525(b) of existing regulations, which require recycling centers to maintain records of payments

made for each material type. This has helped CalRecycle to investigate and protect against fraud by cross-referencing the information with shipping reports submitted to CalRecycle that specify the amount and type of beverage containers redeemed.

Subsection (c)(4)

The purpose of this paragraph is to specify that dealer cooperative recordkeeping requirements for any material received for which the refund value was not paid to the customer includes an explanation of how the material was managed (e.g., shipped to a processor as scrap or sent to a solid waste facility).

This paragraph is necessary because it allows CalRecycle to verify that materials are being handled in an environmentally sound manner and according to the Act and regulations. It provides transparency and allows CalRecycle to determine whether improper payments are paid on materials. It also is necessary for CalRecycle to track the movement of material that may have been used to defraud the California Beverage Container Recycling Fund.

Subsection (c)(5)

The purpose of this paragraph is to specify that dealer cooperative recordkeeping requirements for any material received for which the refund value was not paid to the customer includes whether the scrap value was paid for the material and the amount of the scrap value paid.

This paragraph is necessary because it allows CalRecycle to verify whether improper program payments are paid on ineligible materials. This paragraph is consistent with PRC section 14538(d)(8), which requires recycling centers to keep records of scrap transactions. Reviewing records of recycling center scrap transactions has been found necessary by CalRecycle in instances of an audit or investigation to determine whether unlawful program payments were made for ineligible material because the financials of the recycling center can be traced to valid scrap transactions rather than unlawful CRV paid on ineligible scrap material. Accordingly, dealer cooperatives must be subject to this same requirement to retain records of scrap transactions.

Subsection (d)

The purpose of this subdivision is to specify the dealer cooperative recordkeeping requirements as part of the stewardship program, which includes the stewardship fees assessed on dealer members.

PRC section 14578.5(f) requires CalRecycle to audit each dealer cooperative at least once every 24 months to ensure that cooperative fees are being utilized appropriately for the operation of the approved stewardship plan. This subdivision is necessary to ensure that CalRecycle has the information it needs to make that assessment by reviewing the records of the dealer cooperatives.

Subsection (e)

The purpose of this subdivision is to serve as an introduction to two paragraphs that explicitly provides how the recordkeeping by the dealer cooperative stewardship program must be maintained for suitable examination.

This subdivision is necessary because in order for a record maintained by a dealer cooperative to be useful for CalRecycle while auditing or investigating a dealer cooperative, the record must be suitable for examination. This subdivision is also necessary to establish a clear and consistent definition of “suitable for examination”, which provides dealers with a clear expectation of record maintenance. These requirements mirror the requirements for other certified entities in existing section 2085(c) of the regulations.

Subsection (e)(1)

The purpose of this paragraph is to specify that dealer cooperative recordkeeping requirements, as part of the stewardship program, include that the records shall be legible.

This paragraph is necessary because in order for a record maintained by a dealer cooperative to be useful for CalRecycle while auditing or investigating a dealer cooperative, the record must be legible so that CalRecycle can understand what the record contains. In addition, PRC section 14553(c) authorizes CalRecycle to inspect the records of an entity required to submit a report to CalRecycle under the Act, such as dealer cooperatives under PRC section 14578.5(c)(6), and to do this, those records must be readable and accessible.

Subsection (e)(2)

The purpose of this paragraph is to specify that dealer cooperative recordkeeping requirements, as part of the stewardship program, include that the records shall be stored in a manner that would prevent degradation or depredation due to debris, moisture, contamination, hazardous waste, fire, and theft.

This paragraph is necessary because in order for a record maintained by a dealer cooperative to be useful for CalRecycle while auditing or investigating a dealer cooperative, the record must be protected in a secured place from debris, moisture, contamination, hazardous waste, fire, and theft, so that the record is kept safe and CalRecycle can access the record. In addition, PRC section 14553(c) allows CalRecycle to inspect the records of an entity required to submit a report to CalRecycle, such as dealer cooperatives under PRC section 14578.5(c)(6), and to do this, those records must be readable and available.

Subsection (f)(1)

The purpose of this paragraph is to specify that dealer cooperatives must provide CalRecycle with immediate access to their original records. Immediate access may

include the physical inspection of the records at any redemption site or location identified in the approved stewardship plan.

This paragraph is necessary because providing CalRecycle with immediate access to original records upon request will prevent a dealer cooperative's ability to manipulate records, an important measure against potential fraud. It is necessary that CalRecycle have access to a dealer cooperative's original records as opposed to copies of records because an original record is a more reliable indicator of whether the record is fraudulent. This paragraph is consistent with PRC section 14552(c), which requires entities that are subject to audit or investigation by CalRecycle under the Act to provide CalRecycle with immediate access to any record CalRecycle deems relevant.

Subsection (f)(2)

The purpose of this paragraph is to specify that dealer cooperatives must transfer original records required by the Act or the proposed regulations to CalRecycle within 10 days upon request.

Transferring original records to CalRecycle in a timely manner is necessary to prevent fraud. Ten days allows the dealer cooperative a reasonable time to gather and transfer the records without permitting too much time for the records to be manipulated or altered. CalRecycle needs to reserve the authority to specify the form and manner in which the records must be provided in order to tailor the record request to the type of record requested.

SECTION 2381. REPORTING

Subsection (a)(1)

The purpose of this paragraph is to serve as an introduction and is the first of three paragraphs that specifies dealer cooperative stewardship program quarterly reporting requirements. The purpose of this paragraph is to specify the submission of the quarterly report of the stewardship activities, which includes the components specified in sections 2381(b) and (c) for activities occurring January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

This paragraph is necessary to effectuate PRC section 14578.5(c)(6), which mandates the dealer cooperative provide reports containing any relevant information CalRecycle requests in the form and manner that CalRecycle may prescribe. While PRC section 14578.5(c)(6) suggested an example of monthly reports, there is no statutorily prescribed minimum or maximum frequency. Additionally, this paragraph is necessary because it provides uniform standards for the timing of report submittals and the information provided in the reports allows CalRecycle to ensure that the stewardship program is operational and fully implemented, as required by PRC section 14578.5(c)(4), in compliance with the Act and regulations. Quarterly reporting is necessary rather than monthly or annual reporting because this strikes a balance between (1)

providing CalRecycle with the necessary information to determine whether the dealer cooperative is complying with the Act and regulations and meeting its quarterly performance standards and (2) ensuring that dealer cooperatives aren't overburdened with unnecessary frequency of reporting. The reference to a monthly report in PRC section 14578.5(c)(6) is a suggested example of reporting frequency and is not a statutory minimum or maximum. As discussed below, although the report is submitted quarterly, the beverage container redemption information is required to be broken down by calendar month within the quarterly report. This enables CalRecycle to ascertain the number of beverage containers redeemed in a particular month. The frequency of the reporting period was discussed at workshops held on April 25, 2023, and August 10, 2023.

Subsection (a)(2)

The purpose of this paragraph is to specify that a dealer cooperative's quarterly report of stewardship program activities must be submitted electronically in writing no later than the 10th day after the quarterly reporting period ends.

This paragraph is necessary because it provides a uniform deadline for report submittal. The deadline of 10 days after the quarterly reporting period ends was chosen because it provides dealer cooperatives with enough time to gather that quarter's information while also ensuring that CalRecycle can review the information soon after the quarterly reporting period. Receiving the information by the deadline of 10 days after the quarterly reporting period ends is necessary because it provides dealer cooperatives with enough time to gather that quarter's information while also ensuring that CalRecycle can review the information soon after the quarterly reporting period. Submitting the reports electronically in writing is necessary to provide a standardized, efficient, and verifiable method of submittal.

Subsection (a)(3)

The purpose of this paragraph is to specify that dealer cooperatives' quarterly reports of stewardship activities must be consistent with the standards set forth in Gov. Code section 7405 and the Web Content Accessibility Guidelines (WCAG) 2.0 published in 2008 by the World Wide Web Consortium.

Imposing accessibility requirements on the submitted reports is necessary to ensure that the information is accessible to all individuals, including those with disabilities, thereby promoting inclusivity and community access to the information. It also is necessary to ensure any CalRecycle staff with a disability or other accessibility needs who review the reports are able to do so. The accessibility standards set forth in Gov. Code section 7405 specifically are necessary because they incorporate federally recognized accessibility standards for individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons. The WCAG 2.0 standards specifically are necessary because they are the most recent accessibility standards published by the main international standards organization for the World Wide Web.

Incorporating the WCAG document by reference is necessary to satisfy the requirements of CCR, title 1, section 20 and to provide notice to dealer cooperatives of what is required of them when they must comply with WCAG 2.0.

Subsection (b)(1)

The purpose of this paragraph is to serve as an introduction to the subsequent subparagraphs that specify information required in the redemption component of a dealer's cooperative's quarterly report.

This paragraph is necessary to inform dealer cooperatives of the information they must provide in their quarterly reports. It also provides CalRecycle a way to ensure that the dealer cooperatives are complying with requirements of the Act and regulations, such as PRC section 14578.5(c)(3)(A), which requires stewardship programs to redeem all material types and offer one or more redemption locations within the dealer cooperative zone.

Subsection (b)(1)(A)

The purpose of this subparagraph is to specify that the quarterly dealer cooperative stewardship program reports include information on the total number of empty beverage containers, by material type and collection method, redeemed from consumers, broken down by redemption site for each calendar month.

This subparagraph is necessary because it allows CalRecycle to track the materials that are being brought to redemption sites, which will help CalRecycle evaluate whether a dealer cooperative is complying with the Act and regulations and to protect against any fraudulent redemption of CRV. It also provides CalRecycle a way to ensure that the dealer cooperatives are complying with their obligations to implement their approved redemption plan(s) and to redeem all material types pursuant to PRC sections 14578.5(c)(3)(A) and 14578.5(c)(4). CalRecycle needs to have this reported information broken down by redemption site for each calendar month because in the instance that an investigation takes place, CalRecycle needs to be able to trace how many containers were redeemed at which redemption sites in a given calendar month to determine whether any fraudulent activity took place. Breaking down the information by calendar month also serves to connect the quarterly report to the monthly reporting threshold suggested in PRC section 14578.5(c)(6).

Subsection (b)(1)(B)

The purpose of this subparagraph is to specify that the quarterly dealer cooperative stewardship program report include information on the amount of refund value payments made to consumers by material type and collection method, broken down by redemption site for each calendar month.

This subparagraph is necessary because it allows CalRecycle to track refund value payments that are being made by redemption sites, which will help CalRecycle evaluate

whether a dealer cooperative is complying with the Act and regulations and to protect against any fraudulent redemption of CRV. CalRecycle needs to have this reported information broken down by redemption site for each calendar month because in the instance that an investigation takes place, CalRecycle needs to be able to trace the amount of refund payments that were made at which redemption sites in a given calendar month to determine whether any fraudulent activity took place. Breaking down the information by calendar month also serves to connect the quarterly report to the monthly reporting threshold suggested in PRC section 14578.5(c)(6).

Subsection (b)(1)(C)

The purpose of this subparagraph is to specify that the quarterly dealer cooperative stewardship program report includes information on the total weight or count of all material received for which no refund value was paid to a consumer and to explain why the material was deemed ineligible for payment to a consumer (e.g., line breakage, previously redeemed, previously baled, or out-of-state material), for each calendar month.

The subparagraph is necessary because it allows CalRecycle to track the materials that are being brought to redemption sites but that are ineligible for CRV, which will help CalRecycle evaluate whether a dealer cooperative is complying with the Act and regulations and to protect against any fraudulent redemption of CRV. This subparagraph is necessary to deter fraudulent transactions from occurring within the framework of dealer cooperatives that would create unfair and unlawful practices for dealer cooperatives in convenience zones in which no recycling center is located. The dealer cooperative needs to report to CalRecycle material it received for which the refund value was not paid so CalRecycle can verify that payments were not unlawfully made for ineligible material in a given calendar month. Breaking down the information by calendar month also serves to connect the quarterly report to the monthly reporting threshold suggested in PRC section 14578.5(c)(6).

Subsection (b)(1)(D)

The purpose of this subparagraph serves as an introduction to specify that the quarterly dealer cooperative stewardship program report includes data regarding the stewardship program's collection methods implemented as part of the stewardship plan.

This subparagraph is necessary because it allows CalRecycle to track materials collected by a dealer cooperative's stewardship program and ensure that those materials are being handled according to the Act and regulations. It also helps CalRecycle ensure that the dealer cooperative is operating in accordance with its approved redemption plan and achieving the quarterly performance standards established in its stewardship plan.

Subsection (b)(1)(D)(i)

The purpose of this clause is to specify that the quarterly dealer cooperative stewardship program report include information on the operating time and downtime for any innovative method of redemption used to collect empty beverage containers for each day of the reporting period.

This clause is necessary because it allows CalRecycle to review the operating time of the innovative method(s) of redemption of each convenience zone the dealer cooperative has chosen pursuant to section 2375.1(b)(6) and to evaluate whether the Act's intent is achieved of creating new, convenient recycling opportunities to improve consumer redemption and increase recycling rates. This will also assist CalRecycle in determining the dealer cooperative's compliance with section 2375.1(b)(6) to implement a minimum of one innovative method of redemption. Since the public will be able to view this information on a website where the quarterly report is posted pursuant to section 2381(b)(3), this will also provide information to the public on whether the innovative method in their area is working efficiently.

Subsection (b)(1)(D)(i)(I)

The purpose of this subclause is to clarify the definition of "downtime" for purposes of reporting information relating to the dealer cooperative's innovative method of redemption(s).

This subclause is necessary so that dealer cooperatives can provide CalRecycle with the information CalRecycle needs to evaluate and compare the different innovative methods of redemption. Additionally, knowing when an innovative method of redemption is not operating will assist CalRecycle in determining the dealer cooperative's compliance with section 2375.1(b)(6) to implement a minimum of one innovative method of redemption and whether the dealer cooperative is providing convenient redemption to consumers as required by the Act. Downtime excludes when an innovative method of redemption may not be operational for a period less than a day because CalRecycle contemplates that daily maintenance will need to be done for any innovative method of redemption due to either loading or unloading the payment terminal, beverage container storage area, or technical issues caused by consumer use.

Subsection (b)(1)(D)(i)(II)

The purpose of this subclause is to further clarify the definition of "operating time" as it is used in subsection (b)(1)(D)(i).

This subclause is necessary so that dealer cooperatives can provide CalRecycle with the information CalRecycle needs to evaluate and compare the different innovative methods of redemption. Additionally, knowing when an innovative method of redemption is operating will assist CalRecycle in determining the dealer cooperative's compliance with section 2375.1(b)(6) to implement a minimum of one innovative method of redemption and whether the dealer cooperative is providing convenient redemption to consumers as required by the Act.

Subsection (b)(1)(D)(ii)

The purpose of this clause is to specify that the quarterly dealer cooperative stewardship program report include data on the number of containers by material type and number of transactions that occurred using an alternative innovative method of redemption to collect and redeem empty beverage containers during each downtime period.

This clause is necessary so that dealer cooperatives can provide CalRecycle with the information CalRecycle needs to evaluate and compare the different innovative methods of redemption. It also allows CalRecycle to determine how dealer cooperatives react when an alternative method of redemption is down, such as whether the dealer cooperatives are utilizing an alternative innovative method of redemption. This information is necessary for CalRecycle to determine whether the dealer cooperative is achieving the quarterly performance standards it established in its stewardship plan and providing convenient redemption to consumers as required by the Act. It also is necessary for CalRecycle to determine whether a dealer cooperative is utilizing a minimum of one alternative method of redemption, as required by section 2375.1(b)(6).

Subsection (b)(1)(D)(iii)

The purpose of this clause is to require an explanation in the quarterly dealer cooperative stewardship program report if no containers were redeemed during the innovative method of redemption downtime period by an alternative innovative method of redemption.

This clause is necessary so that dealer cooperatives can provide CalRecycle with the information CalRecycle needs to evaluate and compare the different innovative methods of redemption and to ensure that redemption sites are redeeming the amount of beverage containers during operational hours to implement the dealer cooperative's stewardship plan according to the terms of the plan. Specifically, if no alternative innovative method of redemption is being used in place of a non-operating innovative method of redemption, CalRecycle needs to be made aware of this fact so that it can determine the dealer cooperative's compliance with section 2375.1(b)(6) to implement a minimum of one innovative method of redemption.

Subsection (b)(1)(E)

The purpose of this subparagraph is to specify that the quarterly dealer cooperative stewardship program report includes a description of education and outreach activities, including the challenges or successes experienced related to promoting the stewardship program.

This subparagraph is necessary to provide CalRecycle with the information it needs to assess the effectiveness of the education and outreach within the stewardship programs of different dealer cooperatives and to ensure that the public is aware of those programs. Additionally, reporting this information to CalRecycle is necessary for

CalRecycle to be able to determine on a quarterly basis whether the dealer cooperative is complying with the education and outreach program the dealer cooperative established in its approved stewardship plan.

Subsection (b)(2)

The purpose of this paragraph is to specify that the redemption component of the quarterly dealer cooperative stewardship program report is a public record and will not be exempt from public disclosure due to the inclusion of trade secret, commercial, or financial information, however the redemption component may be exempt from disclosure if an exemption otherwise applies under existing law.

This paragraph is necessary because it informs dealer cooperatives and the public that the information provided in the redemption component of the quarterly report will by default be disclosable under the California Public Records Act. Specifying that despite this default an exemption to disclosure under existing law may apply is necessary to comply with various provisions of existing law such as the under the California Public Records Act that may legally exempt portions of information reported under the redemption component from disclosure. The purpose of this exemption is to further interpret PRC section 14554 to not include the information submitted by a dealer cooperative as it relates to materials redeemed and payments to consumers made for the simple reason that a dealer cooperative is operating in a convenience zone because of a market failure to locate a recycling center there. By reporting this information and by CalRecycle making the information publicly available, registered dealers that are not members of a dealer cooperative and consumers can see how well a dealer cooperative is operating in an unserved convenience zone so they can make better informed decisions on whether to become a dealer cooperative member or where to take their beverage containers for redemption, respectively.

Subsection (b)(3)

The purpose of this paragraph is to require a dealer cooperative to post the redemption component of its stewardship program quarterly report on the internet website that it identified in its stewardship plan.

This paragraph is necessary to transparently provide information to the public on the operation and success of stewardship programs. It will be particularly helpful for the public to learn what services are offered in each area and how the innovative method(s) employed by the dealer cooperative are functioning. This is necessary to effectuate the Act's requirement that dealer cooperatives provide convenient consumer redemption. It is infeasible for CalRecycle to spend the resources to remediate for accessibility and post each dealer cooperative's quarterly report online. Rather, it is more efficient and a better expenditure of resources for each dealer cooperative to post their own quarterly report redemption components on the internet website they have already specified in their stewardship plan. This is also necessary to consolidate all of the information relating to a single dealer cooperative on a single website for the community using the

dealer cooperative to redeem rather than having to visit both CalRecycle's internet website to view a quarterly report redemption component and the dealer cooperative's internet website for the stewardship plan.

Subsection (c)

The purpose of this subdivision is to serve as an introduction of five paragraphs that specifies the information required in an operational component of a dealer cooperative quarterly stewardship program report.

This subdivision is necessary because it allows CalRecycle to ensure that redemption programs it has approved within certain convenience zones are operational and are acting in accordance with the redemption plan as approved. PRC sections 14578.5(c)(6) and 14578.5(c)(4) mandate that dealer cooperatives provide reports containing any relevant information CalRecycle requests in the form and manner that CalRecycle prescribes and be operational and fully implement the approved redemption plan, respectively. It is necessary to split the quarterly report into two components – the redemption component and the operational component – to organize information in the report according to subject matter and in order to, by default, only have the redemption component required to be posted online. It is necessary that the operational component of the quarterly report is not required to be posted online because the information is necessary for CalRecycle's determination of the dealer cooperative's compliance with the Act and regulations and its stewardship plan but is not as useful for the public. Because it is not necessary for the public to know this information, the operational component of the quarterly report is not required to be posted online to protect the information of the dealer cooperatives, although the information may be subject to disclosure under the California Public Records Act submitted to CalRecycle if an exemption does not apply and CalRecycle is interpreting PRC section 14554 so that the operational component falls within its scope.

Subsection (c)(1)

The purpose of this paragraph is to specify that the quarterly dealer cooperative stewardship program report include information on the number of inspections or reviews conducted of the redemption sites and what the inspections revealed, including any problems and how those problems were addressed.

This paragraph provides necessary information for CalRecycle to assess the dealer cooperatives' stewardship plans to ensure that the plans are acting in accordance with the Act and regulations. Since this program is new, this information will also be helpful to CalRecycle in determining how well the program is working as a whole and what challenges may need to be addressed in plans submitted by other dealer cooperatives. It is necessary to have this information reported to CalRecycle to have the dealer cooperative consolidate this information of any inspections and reviews that were undertaken by the dealer cooperative so that CalRecycle can assess the dealer cooperative's understanding of the inspections and reviews and whether the dealer

cooperative is taking steps to address problems that would affect the dealer cooperative's compliance with the Act and regulations and its approved stewardship plan.

Subsection (c)(2)

The purpose of this paragraph is to specify that the quarterly dealer cooperative stewardship program report includes information on whether the dealer cooperative received a Notice of Violation (NOV) pursuant to section 2386 and, if so, how it plans to correct, or has already corrected, the underlying behavior for which the NOV was issued.

This paragraph provides necessary information for CalRecycle to assess the dealer cooperatives' stewardship plans and to ensure that the dealer cooperatives are acting in accordance with the Act and regulations. It is necessary to have this information reported to CalRecycle to have the dealer cooperative consolidate this information of any NOVs that were issued so that CalRecycle can assess the dealer cooperative's understanding of the NOVs and whether the dealer cooperative is taking steps to address associated problems that would affect the dealer cooperative's compliance with the Act and regulations and is operating in accordance with its approved stewardship plan.

Subsection (c)(3)

The purpose of this paragraph is to specify that the quarterly dealer cooperative stewardship program report includes information on the number of beverages in beverage containers cumulatively sold by dealer members of the dealer cooperative into each convenience zone in which any of the dealer members operate.

This paragraph is necessary because it will provide information that is relevant for CalRecycle to assess the effectiveness of the stewardship plan and to ensure that the dealer cooperative both has the capability to redeem 100 percent of the beverage containers sold by its dealer members required under section 2375.1(b)(7)(A), and that it redeems 80 percent of the beverage containers sold by its dealer members, as required by section 2375.1(b)(8)(A)(iii). It is necessary to require the submittal of information on the cumulative sales by dealer members, rather than individual member sales, so as to maintain confidentiality of proprietary information of individual dealer member sales, as required by PRC section 14554 and existing section 2080. It is necessary that this information be reported in the quarterly report so that CalRecycle can use the data to determine whether a dealer cooperative is achieving the quarterly performance standards established in its stewardship plan.

Subsection (c)(4)

The purpose of this paragraph is to specify that the quarterly dealer cooperative stewardship program report includes a description of how the dealer cooperative achieved each performance standard identified in its stewardship plan.

This paragraph is necessary because it allows CalRecycle a means to review how and whether the dealer cooperative is achieving the performance standards the dealer cooperative identified under section 2375.1(b)(8). This information will help CalRecycle to determine if the dealer cooperatives are abiding by the Act and regulations, and to determine whether CalRecycle needs to take a corrective action, including requiring resubmittal of a stewardship plan and/or additional reporting requirements pursuant to section 2385(a). It will also help CalRecycle in assessing whether a stewardship plan needs to be updated pursuant to section 2377. The dealer cooperative is most familiar with its own stewardship program and is in the best position to accurately determine whether it has achieved its own quarterly performance standards, therefore it is necessary for the dealer cooperative to report this information to CalRecycle for review.

Subsection (c)(5)

The purpose of this paragraph is to specify that the quarterly dealer cooperative stewardship program report includes the revenue and expenses experienced by the dealer cooperative.

This paragraph is necessary because it provides information that is relevant for CalRecycle to understand revenue and expenditures in dealer cooperatives and how those expenses may influence the number of beverage containers being redeemed. It also provides information about the costs associated with innovative methods used by dealer cooperatives, which may assist CalRecycle and dealer cooperatives in determining the best and most efficient redemption methods to offer to consumers. In addition, it provides another way for CalRecycle to track payments to dealer cooperatives, which can help CalRecycle to cross-reference with other sources and ensure that dealer cooperatives are not making or receiving any payments intended to defraud the California Beverage Container Recycling Fund. It also is necessary for CalRecycle to determine compliance with the budget established by the dealer cooperative in its stewardship plan pursuant to section 2375.1(b)(9) and to assess whether the stewardship program is operating in a prudent and responsible manner, as required by section 2375.1(b)(9)(B) and as necessary to provide convenient redemption to consumers as required by the Act.

Subsection (d)(1)

The purpose of this paragraph is to notify dealer cooperatives that an incomplete quarterly report is a violation of section 2381.

This paragraph is necessary to inform dealer cooperatives that the information provided in their quarterly reports must be complete. If the dealer cooperative submits an incomplete report, then the dealer cooperative may be subject to the enforcement provisions in section 2385. It is imperative for CalRecycle to have complete and timely reports from dealer cooperatives so that it may verify that dealer cooperatives are complying with the Act and regulations. If there is information missing from the report, CalRecycle would not be able to accurately assess the stewardship programs. A

violation must be available to impose on dealer cooperatives to deter incomplete reports because an incomplete report interferes with CalRecycle's ability to determine compliance with the Act and regulations.

Subsection (d)(2)

The purpose of this paragraph is to specify that, if CalRecycle deems a quarterly report as incomplete, CalRecycle must provide written notice to the dealer cooperative identifying the missing information within 30 days.

This paragraph is necessary to provide a uniform way for CalRecycle to require dealer cooperatives to supply missing information from a quarterly report that it deems incomplete. Since reports are required on a quarterly basis, which is approximately 90 days, the requirement that CalRecycle provide notice within 30 days ensures CalRecycle has enough time to review the quarterly report for any missing data and request the missing information from the dealer cooperative immediately following the reporting quarter.

Subsection (d)(3)

The purpose of this paragraph is to specify that a dealer cooperative must provide any information electronically in writing that CalRecycle deems missing from its quarterly report within 30 days of the date CalRecycle issues the written notice to the dealer cooperative requesting the additional information.

This paragraph is necessary to provide a uniform way for CalRecycle to require dealer cooperatives to supply missing information from a quarterly report that it deems incomplete. Since reports are required on a quarterly basis, which is approximately 90 days, the requirement that CalRecycle provide notice within 30 days, and that the dealer cooperative must respond with the additional information within 30 days of that notice, ensures the dealer cooperative has enough time to gather and provide the missing information to CalRecycle, and CalRecycle has enough time to review that missing information, before the next quarterly report is due. This is necessary to ensure that the following quarterly reports are complete. Requiring the dealer cooperative to submit the report electronically in writing provides a verifiable way for dealer cooperatives to provide the required information to CalRecycle that is faster than regular mail and shipping methods.

SECTION 2382. DEALER COOPERATIVE OPERATION

Subsection (a)

The purpose of this subdivision is to confirm that dealer cooperatives must operate their stewardship program according to their approved stewardship plan, and in accordance with all applicable requirements of the Act and proposed regulations.

This is necessary because PRC section 14578.5(c)(4) mandates that dealer cooperatives be operational and fully implement the approved redemption plan. This subdivision is necessary to establish that a dealer cooperative's noncompliance with its approved stewardship plan is equivalent to a violation of law.

Subsection (b)

The purpose of this subdivision is to require the dealer cooperative redemption site to keep all material ineligible for redemption separate from any material destined for a certified processor.

It is possible that consumers will bring and leave materials that are not redeemable to dealer cooperative redemption sites. This subdivision is necessary because it provides guidance to the dealer cooperatives to keep ineligible material they receive separate from material going to a certified processor to ensure that there is no improper payment for that ineligible material. This is an anti-fraud measure that is necessary to deter both accidental and intentional redemption of ineligible material for the refund value.

Subsection (c)

The purpose of this subdivision is to require dealer cooperatives to provide CalRecycle with immediate access to any of the dealer cooperative program storage or redemption sites upon request. It is also to prevent the storage of beverage materials at a residential address by any persons involved with the dealer cooperative.

This is necessary because it allows CalRecycle to verify that materials are being stored and handled in an environmentally sound manner and according to the Act and regulations. It also helps CalRecycle to track ineligible material to ensure that it is not used to defraud the California Beverage Container Recycling Fund. This requirement is consistent with PRC section 14552(c), which requires a participant in the BCRP to provide CalRecycle with immediate access to its facilities and operations if CalRecycle determines it is necessary to verify compliance with the Act and regulations. Prohibiting the storage of beverage container material at a residential address is necessary because this is outside the allowable scope of where a redemption site may be located and increases the opportunity for fraud and for ineligible material to be redeemed for the refund value.

Subsection (d)

The purpose of this subdivision is to prohibit a person who has had a certification or registration revoked under the Act within the prior five-year period or has been found to have violated section 14597 of the Act from operating as a redemption contractor or dealer cooperative as part of a stewardship program.

This is necessary because it ensures that persons who have recently had a certification or registration revoked due to a failure to comply with the Act and regulations do not operate redemption locations. Additionally, it is necessary that a person who has ever

intentionally falsified documents in violation of PRC section 14597 not be permitted to participate in a dealer cooperative since the Legislature equates the falsification of documents required to be kept or submitted to CalRecycle as evidence of intent to defraud the state and such actions constitutes intentional misconduct. This subdivision helps to prevent fraud by preventing those people who have shown a willingness for fraudulent or illegal activity to operate a redemption location and to be in a position where they may be able to defraud the California Beverage Container Recycling Fund by claiming CRV on ineligible material again. This subdivision is consistent with existing section 2030(e), which permits CalRecycle to consider the certification history of an operator and responsible parties of a recycling center applying to become certified under the Act to determine if the operator is likely to operate the recycling center in accordance with the Act and regulations. It is also consistent with existing 2030(f), which requires CalRecycle to conduct a site history review when reviewing a certification application to determine whether one or more certified entities have operated within the past five years at the same location. Limiting the lookback time period of revocation in the proposed regulations to five years rather than permanently making that person ineligible is necessary to acknowledge that, for certain types of revocations, such as those for negligent rather than intentional violation of the Act and regulations, education can rehabilitate the violator so that they can act as a productive participant in a dealer cooperative. Intentional fraud under PRC section 14597 is more serious than a revocation due to unintentional negligence. Therefore, it is necessary that a person who intentionally defrauds the BCRP is permanently barred from participating in a dealer cooperative and perpetrating additional fraud.

Subsection (e)(1)

The purpose of this paragraph is to specify that dealer cooperatives may contract, consult with, or employ persons to create and implement their stewardship program, including redemption contractors, accountants, accessibility coordinators, web content specialists, and stewardship plan writers.

This paragraph is necessary because it provides dealer cooperatives with discretion to create and implement their stewardship plans in the manner they determine is best while also ensuring that the plan meets all of the necessary requirements of the Act and these proposed regulations. It is also consistent with PRC section 14578.5(c)(3)(B), which permits dealer cooperatives to enter into contracts to provide the redemption opportunities approved in their plan. While under PRC section 14510.2 a dealer cooperative consists of dealer members, it is necessary to clarify that a dealer cooperative may also contract with, consult with, or employ other persons in order to implement their approved stewardship plan in a way that is tailored to provide convenient consumer redemption to the unserved convenience zone.

Subsection (e)(2)

The purpose of this paragraph is to allow discretion for dealer cooperatives to choose who they wish to be board members and to not exclude board members on the basis of not being a dealer.

As a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, dealer cooperatives have the ability to form a board of directors, and this subsection clarifies that dealer cooperatives have discretion to choose those people it wants to make decisions on its behalf, even if those people are not dealers. This discretion and flexibility are necessary to allow dealer cooperatives to operate in the manner of their choosing while also ensuring that the plan meets all of the necessary requirements of the Act and these proposed regulations. This provision is necessary to interpret PRC section 14510.2 to mean that while a dealer cooperative is formed by dealer members, the board of directors is not required to be composed of those dealer members.

Subsection (f)

The purpose of this subdivision is to clarify that more than one dealer cooperative may operate within the same unserved convenience zone as another dealer cooperative.

This subdivision is necessary because it provides clarity on whether more than one dealer cooperative may operate in a convenience zone not served by a recycling center. The dealer cooperative enabling statutes are silent on whether more than one dealer cooperative can operate in an eligible convenience zone. CalRecycle chose to interpret PRC section 14578.5(c) as allowing more than one dealer cooperative to operate in an eligible convenience zone because joining a dealer cooperative is voluntary for a dealer under PRC section 14510.2, and this would allow dealers to join the dealer cooperative of their choosing to facilitate voluntary participation. Furthermore, a dealer cooperative is authorized to terminate dealer members from membership in subsection (h), and this subdivision would allow dealer members to join or form another dealer cooperative in the same zone to still comply with PRC section 14578(a)(2) if they choose to exercise that option.

Subsection (g)

The purpose of this subdivision is to clarify that redemption locations operating as part of a dealer cooperative's stewardship program do not make the unserved convenience zone served.

This is necessary so that there is no confusion that, in order for a convenience zone to be considered served, there must be a certified recycling center operating a recycling location within that zone, as required by PRC section 14571(a). This is consistent with the Act's provisions regarding dealer cooperatives' stewardship programs under PRC section 14578(a) that predicates operation of a dealer cooperative in a convenience zone where no recycling location has been established. PRC sections 14578(b)(3) and 14578.5(c)(1) also specify that a dealer cooperative operates in an unserved

convenience zone. During workshops presenting concepts and language to interested parties, CalRecycle noted a significant amount of confusion from the public as to whether the operation of a dealer cooperative in a convenience zone changes its status to “served”. This interpretation would lead to an absurd result. A dealer cooperative is only permitted to operate in an unserved convenience zone, if such operation would change the convenience zone status to served, then the primary condition allowing the dealer cooperative to operate would cease to exist. CalRecycle contends and interprets PRC sections 14578 and 14578.5 so that a dealer cooperative cannot change the status of a convenience zone to served because the dealer cooperative’s operation, by law, is only permitted in unserved convenience zones.

Subsection (h)

The purpose of this subdivision is to specify that a dealer cooperative may terminate the membership of any dealer member.

This is necessary because it ensures dealer cooperatives have flexibility and control to run the cooperative as they choose and provides the dealer cooperative with the authority it needs – the power of membership termination – to encourage dealer member compliance with the approved stewardship plan. As a result of the Act’s requirement that a dealer cooperative be voluntary for a dealer to join, it is necessary for a dealer cooperative to have the autonomy to terminate a dealer member from the dealer cooperative so that the other dealer members are not forced to associate with that member if they would not otherwise do so. This flexibility in a dealer cooperative determining its own membership promotes the longevity of dealer cooperatives by allowing a dealer cooperative to terminate any problematic dealer members rather than having to disband and reform as a new dealer cooperative with different dealer membership.

Subsection (i)

The purpose of this subdivision is to require dealer cooperatives to notify CalRecycle electronically in writing six months before the dealer cooperative dissolves or ceases operation.

This subdivision is necessary to ensure that CalRecycle is aware of any pending cessation of a dealer cooperative. The six-month timeframe provides CalRecycle with enough time to review the effects of the cessation of the dealer cooperative and to prepare its accounting and internal processes. It ensures that the member dealers of that dealer cooperative have ample time to choose to join another dealer cooperative and become part of a stewardship program for that unserved convenience zone or choose to redeem all empty beverage container types on premises, as allowed pursuant to PRC sections 14578(a)(1) and (2). A time period of more than six months might be difficult for a dealer cooperative to determine that far in advance that they will cease operation and may leave member dealers in an unserved convenience zone operating without complying with PRC section 14578. A period of less than six months might not

give CalRecycle enough time to review any new or updated stewardship plans submitted in response to the upcoming dissolution of the dealer cooperative. This six-month timeframe to review plans is consistent with section 2377(c), which allows CalRecycle six months to review a dealer cooperative's updated stewardship plan. The requirement that the notification be electronically in writing is necessary to provide a verifiable and efficient way for the dealer cooperative to communicate with CalRecycle.

Subsection (j)

The purpose of this subdivision is to provide the dealer cooperative discretion to reject material that is ineligible for a refund under the Act and to prohibit payment of the refund value for that ineligible material.

This subdivision is necessary to clarify that, while dealer cooperatives must accept all material types pursuant to PRC section 14578.5(c)(3)(A), they are not required to accept ineligible material as a result of the prohibition on any person paying the refund value for ineligible material under PRC section 14595.4(a)(1)(A). This is to provide clarity that even though a dealer cooperative must report certain information regarding ineligible material it receives and potentially pays the scrap value for, a dealer cooperative is in no way required to accept that ineligible material and is not permitted to pay the refund value for that ineligible material. This provides dealer cooperatives with the flexibility to make their own operational decisions while also complying with the provisions of the Act and these proposed regulations.

Subsection (k)

The purpose of this subdivision is to clarify that dealer cooperatives may receive CRV for eligible material it ships to a processor certified under the Act.

This subdivision is necessary to implement PRC section 14578.5(d)(1), which provides that dealer cooperatives may be eligible for reimbursement of CRV funds paid to consumers, processing payments, handling fees, and administrative fees unless a certified recycling center operates in a convenience zone in which a dealer participating in the dealer cooperative is located. While dealer cooperatives are not certified recycling centers, certified processors may pay them the refund value of the eligible material they ship to them, just as those processors would pay a certified recycler under existing sections 2425 and 2430. Although existing sections 2425 and 2530 are being amended to include dealer cooperatives, it is necessary to include this provision within Subchapter 4.5, the subchapter specifically relating to dealers and dealer cooperatives, to put dealer cooperatives on notice that they may ship beverage container material to a processor and receive payments from a processor pursuant to sections 2425 and 2430. Further, this subdivision is necessary to clarify PRC 14578.5(d)(1) as the statute uses the word "may", and this regulation removes any uncertainty as to whether a dealer cooperative is entitled to reimbursement of CRV funds paid to consumers, processing payments, and administrative fees that are paid by a processor.

Subsection (l)

The purpose of this subdivision is to clarify that dealer cooperatives with an approved operational stewardship plan are eligible for handling fees pursuant to existing section 2516(g). This implements PRC section 14578.5(d)(1), which provides that dealer cooperatives may receive handling fees, among other payments.

This subdivision is necessary to provide consistency with section 2516(g), which provides that a dealer cooperative with an approved stewardship plan is eligible for a single handling fee payment for each beverage container redeemed as part of its stewardship program, regardless of location within an unserved convenience zone. It is necessary to include this provision within Subchapter 4.5, the subchapter specifically relating to dealers and dealer cooperatives, to put dealer cooperatives on notice that they are eligible for handling fees in the manner prescribed in existing section 2516(g). Further, this subdivision is necessary to clarify PRC 14578.5(d)(1) as the statute uses the word “may”, and this regulation removes any uncertainty as to whether a dealer cooperative is entitled to handling fees paid by CalRecycle. ARTICLE 5.

ENFORCEMENT

SECTION 2385. STEWARDSHIP PLAN REVOCATION; ENFORCEMENT MECHANISMS

Subsection (a)

The purpose of this subdivision is to outline the possible actions CalRecycle may take if a dealer cooperative fails to comply with any applicable requirement of the Act or these regulations.

This is necessary to ensure dealer cooperatives adhere to the Act and implementing regulations, and to provide a set of published written procedures for CalRecycle to follow in cases of non-compliance. Specifying that one or more of the actions may be taken is necessary to establish that the actions are not mutually exclusive.

Subsection (a)(1)

The purpose of this paragraph is to specify that CalRecycle may require corrective action from the dealer cooperative in cases of non-compliance.

This is necessary to facilitate the resolution of issues related to non-compliance in a structured and effective manner. This paragraph provides CalRecycle with the option of requiring the dealer cooperative to take corrective action when the law is not being followed. Corrective action is a necessary option because it provides CalRecycle discretion to require a dealer cooperative to cure the violation where circumstances do not rise to the level of revocation.

Subsection (a)(1)(A)

The purpose of this subparagraph is to allow CalRecycle to require a resubmittal of all or part of a previously approved stewardship plan within a specified timeframe.

This is necessary to ensure that any deficiencies or changes in the stewardship plan are promptly addressed and updated to comply with the Act or these regulations. The 30-day resubmittal deadline is necessary because it provides the dealer cooperative with a reasonable amount of time to make the appropriate changes.

This provision also provides CalRecycle with discretion to extend the deadline when additional time is warranted. Such discretion is necessary because some changes to a stewardship plan may be too complicated or impossible to resolve within 30 days. For example, updates to a stewardship plan may involve obtaining land-use permits or approvals from local governments that can only be obtained at regularly scheduled monthly or quarterly meetings. In such circumstances, CalRecycle needs the discretion to extend the dealer cooperative's resubmittal deadline beyond 30 days.

Subsection (a)(1)(B)(i)

The purpose of this clause is to empower CalRecycle to require additional reporting from the dealer cooperative to verify compliance with the Act or these regulations.

This is necessary to ensure CalRecycle has sufficient information to assess the dealer cooperative's adherence to the requirements, especially in situations where CalRecycle is not able to determine compliance based on the reports it has received. This provision is consistent with PRC section 14578.5(c)(6), which requires a dealer cooperative to provide reports as required to CalRecycle which may include any relevant information CalRecycle requests in the form and manner that CalRecycle may prescribe.

Subsection (a)(1)(B)(ii)

The purpose of this clause is to define CalRecycle's authority to review and approve or disapprove a resubmitted stewardship plan, or part thereof, in accordance with section 2376.

This is necessary to establish a formal process for the review and approval of stewardship plans, ensuring they meet the regulatory standards. The formal review process is necessary to ensure that CalRecycle reviews stewardship plans in a timely manner and pursuant to objective criteria that gives dealer cooperatives the confidence that their plans will be reviewed fairly and pursuant to an established framework. CalRecycle needs to reserve the 90 days allotted for review of the initial stewardship plan in accordance with section 2376 of the regulations because a resubmitted stewardship plan may fundamentally differ from the originally submitted stewardship plan and require a comprehensive review.

Subsection (b)

The purpose of this subdivision is to authorize CalRecycle to revoke part or all of a previously approved stewardship plan, including the dealer cooperative registration

number. This subdivision also introduces two paragraphs with possible reasons for revocation of all or part of a stewardship plan.

This is necessary to maintain the integrity of the stewardship program and to ensure that only compliant plans are in operation. CalRecycle needs the ability to revoke all or part of a plan in order to take enforcement action in proportion to the need for revocation. In some cases, revocation of only part of a plan will be necessary based on the given set of facts, whereas other cases may merit revocation of the entire plan, or even the registration number of the dealer cooperative. This provision is necessary to implement and make specific PRC section 14578.5(e), which allows CalRecycle to revoke a dealer cooperative's registration or its stewardship plan for failure to provide redemption for consumers.

Subsection (b)(1)

The purpose of this paragraph is to provide examples in which CalRecycle may revoke a stewardship plan, particularly focusing on the failure to implement any part of the approved plan.

This is necessary to enforce the implementation of the stewardship plans as approved and to maintain the standards set forth in these plans. PRC section 14578.5(e) provides CalRecycle with the authority to revoke a dealer cooperative's registration or stewardship plan for failure to provide redemption services. A dealer cooperative's failure to implement any part of an approved plan, for example not meeting performance requirements, is a strong indicator that the dealer cooperative is not providing redemption services in accordance with PRC section 14578(a)(2). Therefore, it is necessary for CalRecycle to have authority to revoke all or part of the stewardship plan when a dealer cooperative is not implementing any part of its proposed plan. This is necessary to establish mechanisms to enforce section 2382(a) of the regulations that a dealer cooperative's noncompliance with its approved stewardship plan is a violation of law.

Subsection (b)(2)

The purpose of this paragraph is to detail additional grounds for revocation, specifically the failure to provide redemption in accordance with the Act and these regulations.

This is necessary to ensure that all aspects of the dealer cooperative's operations are in compliance with the regulatory framework. PRC section 14578.5(e) provides CalRecycle with the authority to revoke a dealer cooperative's registration or the stewardship plan for failure to provide redemption services. CalRecycle needs to be authorized to revoke in full or in part, depending on the extent of the dealer cooperative's failure to redeem, in order to enforce the Act and these regulations.

Subsection (c)

The purpose of this subdivision is to require CalRecycle to issue a written notice to the dealer cooperative prior to taking action under subdivision (b).

This is necessary to provide due process to the dealer cooperative by informing them of potential actions to enforce the Act and regulations through partial or total revocation of a previously approved stewardship plan and the reasons for such actions.

Subsection (d)

The purpose of this subdivision is to provide a dealer cooperative with the opportunity and mechanism for requesting a hearing to contest the proposed revocation by CalRecycle. This includes setting forth the specific requirements for the request and the consequences of not submitting a timely request.

This is necessary to ensure fairness and to allow the dealer cooperative an opportunity to present evidence before CalRecycle issues a final decision on the matter. It is necessary for the dealer cooperative to submit the request within 30 days of receipt of the notice because it provides the dealer cooperative with a reasonable amount of time to review the notice and determine whether to request a hearing. It is necessary for the request to be submitted electronically in writing because this will ensure CalRecycle receives the request and that it is not lost in the mail or discovered late due to possible future stay-at-home orders where CalRecycle employees are not physically in the office. It is necessary to submit the hearing request to an email address that CalRecycle specifies in the notice because this ensures that the dealer cooperative knows where to send the request and that CalRecycle will receive it, and also gives CalRecycle the flexibility to not specify a single email address in the regulations since the proper email address would inevitably change over the years and require periodic amendment of the regulations. It is necessary to state the basis for objecting to the proposed hearing to ensure that there is a valid reason for contesting the action that CalRecycle is made aware of. Finally, it is necessary to require a timely request and authorize CalRecycle to deem a failure to submit a timely request a waiver of a request for hearing in order to ensure that matters are adjudicated in a timely manner.

Subsection (e)

The purpose of this subdivision is to set forth the procedure for a hearing requested under subdivision (d), referencing the informal hearing procedures set forth in Article 10 (commencing with section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Gov. Code.

PRC section 14578.5(b) requires CalRecycle to adopt regulations “necessary for the implementation and enforcement of this subdivision” but does not specify the governing procedure to be used in those regulations. Because the governing procedure is not specified in the Act or regulations, Gov. Code section 11415.10 authorizes the department to conduct enforcement actions taken under proposed section 2385 of the regulations as informal hearings under the Administrative Procedure Act set forth in Article 10 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Gov. Code. This is necessary to provide a clear and structured framework for conducting hearings, ensuring they are conducted fairly and in accordance with established legal procedures.

Establishing these hearings under the informal hearing provisions of the Administrative Procedure Act rather than the formal hearing provisions is necessary to allow efficient resolution of enforcement actions informally within CalRecycle, as authorized by the Administrative Procedure Act, rather than requiring all enforcement actions to be heard before the Office of Administrative Hearings as formal hearings.

It is infeasible for the Director to be required to personally preside over each hearing considering the large amount of enforcement actions over which the Director is responsible for presiding. Therefore, allowing the Director's designee to preside over hearings is necessary to ensure that the hearings are conducted in a timely manner.

Subsection (f)

The purpose of this subdivision is to require the Director of CalRecycle, or their designee, to issue a written decision within a specified timeframe following the conclusion of a hearing.

This is necessary to ensure that the resolution of disputes is timely and that the parties involved receive a clear and definitive decision. The requirement of CalRecycle's Director or designee to issue a written decision within 60 days from the date the hearing is concluded is necessary in order to provide the Director or their designee with sufficient time to review the administrative record, including transcripts, and to write the written decision. The 60-day timeframe was chosen based on the similar 60-day timeframe established for the Pharmaceutical and Sharps Waste Stewardship Program in the CCR, title 14, section 18975.2. Based on the CalRecycle's experience administering that stewardship program, 60 days has been found adequate for CalRecycle to rule on actions relating to revoking a stewardship plan, resubmitting part or all of a stewardship plan, or requiring additional reporting as part of a stewardship program. This 60-day timeframe was workshopped with the public on August 31, 2023, and no negative feedback was received on the timeframe.

It is infeasible for the Director to be required to personally issue each written decision considering the large amount of enforcement actions over which the Director is responsible for. Therefore, allowing the Director's designee to issue the written decision is necessary to ensure that the decisions are issued in a timely manner.

SECTION 2386. PENALTIES AND INTEREST CHARGES

Subsection (a)

The purpose of this subdivision is to establish a formal process for issuing NOVs for violations related to this subchapter and PRC sections 14578 and 14578.5. This approach is intended to provide clarity and certainty for both the enforcing agency and the entities subject to enforcement.

This process is necessary to ensure that violations are addressed in a consistent, transparent, and legally sound manner. It mandates that the NOV contains specific

information and be issued to a manager or other person of authority at the site of the violation, and to be served on the dealer cooperative within 10 working days. The requirement for the NOV be issued on the manager or other person in authority at the site is necessary so that whoever is in charge can make immediate adjustments, if possible, to correct the violation. The requirement to legally serve the dealer cooperative through certified mail with proof of service within 10 working days is necessary to provide reliable and timely notice of the violation to the dealer cooperative, including its dealer members. This notice is necessary because the dealer cooperative, including its dealer members, are legally liable for the approved stewardship plan and for correcting any violations of the Act or regulations for which they are cited using a NOV.

Subsection (a)(1)

The purpose of this paragraph is to require that each NOV explicitly state the alleged violation(s).

This specification is necessary to ensure that the entity receiving the notice understands the nature of the alleged violation, thereby facilitating a more informed and efficient response to rectify the violation and minimize the potential for liability.

Subsection (a)(2)

The purpose of this paragraph is to inform the dealer cooperative of its right to a hearing, which would be conducted under the informal hearing provisions of the Administrative Procedure Act. It also informs the dealer cooperative of its right to be represented by counsel.

This inclusion is necessary to ensure due process, notifying the dealer cooperative (and its members) of the right to contest the allegations, and the right to be represented by counsel.

Subsection (a)(3)

The purpose of this paragraph is to outline the consequences of not responding to the NOV, specifically the potential waiver of the right to a hearing and the possibility of CalRecycle assessing the maximum civil penalty.

This paragraph is necessary to encourage timely responses from the entity or entities named in the NOV and to streamline the enforcement process in cases where the named entity or entities do not contest the allegations. It is necessary for the dealer cooperative and/or any named dealers to submit the request within 30 days of receipt of the notice because it provides the named entity/entities with a reasonable amount of time to review the notice and determine whether to request a hearing. Thirty days is also necessary to provide a consistent timeframe for a hearing request as provided in section 2385(d) of the regulations.

It is necessary for the request to be submitted electronically in writing because this will ensure CalRecycle receives the request and that it is not lost in the mail or discovered late due to possible future stay-at-home orders where CalRecycle employees are not physically in the office. It is necessary to submit the hearing request to an email address that CalRecycle specifies in the NOV because this ensures that the dealer cooperative and any named dealer knows where to send the request and that CalRecycle will receive it, and also ensures that the dealer cooperative will know where to electronically deliver a response to the service of a NOV.

Finally, it is necessary to authorize CalRecycle to assess the maximum civil penalty permitted by law without a hearing when no hearing is requested in order to incentivize dealer cooperatives to submit a timely request for hearing.

Subsection (a)(4)

The purpose of this paragraph is to mandate that the CalRecycle inspector who issues the violation(s) must provide a signed statement verifying the acts or omissions that constitute the basis of the alleged violation(s).

This requirement is necessary to ensure accountability and to provide a clear record of the grounds for the violation, enhancing the transparency and reliability of the enforcement process. Requiring the NOV to contain the name of the CalRecycle inspector who issued the violations is necessary so that all interested parties have a record of who issued the violation.

Subsection (b)

The purpose of this subdivision is to specify the procedure for serving NOVs to dealers who are not members of a dealer cooperative with an approved operational stewardship plan.

This distinction is necessary to ensure that all potential violators, regardless of their membership in a dealer cooperative, are subject to enforcement actions and receive notices in a manner appropriate to their organizational structure. This subdivision is necessary to set forth a process for serving NOVs on dealers who redeem empty beverage containers in accordance with PRC section 14578(a)(1)(a)-(c).

The requirement to legally serve the dealer through certified mail with proof of service is necessary to provide reliable and timely notice of the violation to the dealer. This notice is necessary because a dealer redeeming in store is legally liable for compliance with the Act and regulations and for correcting any violations of the Act or regulations for which they are cited using a NOV.

Subsection (c)

The purpose of this subdivision is to authorize CalRecycle to assess administrative civil penalties in conjunction with the issuance of a NOV under subdivision (a), with the penalty not exceeding a specified dollar amount.

This provision is necessary to provide a clear framework for financial penalties, ensuring that consequences for violations are consistent, transparent, and within the limits established by the Act. This is necessary to implement PRC section 14591.1(a)(2) which is where the Legislature codified the maximum monetary amounts of civil penalties that may be imposed using a NOV process under the Act.

Subsection (d)

The purpose of this subdivision is to outline the process for notice and hearing regarding civil penalties sought by CalRecycle for violations, in accordance with specified provisions of the Administrative Procedure Act. This ensures that the process for imposing civil penalties is fair, transparent, and consistent with broader legal standards, while also clarifying that violations enumerated in subdivision (a) are to follow the procedures outlined therein.

This differentiation is necessary to tailor the enforcement process to the nature of the violation, ensuring both efficiency and legal integrity. This subdivision is necessary to align the enforcement of dealer cooperatives with PRC section 14591.1. Section 14591.1(a)(1) of the PRC requires penalties over \$5,000 to go through the formal administrative hearing process. In contrast, PRC section 14591.1(a)(2) allows enforcement of NOVs of penalties \$5,000 or less to go through the informal administrative hearing process. Therefore, section 2386(d) is necessary to clarify that enforcement of violations relating to dealers and dealer cooperatives that exceed the \$5,000 threshold specified in PRC section 14591.1(a)(2) will go through formal administrative hearing.

Subsection (e)

The purpose of this subdivision is to establish that interest on penalties for violations will accrue from the date the penalty payment was due.

This provision is necessary to incentivize timely payment of penalties and to compensate the California Beverage Container Recycling Fund for the interest lost due to delayed payments. This approach aligns with standard financial practices regarding overdue payments. The provision is necessary to inform CalRecycle staff, and provide notice to regulated entities, regarding when interest will begin to accrue when payments are not made by the payment due date.

SUBCHAPTER 5. PROCESSORS

ARTICLE 1. REQUIREMENTS FOR PROCESSORS

SECTION 2400. OPERATION STANDARDS

Subsection (a)(3)

The purpose of this amendment is to add registered dealer cooperatives as entities that certified processors redeem empty beverage containers for. This amendment is necessary to add registered dealer cooperatives as entities for whom a processor redeems empty beverage containers because registered dealer cooperatives are a new type of recycling operator under the BCRP. It is necessary to include dealer cooperatives as an entity from which processors may redeem empty beverage containers to ensure that the beverage containers redeemed by a dealer cooperative are able to be brought to a processor for recycling. Additionally, it is necessary to specify that operators may be registered in addition to certified since dealer cooperatives are registered as required under section 14578.5(b) of the Act, as opposed to recycling centers that are certified as required under section 14538 of the Act. This amendment therefore ensures consistency with the registration and certification framework established under the Act.

SECTION 2401. Load Inspection Requirements

Subsection (a)(1)

The purpose of this amendment is to add dealer cooperatives as an entity that a processor inspects its delivered load to determine the eligibility and refund value for.

This amendment is necessary to add dealer cooperatives as an entity for whom a processor inspects its delivered load to determine the eligibility and refund value because dealer cooperatives are a new type of recycling operator under the BCRP. This will extend the requirements for processors to inspect and validate loads from a dealer cooperative upon delivery, thereby ensuring that beverage containers received by a processor from dealer cooperatives are eligible for redemption in the same manner as required for other beverage containers received by a processor.

Subsection (b)

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (c)

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (e)

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (f)

The purpose of this amendment is to correct an incorrect cross-reference to PRC section 1451 of the Act and change it to section 14561 of the Act.

This amendment is necessary to ensure accuracy of the regulations, which promotes clarity in effect and understanding of the regulations. It is also necessary to make this subdivision consistent with the correct provisions of the Act since the labeling provisions are in section 14561 of the Act. There is no PRC section 1451 and therefore the cross-reference is a typographical error that needs correction.

ARTICLE 3. ACCOUNTING AND REPORTING REQUIREMENTS

SECTION 2420. RECORDKEEPING

Section 2420

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (a)

The purpose of this amendment is to add dealer cooperatives as an entity that a processor prepares shipping reports for.

This amendment is necessary to add dealer cooperatives as an entity for whom a processor prepares shipping reports because it clarifies that the legal obligation is on the processor, and not the dealer cooperative, to prepare the shipping report. Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary for processors that have more experience under the program to prepare shipping reports rather than the dealer cooperatives. This will streamline the process as a single processor may prepare shipping reports for multiple dealer cooperatives, rather than each dealer cooperative preparing their own shipping report.

Subsection (c)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. The purpose of this amendment is also to delete the phrase “of these regulations”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (d)

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (d)(3)

The purpose of this amendment is to delete the phrase “of these regulations” in several instances.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (f)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. The purpose of this amendment is also to delete the phrase “of these regulations”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (h)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. The purpose of this amendment is also to delete the phrase “of this subchapter.”

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. It is necessary to delete the phrase “of this subchapter” after the numerical citation because it is redundant.

SECTION 2425. REPORTING

Section 2425

The purpose of this amendment is to add dealer cooperatives as an entity for processors to initially receive material from and to include the material received from dealer cooperatives in processor invoices submitted to CalRecycle. The purpose of this

amendment is also to make the non-substantial, technical change of replacing “Division” with “Department”.

This amendment is necessary to add dealer cooperatives as an entity for processors to initially receive material from and to include the material received from dealer cooperatives in processor invoices submitted to CalRecycle because it clarifies the legal obligation of the processor to report information regarding materials received from dealer cooperatives. Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary for processors to include information about a new inflow of materials stream in reporting requirements to CalRecycle. This will ensure all inflow materials streams to processors are accounted for in reporting to CalRecycle and that proper program payments are made for those materials. The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (a)(4)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (b)

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (c)(3)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (e)

The purpose of this amendment is to add dealer cooperatives as an entity for information to include in the processor invoice submitted to CalRecycle prepared by the processor, specifically that the shipping report prepared by the processor for materials received by a dealer cooperative must be included in the processor invoice.

This amendment is necessary to add shipping reports prepared by processors for material received from dealer cooperatives as information to include in the processor invoice submitted to CalRecycle because it clarifies all potential entities a processor might receive materials from. Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary for processors to report materials received from dealer cooperatives in this processor invoice submitted to CalRecycle to ensure proper program payments are made for this material.

Subsection (f)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. The purpose of this amendment is also to delete the phrase “of these regulations”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (f)(3)

The purpose of this amendment is to add dealer cooperatives as a category for processors to report the total weight of each beverage container material type purchased on a Scrap Value Purchases Survey Form DOR – SV (10/00).

This amendment is necessary to add dealer cooperatives as a category for processors to report the total weight of each beverage container material type purchased on Form DOR – SV (10/00) because it clarifies the legal requirement of processors to report information regarding materials purchased from dealer cooperatives. This will ensure accurate data collected from Form DOR – SV (10/00) for all purchased materials by beverage container material type from all types of entities. This is necessary to ensure aggregate monthly scrap value data reported by a processor for entity type is consistent with the sum of all received weight documented on individual shipping reports and weight tickets for the same time period.

Subsection (g)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (h)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (h)(1)(B)(i) through (iii)

The purpose of this amendment is to correct the paragraph numbering of “1.”, “2.”, and “3.” to “(i)”, “(ii)”, and “(iii)”, and correct the cross-reference to “1.” to “clause (i)”.

These amendments are necessary to correct the paragraph numbering in the regulations to ensure technical accuracy and consistency, which promote clarity in the effect and understanding of the regulations. This particular regulatory correction to paragraph numbering will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

SECTION 2430. PAYMENTS

Subsection (a)

The purpose of this amendment is to add dealer cooperatives as an entity to which a processor may make program payments.

This amendment is necessary to add dealer cooperatives as an entity to which a processor may make program payments because it clarifies the statutory provision in PRC 14578.5(d) that makes dealer cooperatives eligible to be reimbursed for the refund value paid to consumers, processing payments, handling fees, and administrative fees. Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary to include information on how payments from processors to dealer cooperatives are substantiated and calculated. This will ensure all equitable application of payments to both recycling centers and dealer cooperatives.

Subsection (a)(1)

The purpose of this amendment is to add dealer cooperatives as an entity for processors to receive and inspect loads from before completing the receiver's section of the shipping reports.

This amendment is necessary to add dealer cooperatives as an entity for processors to receive and inspect loads from before completing the receiver's section of the shipping reports because it clarifies that the legal obligation of the processor to complete the receiver's section of the shipping reports for loads received by these types of entities. This will ensure all inflow materials streams to processors from this entity type is inspected before the processor takes custody of the load by completing the receiver's section of the shipping report.

Subsection (a)(2)(A)

The purpose of this amendment is to delete the phrase "of these regulations".

It is necessary to delete the phrase "of these regulations" after the numerical citation because it is redundant.

Subsection (a)(2)(B)

The purpose of this amendment is to delete the phrase "of these regulations".

It is necessary to delete the phrase "of these regulations" after the numerical citation because it is redundant.

Subsection (b)

The purpose of this amendment is to delete the phrase "of these regulations".

It is necessary to delete the phrase "of these regulations" after the numerical citation because it is redundant.

Subsection (b)(1)

The purpose of this amendment is to make the non-substantial, technical change of replacing "Division" with "Department". The purpose of this amendment is also to delete the phrase "of these regulations".

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. It is necessary to delete the phrase "of these regulations" after the numerical citation because it is redundant.

Subsection (b)(2)(A)(i)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (b)(2)(A)(i) through (ii)

The purpose of this amendment is to correct the paragraph numbering of “1.” and “2.” to “(i)” and “(ii)”.

These amendments are necessary to correct the paragraph numbering in the regulations to ensure technical accuracy and consistency, which promote clarity in the effect and understanding of the regulations. This particular regulatory correction to paragraph numbering will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (c)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. The purpose of this amendment is to delete the phrase “of subchapter 6 these regulations”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. It is necessary to delete the phrase “of subchapter 6 these regulations” after the numerical citation because it is redundant.

Subsection (c)(1)

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (c)(2)(A)(i)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (c)(2)(A)(i) through (ii)

The purpose of this amendment is to correct the paragraph numbering of “1.” and “2.” to “(i)” and “(ii)”.

These amendments are necessary to correct the paragraph numbering the regulations to ensure technical accuracy and consistency, which promote clarity in the effect and understanding of the regulations. This particular regulatory correction to paragraph numbering will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (d)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

SUBCHAPTER 6. RECYCLING CENTERS

ARTICLE 1. REQUIREMENTS FOR RECYCLING CENTERS

SECTION 2501. LOAD INSPECTION REQUIREMENTS.

Subsection (a)

The purpose of this amendment is to make a non-substantial change of replacing “Certified recycling centers” to “certified recycling center” and add dealer cooperatives as an entity that will inspect each load of containers for which a refund value is claimed.

This amendment is necessary to add dealer cooperatives as an entity that will inspect each load of containers for which a refund value is claimed because it extends the legal obligation to dealer cooperatives to inspect loads delivered by consumers. Dealer cooperatives are a new type of recycling operator under the BCRP, therefore it is necessary for dealer cooperatives to operate in a consistent manner as certified

recycling centers to ensure that refund value is not paid for ineligible beverage containers.

Subsection (a)(1)

The purpose of this amendment is to add dealer cooperatives as an entity that will inspect consumer loads prior to determining the basis for payment by first inspecting the load by emptying the containers from any bags, boxes or other receptable used to deliver the material.

This amendment is necessary to add dealer cooperatives as an entity that will inspect consumer loads prior to determining the basis for payment by first inspecting the load by emptying the containers from any bags, boxes or other receptable used to deliver the material because it extends the legal obligation to dealer cooperatives to inspect loads delivered by consumers. Dealer cooperatives are a new type of recycling operator under the BCRP, and it is necessary for dealer cooperatives operate in a consistent manner as certified recycling centers to ensure that refund value is not paid for ineligible beverage containers.

Subsection (a)(2)

The purpose of this amendment is to add dealer cooperatives as an entity that will visually inspect a load delivered to determine eligibility of refund value and whether the load is segregated or commingled.

This amendment is necessary to add dealer cooperatives as an entity that will visually inspect a load delivered to determine eligibility of refund value and whether the load is segregated or commingled because dealer cooperatives are a new type of recycling operator under the BCRP This will clarify the process for visual inspection of segregated or commingled loads received from a drop off or collection program, community service program, dealer cooperative, or recycling center consistent with existing requirements for recycling centers, thereby ensuring proper payments are made under the Act.

Subsection (a)(3)

The purpose of this amendment is to add a regulatory requirement that specifically applies to the inspection by dealer cooperatives of beverage containers redeemed using an innovative method of redemption.

The amendment is necessary because section 2375.1(b)(6) requires a minimum of one innovative method of redemption per convenience zone under a dealer cooperative stewardship plan. To effectuate this regulatory requirement, this amendment is necessary to allow inspection to occur following receipt of the containers as long as the inspection occurs before payment of the refund value to the consumer. Because innovative methods of redemption include redemption where an attendant is not present

to accept materials, such as an unattended bag drop, it would be unduly burdensome for a dealer cooperative to provide an attendant to manually inspect those containers on receipt even though the method of redemption does not otherwise require an attendant. As long as the inspection occurs before the refund value is paid out to consumers, the Act's prohibition on not paying the refund value for ineligible containers is satisfied.

Subsection (b)

The purpose of this amendment is to delete the phrase "of these regulations".

It is necessary to delete the phrase "of these regulations" after the numerical citation because it is redundant.

Subsection (c)

The purpose of this amendment is to delete the phrase ", of these regulations".

It is necessary to delete the phrase ", of these regulations" after the numerical citation because it is redundant.

Subsection (e)

The purpose of this amendment is to clarify that loads from dealer cooperatives that contain rejected or line breakage containers must exclude the weight of the rejected and line breakage containers from the load.

This amendment is necessary to clarify that loads from dealer cooperatives that contain rejected or line breakage containers must exclude the weight of the rejected and line breakage containers from the load because dealer cooperatives are a new type of recycling operator under the BCRP. It is necessary for dealer cooperatives to be included in this amendment to ensure that rejected and line breakage loads are excluded from the weight of the load, to ensure that program payments are not made for ineligible containers.

Subsection (f)

The purpose of this amendment is to add dealer cooperatives as an entity that is prohibited from receiving, accepting, or taking delivery from any source material that the dealer cooperative knows, or should know, was imported into this State. This amendment is also necessary to make a technical, non-substantive change from "Certified recycling centers" to "certified recycling center".

This amendment is necessary to add dealer cooperatives as an entity that will not receive, accept, or take delivery from any source material that the dealer cooperative knows, or should know, was imported into this State, because it extends to dealer cooperatives the legal obligation to ensure the integrity of the BCRP by not accepting and redeeming beverage container imported from out-of-state sources. Because dealer

cooperatives are a new type of recycling operator under the BCRP, it is necessary for dealer cooperatives to maintain the same obligations to reduce fraud of the BCRP as recycling centers. This will ensure dealer cooperatives will not be exploited for out-of-state beverage container redemptions where the CRV has not been paid into the California Beverage Container Recycling Fund.

ARTICLE 2. HANDLING FEES

SECTION 2516. ELIGIBILITY CRITERIA

Subsection (b)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (c)

The purpose of this amendment is to make the non-substantial, technical change of deleting a regulatory defined date that has no retroactive application.

The amendment is necessary to delete an obsolete date specified in statute that serves no purpose. Because the current date is well past after January 1, 1993, deleting the date has no substantive effect on the operation of the paragraph. To effectuate this regulatory change, this particular regulatory amendment to remove dates that are not retroactively applicable will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (g)

The purpose of this amendment is to clarify that dealer cooperatives with approved operational stewardship plans are eligible for handling fee payments and that handling fee payments are not restricted to a single dealer cooperative operating in an unserved convenience zone. The amendment also clarifies that a dealer cooperative is eligible for handling fees regardless of location within the unserved convenience zone.

The amendment is necessary because SB 1013 added PRC section 14578.5(d)(1) to incentivize dealer cooperative participation by permitting these organizations to be eligible to receive several fees, including handling fees. To effectuate this statutory change, this particular regulatory amendment was made to clarify the eligibility component of the dealer cooperative for the handling fee. Additionally, this amendment

is necessary to clarify that dealer cooperative handling fee eligibility is not dependent on location within a convenience zone, which differs from recycling centers that are only eligible for handling fees if they are located at supermarket sites. Similarly, the provision is necessary to clarify that more than one dealer cooperative may receive handling fees within the same convenience zone, since the limit of one handling fee-eligible recycling center per convenience zone specified in PRC section 14585(c) does not apply to dealer cooperatives.

SECTION 2518. CALCULATIONS AND PAYMENTS

Subsection (a)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. The purpose of this amendment is also to require CalRecycle to determine handling fee payments for dealer cooperatives based on data contained in the Handling Fee Application Form (Form DR-14 (1/00)) by performing specified calculations.

This amendment is necessary to add dealer cooperatives as an entity for CalRecycle to determine handling fee payments for because dealer cooperatives are statutorily eligible to be reimbursed for these fees under PRC section 14578.5(d)(1). Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary for dealer cooperatives to clarify that CalRecycle will include this entity for handling fee payment calculations. This will ensure that CalRecycle includes all eligible entities for determining the handling fee payments. This amendment is necessary to extend to dealer cooperatives the same methodology for determining handling fee payments as CalRecycle uses for recycling centers. It is necessary that this methodology be the same rather than different for the dealer cooperatives because the handling fee determination methodology is set in the Act pursuant to PRC sections 14585(a)(2) and 14585(f). Therefore, the amendment is necessary for the regulations to be consistent with statute.

The non-substantial, technical amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (a)(1)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (a)(2)

The purpose of this amendment is to repeal an obsolete provision of the regulations. The cross-reference to section 14585(a)(2)(A) of the Act refers to a monthly 60,000 minimum amount of beverage containers that was required for a recycling center to receive handling fees. That minimum became inoperative July 1, 2008, and was repealed pursuant to Assem. Bill No. 1933 (2011-2012 Reg. Sess., Chapter 540 of the Statutes of 2012) (AB 1933).

It is necessary to repeal this obsolete provision that cross-references a repealed provision of the Act to make the regulations accurate and consistent with the Act. Repealing the obsolete cross-reference is also necessary to avoid confusion because under the Act, section 14585(a)(2)(A) still exists, however it contains content that is different from the 60,000 monthly container minimum mentioned above.

Subsection(a)(3)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. Also, the purpose is to change the term “Subsection” to “Section”. The amendment also corrects an obsolete cross-reference to a section of the Act.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. Changing the term “Subsection” to “Section” is necessary to use the correct term for a section of the Act, which is being standardized across CalRecycle’s regulations as regulation sections are added or amended.

Correcting the cross-reference to Section 14585(a)(4) of the Act with Section 14585(a)(2) of the Act is necessary because the method for CalRecycle to determine the number of empty beverage containers eligible for handling fees that formerly was contained in Section 14585(a)(4) of the Act is now contained in Section 14585(a)(2) of the Act. This change was made pursuant to AB 1933. Accordingly, the correction to the current cross-reference is necessary to ensure the regulations are accurate and up to date, and to avoid confusion.

Subsection (b)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. Also, the purpose is to add dealer cooperatives as an entity that CalRecycle may determine to withhold handling fees.

This amendment is necessary to add dealer cooperatives as an entity for whom CalRecycle may determine to withhold the handling fees because it clarifies the legal obligation of CalRecycle to include dealer cooperatives as an eligible entity from which handling fees may be withheld. Because PRC section 14578.5(d)(1) provides an opportunity for dealer cooperatives to be eligible for reimbursement of handling fees, it is necessary for CalRecycle to also include dealer cooperatives in the process of withholding the handling fees, as necessary. This will ensure the statutory change is incorporated into the process of determining the eligibility of the dealer cooperative to receive handling fee payments.

The non-substantial, technical amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (b)(1)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. Also, the purpose is to change the term “recycler” to instead read “recycling center or dealer cooperative” to clarify the entities from which CalRecycle may withhold handling fees if these entities owe money as a result of a civil or administrative action.

This amendment is necessary to clarify that recycling centers and dealer cooperatives are entities that CalRecycle may withhold handling fees from if these entities owe money as a result of a civil or administrative action. Because PRC section 14578.5(d) provides an opportunity for dealer cooperatives to be eligible for handling fees, and section 2385 of the regulations provides for enforcement against dealer cooperatives in violation of the Act or regulations, it is necessary for CalRecycle to have the authority to withhold payment of handling fees to entities that owe CalRecycle money as a result of civil or administrative enforcement action. This will provide a deterrent effect on these entities to remain in good standing with CalRecycle because if civil or administrative enforcement action is required, handling fee payments may be withheld. It is necessary to delete recycler and replace the term with “recycling center or dealer cooperative” because “recycler” is defined in PRC section 14519.5 to include, in addition to recycling centers, dropoff or collection programs and curbside programs, who are in fact not eligible for handling fees under PRC section 14585. Therefore, dropoff or collection

programs and curbside programs were erroneously included in this list of entities from whom CalRecycle may withhold handling fee payments and removing them is necessary to ensure accuracy and consistency with the Act.

The non-substantial, technical amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (b)(2)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. Also, the purpose is to replace “recycler” with “recycling center or dealer cooperative” as entities that CalRecycle may withhold handling fees if these entities are found to have received materials which were not redeemed for refund value and there is more than a 2.5% discrepancy between reported redemption and shipping weights.

This amendment is necessary to add recycling centers and dealer cooperatives as entities that CalRecycle may withhold handling fees from if these entities are found to have received materials which were not redeemed for refund value and there is a 2.5% discrepancy between reported redemption and shipping weights. Because PRC section 14578.5(d) provides an opportunity for dealer cooperatives to be eligible for handling fees, it is necessary for CalRecycle to have the authority to withhold handling fees for materials which were not redeemed for refund value and such discrepancies between reported redemption weights and shipping weights are more than 2.5 percent. This will provide a deterrent effect on these entities to prevent fraudulent activity in order to increase the value of handling fee payment. It is necessary to comply with the requirement in PRC section 14595.5 that no refund value or handling fee be paid for ineligible beverage containers to ensure that handling fees are only paid for eligible empty beverage containers.

It is necessary to delete recycler and replace the term with “recycling center or dealer cooperative” because “recycler” is defined in PRC section 14519.5 to include, in addition to recycling centers, dropoff and collection programs and curbside programs, who are in fact not eligible for handling fees under PRC section 14585. Therefore, dropoff or collection programs and curbside programs were erroneously included in this list of entities from whom CalRecycle may withhold handling fee payments in this situation and removing them is necessary to ensure accuracy and consistency with the Act.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1

rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

SECTION 2519. HANDLING FEE APPEALS

Subsection (a)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (c)

The purpose of this amendment is to add dealer cooperatives as an entity that may file a formal appeal of a Notice of Denial. It also specifies that, rather than including a list of applicable certification numbers and corresponding facility addresses, the dealer cooperative appeal need only contain the dealer cooperative registration number.

This amendment is necessary to add dealer cooperatives as an entity for a formal appeal process for the denial of handling fees because it clarifies that dealer cooperatives have a legal process to appeal denials of handling fees from CalRecycle. Because dealer cooperatives are a new type of recycling operator under the BCRP, and has statutory eligibility to claim these handling fees under PRC section 14578.5(d)(1), it is necessary to include dealer cooperatives under the regulatory framework to submit an appeal. It is necessary to only require the dealer cooperative to submit its registration number with the appeal rather than a certification number and corresponding facility address because, unlike recycling centers, a dealer cooperative has one registration number for all of its redemption sites and does not have a certification number.

ARTICLE 3. ACCOUNTING AND REPORTING REQUIREMENTS

SECTION 2530. REPORTING

Section 2530

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (b)

The purpose of this amendment is to delete the phrase “of these regulations”.

It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (d)

The purpose of this amendment is to require a recycling center to append to a recycling center shipping report copies of any shipping reports for material received from dealer cooperatives.

It is necessary to require a recycling center to append to a recycling center shipping report copies of any shipping reports for material received from dealer cooperatives to ensure that this requirement is applied consistently for all entities from which a dealer cooperative may receive beverage containers. This ensures that proper program payments are made to the recycling center for containers received from any source.

Subsection (f)

The purpose of this amendment is to require a recycling center to prepare a separate shipping report for each material type received from a dealer cooperative and provide a copy to the dealer cooperative.

It is necessary to require a recycling center to prepare a separate shipping report for each material type received from a dealer cooperative because it clarifies that the legal obligation is on the recycling center, and not the dealer cooperative, to prepare these shipping reports. Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary for recycling centers that have more experience under the program to prepare shipping reports rather than the dealer cooperatives. Also, recycling centers are currently mandated to prepare and submit these type of reports for all other entities from which they receive beverage containers, therefore adding dealer cooperatives is necessary to ensure this requirement is applied consistently among all entities delivering beverage containers to recycling centers.

Subsection (h)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. The purpose of this amendment is also to delete the phrase “of these regulations”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (h)(7)

The purpose of this amendment is to delete the phrase “of subchapter 2 of these regulations”.

It is necessary to delete the phrase “of subchapter 2 of these regulations” after the numerical citation because it is redundant.

Subsection (i)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

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

Subsection (a)(1)

The purpose of this amendment is to make the non-substantial, technical change of amending this subsection with “1” to allow for the addition of paragraph 2.

The amendment is necessary because correct numbering of paragraphs does not permit a paragraph (1) to be inserted by itself without a corresponding paragraph (2). Therefore, subdivision (a) must be changed to subsection (a)(1) in order to add paragraph (2) following subsection (a)(1). Subsection (a)(2) is being added as part of subdivision (a) rather than a new subdivision (b) to avoid having to renumber all of the remaining subdivisions in the section. Also, subsection (a)(2) is very closely related in subject matter to subsection (a)(1), and therefore to ensure readability and clarity it is necessary to include these paragraphs within the same subdivision.

Subsection (a)(2)

The purpose of this amendment is to add dealer cooperatives as an entity that is mandated to pay on delivery the refund value for every empty beverage container not donated, with the exception of innovative method of redemption locations.

The amendment is necessary to add dealer cooperatives as an entity that is mandated to pay on delivery the refund value for every empty beverage container not donated, with the exception of innovative method of redemption locations. It is necessary to

establish an exemption where this requirement is not possible due to staff not being present at innovative method of redemption locations, such as unmanned RVM or bag drop location. Because dealer cooperatives are a new type of recycling operator under the BCRP, it is necessary to require dealer cooperatives to pay on delivery the refund value for all empty beverage containers not donated, and it is necessary to clarify that there is an exception for dealer cooperatives because of the required use of at least one innovative method of redemption in each unserved convenience zone operated by a dealer cooperative.

Subsection (c)

The purpose of this amendment is to add dealer cooperatives as an entity that shall not pay more than the relevant commingled rate for drop off or collection, community service, and curbside programs.

This amendment is necessary to add dealer cooperatives as an entity that shall not pay more than the relevant commingled rate for drop off or collection, community service, and curbside programs because dealer cooperatives are a new type of recycling operator under the BCRP. It is necessary to include dealer cooperatives under the existing regulatory framework to ensure consistency in payment of commingled received materials. Extending the same requirement that already applies to recycling centers to dealer cooperatives is necessary to ensure that a drop off or collection, community service, or curbside program does not get paid more than the relevant commingled rate.

Subsection (d)(1)

The purpose of this amendment is to delete the phrase “of subchapter 2 of these regulations”.

It is necessary to delete the phrase “of subchapter 2 of these regulations” after the numerical citation because it is redundant.

Subsection (d)(3)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (d)(4)

The purpose of this amendment is to add dealer cooperatives as an entity eligible for payment of the commingled rate for empty beverage container material.

This amendment is necessary to add dealer cooperatives as an entity eligible for payment of the commingled rate for empty beverage container material because dealer cooperatives are a new type of recycling operator under the BCRP. It is necessary to include dealer cooperatives under the existing regulatory framework to ensure consistency in payment of the commingled rate and clarify that the calculation of payment is identical to the commingled rate paid to recycling centers.

Subsection (e)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Recycling centers” with “A recycling center”. Also, the purpose of this amendment is to add dealer cooperatives as an entity to have discretion to refuse or lower the refund value per pound for empty beverage containers that are excessively contaminated.

This amendment is necessary to make the plural form of recycling centers singular in order to expand applicability to dealer cooperatives in a way that is grammatically correct and that makes these two entities exclusive from each other with the word “or”. This amendment is necessary to add dealer cooperatives as an entity to have discretion to refuse or lower the refund value per pound for empty beverage containers that are excessively contaminated because dealer cooperatives are a new type of recycling operator under the BCRP. It is necessary to include dealer cooperatives under the existing regulatory framework to clarify dealer cooperatives have the same discretion provided to recycling centers for reducing contamination rates of their collected materials by lowering the payment for excessively contaminated loads. Lowering the payment for excessively contaminated loads also ensures that the refund value is not paid for contamination rather than the eligible beverage containers.

Subsection (f)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”. The purpose of this amendment is to delete the phrase “of these regulations”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified. It is necessary to delete the phrase “of these regulations” after the numerical citation because it is redundant.

Subsection (f)(1)

The purpose of this amendment is to make the non-substantial, technical change of replacing “Division” with “Department”.

The amendment is necessary because SB 353 amended PRC section 40401(a)(2) to reflect that it is CalRecycle that is vested with the authority to enforce PRC Division 12.1 rather than the Division of Recycling. To effectuate this statutory change, this particular regulatory amendment will be made over time to the remainder of this chapter as more regulation sections are added, amended, or otherwise modified.

ECONOMIC IMPACT FOR “MAJOR REGULATIONS”

These proposed regulations do not meet the criteria for major regulations specified in Gov Code section 11342.548 and therefore do not need a Standardized Regulatory Impact Assessment. The estimated economic impact amount is below the \$50 million threshold for major regulations.

CalRecycle estimates the total economic impact of this regulation is \$35.5 million because of costs associated with dealer registration and redemption requirements, stewardship plan development, infrastructure purchasing and deployment, and operational costs. These proposed regulations do meet the criteria for major regulations specified in Health and Safety Code section 57005(b) for the California Environmental Protection Agency due to the economic impact amount exceeding \$10 million. The Economic and Fiscal Impact Statement (STD 399) includes a discussion of alternatives as required to be provided by the California Environmental Protection Agency pursuant to Health and Safety Code section 57005.

ECONOMIC IMPACT ASSESSMENT (EIA) – NON-MAJOR REGULATIONS BELOW \$50 MILLION

CREATION OR ELIMINATION OF JOBS WITHIN THE STATE

103 jobs are anticipated to be created and 0 eliminated statewide as the scope of the regulations is limited to the stewardship plan development, infrastructure purchasing and deployment, and operational labor to fully implement a dealer cooperative stewardship plan. For additional details of CalRecycle’s analysis on the creation or elimination of jobs within the state, see the STD 399 Supplemental Information, sections A4-6.

CREATION OF NEW BUSINESSES OR ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE

20 business organizations are anticipated to be created and 0 eliminated statewide as the scope of the regulations is for the establishment of dealer cooperatives, which are non-profit organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code representing dealer members to meet the requirements of establishing convenient and accessible opportunities for consumers to redeem and recycle

California CRV-eligible empty beverage containers. For additional details of CalRecycle's analysis on the creation of new businesses or elimination of existing businesses within the state, see the STD 399 Supplemental Information, sections A4-6.

EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE

California currently has 1,249 recycling centers statewide that buy back empty CRV beverage containers from consumers. Dealer cooperatives will create additional networks of buy-back opportunities in areas that are currently not served by a certified recycling center. It is expected that businesses, such as supermarkets and warehouse stores, frequented by consumers will participate in dealer cooperatives to further support the recycling opportunities in California. CalRecycle also expects growth in recycling centers, processors, and transportation businesses to manage the increase in recyclable materials as dealer cooperatives are required to partner with these types of entities as part of their stewardship plan for the payment of processing payments, handling fees, administrative fees, and CRV.

ANTICIPATED BENEFITS OF THE REGULATION

The proposed regulations will benefit the health and welfare of California's residents because requiring the use of an innovative method of redemption as a dealer cooperative component in unserved convenience zones will increase consumer access to CRV refund in areas where no recycling centers exist. The access and convenience provided by sites with an innovative method of redemption may create a positive customer experience that results in consumers utilizing dealer cooperative redemption sites over curbside mixed recycling options, where the CRV refund is passed from the consumer to the mixed recycling hauler collecting the curbside materials.

Additionally, the proposed regulations will benefit worker safety because innovative methods of redemption reduce the chances of injury. For example, unlike traditional recycling centers that require employees to physically sort materials, RVMs use an automatic sort mechanism to sort plastic, aluminum, and glass containers into separate bins. RVMs further reduce injury by having a weight threshold programmed to limit or reduce the total weight collected in the bin, thus reducing the lifting weight required by an employee to empty the bin. Another example of how innovative methods of redemption reduce the risk of injury is the use of artificial intelligence (AI) technology paired with bag drop-style redemption methods. The use of standardized bag size promotes smaller quantities and weight due to the bag size restrictions, preventing lifting injuries. Workers then empty the bag onto the AI tray to scan and count the contents before the conveyor belt moves the materials for sorting and prepares a new tray for workers to repeat the process. These technologies reduce worker interaction time with the delivered material for sorting to provide safer handling of bags and bagged materials.

Additionally, the proposed regulations will benefit the state's environment because the requirement for dealer cooperatives to develop educational materials and conduct outreach will enhance consumer awareness of new redemption sites. As consumers become familiar with the redemption sites, and utilize technologies required such as bag drop for more frequent delivery of CRV beverage containers, the shift in behavior may reduce environmental pollution of beverage container litter. The proposed regulations also require dealer cooperatives to collect an amount equal to 80% of beverages sold by their dealer members. As a result, CalRecycle expects a reduction in environmental litter as well as a reduction in landfilling contaminated beverage containers as consumers will more readily utilize the redemption opportunities over littering or disposing of CRV beverage containers in the trash.

Lastly, there are financial benefits exclusively for dealer cooperatives to be eligible for reimbursement of CRV refunds paid to consumers, processing payments, handling fees, and administrative fees. Dealers who choose not to join a dealer cooperative and only redeem beverage containers in-store are not eligible for the foregoing payments and are only eligible to receive scrap value for the beverage containers they redeem on the premises.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT OR DOCUMENTS RELIED UPON

CalRecycle relied upon the following sources in the development of the proposed regulations:

- Attachment 1: Convenient Beverage Recycling in California: A Report to the California State Legislature, dated July 2, 2018, <https://www2.calrecycle.ca.gov/Docs/Web/115374>
- Attachment 2: Beverage Container Recycling: Implementation (SB 1013), Budget Change Proposal, authorized in 2023, https://esd.dof.ca.gov/Documents/bcp/2324/FY2324_ORG3970_BCP6715.pdf
- Attachment 3: CalRecycle Request for Approval, dated July 25, 2023
- Attachment 4: Comment Letter Submitted by Container Recycling Institute, dated September 8, 2022
- Attachment 5: Comparative Analysis of Convenience Zone Data: Status, Dealers in Unserved Convenience Zones, and Paid Handling Fees in September 2022 and 2023
- Attachment 6: West Hollywood Minimum Wage, <https://www.weho.org/business/operate-your-business/minimum-wage>, accessed February 20, 2024
- Attachment 7: UC Berkeley Labor Center, California City and County Current Minimum Wages (1/1/2024), <https://laborcenter.berkeley.edu/inventory-of-us-city-and-county-minimum-wage-ordinances/#s-2>, accessed February 20, 2024
- Attachment 8: CalRecycle Handling Fee Changes, Effective July 1, 2023: <https://www2.calrecycle.ca.gov/Docs/Web/123783>

- Attachment 9: CalRecycle 2024 Processing Payments for Recyclers: <https://www2.calrecycle.ca.gov/Docs/Web/126528>
- Attachment 10: CalRecycle 2022 Beverage Container Recycling in California Fact Sheet, <https://www2.calrecycle.ca.gov/Publications/Details/1726>
- Attachment 11: North State Public Radio – California Has A Recycling Problem, April 25, 2021: <https://www.myspr.org/news/2021-04-25/california-has-a-recycling-problem>, accessed February 20, 2024
- Attachment 12: Economic and Fiscal Impact Statement (STD 399)
- Attachment 13: STD 399 Appendix

ANTICIPATED BENEFITS

The goal of SB 1013 is to bolster the intent of the Act by expanding convenient redemption opportunities for consumers to redeem beverage containers for the CRV refund value at dealer cooperative-operated collection sites in areas underserved with redemption opportunities. SB 1013 incentivizes the formation of dealer cooperatives with eligibility for program payments under the Act, including handling fees, administrative fees, processing payments, and reimbursement for the CRV refund value paid out to consumers. The operation of dealer cooperatives in unserved convenience zones increases clean streams of recyclable materials to support a circular economy and reduces environmental litter by providing accessible and convenient recycling options tailored to the community.

The proposed amendments and adoptions in these regulations will provide the following anticipated benefits that are aligned with the goal of SB 1013:

- Allows, through dealer registration, an accurate count of all dealers located in convenience zones to enable CalRecycle to determine which dealers are redeeming beverages in-store, participating in a dealer cooperative, or that are exempt from those requirements pursuant to PRC section 14578(b) due to being under the size or sales thresholds established in SB 1013. This promotes business transparency by ensuring that CalRecycle has the information necessary to answer basic consumer questions as to where and when consumers may redeem empty beverage containers in a convenience zone not served by a recycling center.
- Provides incentives for dealers to participate in a dealer cooperative, such as eligibility for program payments under the Act from CalRecycle, including handling fees, administrative fees, processing payments, and reimbursement for the CRV refund value paid out to consumers. This will likely increase recycling, which benefits the environment by reducing litter and landfill disposal of beverage containers. Increased recycling of beverage containers will also create a larger recycled content market for beverage manufacturers, which will encourage use of post-consumer content and therefore reduce greenhouse gas emissions by using less virgin plastic.

- Prevents discrimination and promotes fairness and social equity by requiring education materials regarding dealer cooperative redemption to be distributed in languages suitable to the community being served. The regulations also increase social justice by incentivizing the formation of more redemption locations in unserved convenience zones.
- Increases openness and transparency in business and government by requiring the dealer cooperative stewardship plans to be posted on publicly available websites and also by requiring CalRecycle to engage in a public comment process when reviewing a stewardship plan.
- Enables dealer cooperatives to be economically sustainable through both of the following: (1) the receipt of program payments and dealer cooperative stewardship fees and (2) protecting a dealer cooperative's investment in its stewardship program from recycling centers that would locate in the same unserved convenience zones, thereby making the dealer cooperative ineligible for program payments.
- Promotes environmental stewardship through educational awareness to consumers to recycle CRV beverage containers.
- Defines procedures to record and report data on beverage container redemption in specific unserved convenience zones in California. This increases the transparency of businesses in the state.
- Establishes a performance standard for dealer cooperatives to redeem an amount equal to 80% of the beverages containers sold by the dealer members of the dealer cooperative in an unserved convenience zone, which aligns with the 80% beverage container recycling goal in PRC section 14501(c).
- Establishes clear standards for a dealer cooperative's compliance with the Act and Regulations to prevent fraud while ensuring maximum flexibility for a dealer cooperative to create its own stewardship program that will best serve the needs of the community, rather than imposing a one-size-fits-all approach that has been shown to need improvement due to the large number of convenience zones in the state unserved by traditional recycling centers.
- Increases opportunities for consumers to conveniently recycle CRV-eligible beverage containers in unserved convenience zones by allowing dealer cooperatives to tailor redemption services to their community through creation of a stewardship plan.
- Increases the amount of-CRV-eligible containers that are diverted into clean recycling streams instead of littered into the environment or disposed of in landfills.
- Provides employment and contracting opportunities in unserved convenience zones for persons working to implement a dealer cooperative stewardship program.

- Decreases the risk of negative human health impacts or worker injury resulting from the litter abatement or landfill processing of beverage container material.

These anticipated benefits are also aligned with CalRecycle's policy goals to:

- Increase CRV beverage container redemption rates to 80% pursuant to PRC section 14501(c).
- Transition from a disposable, single use system to a society with a fully circular economy for beverage containers.
- Create networks of convenient redemption opportunities for consumers statewide.
- Support California's transition to a circular economy by increasing clean streams of recyclable materials.
- Facilitate resource conservation in the state by providing consumers with beverage container redemption opportunities that are tailored to their communities, thereby increasing convenience and redemption.
- Reduce litter and the associated negative impacts to human health, wildlife, and the environment.
- Protect the environment and climate by providing an economically feasible business model for the redemption and recycling of beverage containers, thereby removing those beverage containers from the waste stream.
- Modernize the BCRP by implementing an extended producer responsibility (EPR) stewardship program for the redemption of empty beverage containers, which aligns the product management of beverage containers with other product stewardship EPR programs in California such as for paint, carpet, and mattresses.
- Increase the opportunity for small businesses to operate beverage container redemption services in unserved convenience zones under a more flexible model than traditional recycling centers.

REASONABLE ALTERNATIVES TO THE REGULATION AND CALRECYCLE'S REASON FOR REJECTING THOSE ALTERNATIVES

CalRecycle is mandated to promulgate regulations that "shall include the registration process for dealers, the application and registration process for the dealer cooperative, and the process for updating information after registration as needed, and other regulations necessary for the implementation and enforcement" of PRC section 14578.5(b), and so, CalRecycle may not consider an alternative that does not involve the adoption of implementing regulations. Furthermore, there are no existing regulations to rely on to implement the dealer and dealer cooperative requirements established by SB 1013. Therefore, instead of considering alternatives to adopting regulations, CalRecycle considered two alternatives where the proposed regulatory requirements were less burdensome and would lessen any adverse impact on small businesses.

Set forth below are the reasonable alternatives which were considered by CalRecycle and the reasons the alternatives were rejected:

ALTERNATIVE 1

Alternative: Do not require dealer cooperatives to use innovative methods of redemption.

Reason for Rejecting: Innovative methods of redemption including but not limited to RVMS, bag drop, and mobile recycling, are cost effective, convenient and handle large volumes of containers efficiently over time compared to traditional recycling services despite a higher initial cost to establish. It is likely that dealer cooperatives would utilize these technologies at the same rate regardless of whether the proposed regulations required the use of innovative methods of redemption because these technologies are cost effective to operate. According to CalRecycle's Division of Recycling data, traditional recycling redemption methods may have a low initial cost of approximately \$50,000 to establish a site and may require on average 4 full-time equivalent (FTE) employees to operate. One FTE salary is approximately \$39,686 per year based on West Hollywood's minimum wage of \$19.08, the highest minimum wage in California. Over a five-year period, the cost to operate the traditional recycling services is approximately \$843,720 [\$50,000 initial cost + (4 FTE @ \$39,686 each for five years)]. Comparatively, bag drop has a higher initial cost of approximately \$120,000 to establish a site and has a lower labor cost of 2 FTE for operation. Over the same five-year period, the cost to operate the innovative method of redemption is approximately \$516,860 [\$120,000 initial cost + (2 FTE @ \$39,686 each for five years)]. While initial costs of traditional recycling services are lower, the long-term investment of these two methods demonstrate that innovative methods of redemption are the more cost-effective option and would be utilized by dealer cooperatives over the more costly operation of traditional recycling methods. This alternative would neither lessen nor increase any impact on small businesses because dealers with gross annual sales of less than \$1.5 million (excluding fuel sales) or less than 5,000 square feet are exempt from this requirement pursuant to PRC section 14578(b)(1) and (2). Additionally, funding is available for dealer cooperatives under Assem. Bill 179 (Section 127 of Chapter 249 of the Statutes of 2022) (AB 179) and Senate Bill 101 (Chapter 12 of the Statutes of 2023) (SB 101) budget item 3970-101-0133, schedule (1) for innovative methods of redemption and will be awarded by CalRecycle to dealer cooperatives for exactly this purpose. By making an innovative method of redemption required in each dealer cooperative zone, CalRecycle is jump starting the adoption of these technologies that are infrequently used in the state but utilized with great effectiveness in other parts of the country and world. Innovative methods of redemption have also been utilized effectively as part of the BCRP pilot projects implemented under PRC section 14571.9. The requirement was put forward at a workshop with interested parties on August 31, 2023, and it received positive feedback from consumer advocates.

CalRecycle has considered, as part of the alternative of not requiring a dealer cooperative to use an innovative method of redemption, to instead only impose the

performance standard of redeeming 80% of containers sold by dealer members of a dealer cooperative. This performance standard of mandating the number of containers redeemed, as opposed to the mandate of using the specific technology of an innovative method of redemption to redeem beverage containers, is insufficient to satisfy CalRecycle's legislative mandate under the Act to ensure that beverage container recycling is convenient and available to consumers. As demonstrated by the current 70% beverage container redemption rate across the state, traditional recycling center methods of redemption are not achieving the consumer accessibility and convenience necessary to reach the 80% redemption rate goal established in PRC section 14501(c). This also demonstrates that, in addition to traditional recycling center methods of redemption not lowering compliance costs as described above in ALTERNATIVE 1, they do not achieve the beverage container redemption goals of the Act. Therefore, the performance standard of merely requiring 80% redemption without also mandating the specific technology of using a minimum of one innovative method of redemption is rejected.

ALTERNATIVE 2

Alternative: Remove requirements for dealer cooperatives to promote awareness using outreach, education and internet posting of redemption locations to maximize consumer participation in the stewardship program.

Reason for Rejecting: This alternative presents lower administrative costs of reduced labor by dealer cooperatives for the development of educational materials, outreach to communities, and information technology support for the maintenance of a website. However, without the education and outreach to consumers, CalRecycle expects that fewer CRV beverage containers would be redeemed, therefore failing to further the intent of SB 1013 to bolster convenience and accessible redemption opportunities for all consumers in every region of California. This alternative would neither lessen nor increase any impact on small businesses.

ALTERNATIVES STATEMENT

No alternative has been proposed to CalRecycle as less burdensome and equally effective in achieving the purposes of the regulation in a manner that achieves the purposes of the statute or other law being implemented.

SPECIFIC TECHNOLOGIES OR EQUIPMENT, OR SPECIFIC ACTIONS OR PROCEDURES

The proposed regulations mandate the prescriptive standard of the use of specific technologies or equipment, or specific actions or procedures. The regulations will require a minimum of one innovative method of redemption per convenience zone because it is expected to encourage creative and efficient approaches to redemption, potentially enhancing accessibility and convenience for consumers. Innovative methods of redemption include redemption where an attendant is not present to accept materials. The definition is broad enough to provide flexibility as technology advances or becomes available.

Requiring an innovative method of redemption as a dealer cooperative component in unserved convenience zones will increase consumer access to CRV refunds in areas where no certified recycling centers exist. The access and convenience provided by sites with an innovative method of redemption may create a positive customer experience that results in consumers utilizing dealer cooperative redemption sites over curbside mixed recycling options, where the CRV refund is passed from the consumer to the mixed recycling hauler collecting the curbside bin. As discussed previously, innovative methods of redemption also benefit worker safety because it reduces the chances of workplace injuries through the use of automated technologies.

For the foregoing reasons, the prescriptive standard of requiring the specific technology of a minimum of one innovative method of redemption is necessary in order to satisfy CalRecycle's legislative mandate under the Act to ensure that beverage container recycling is convenient and available to consumers.

Alternative to the use of specific technologies or equipment, specific actions, or specific procedures

The alternative to requiring an innovative method of redemption per convenience zone, namely, utilizing traditional recycling services that require an attendant to be present, would be more costly to dealer cooperatives and less convenient to the public. Innovative methods of redemption including but not limited to RVMs, bag drop, and mobile recycling, are cost effective, convenient and handle large volumes of containers efficiently over time compared to traditional recycling services despite a higher initial cost to establish. It is likely that dealer cooperatives would utilize these technologies at the same rate regardless of whether the regulations required the use of innovative methods of redemption because these technologies are cost effective to operate.

CalRecycle has considered, as part of the alternative of not requiring a dealer cooperative to use an innovative method of redemption, instead only imposing the performance standard of redeeming 80% of containers sold by dealer members of a dealer cooperative. This performance standard of mandating the number of containers redeemed, as opposed to the mandate of using the specific technology of an innovative method of redemption to redeem beverage containers, is insufficient to satisfy CalRecycle's legislative mandate under the Act to ensure that beverage container recycling is convenient and available to consumers. As demonstrated by the beverage container redemption rate across the state of 70% in 2022¹, traditional recycling center methods of redemption are not achieving the consumer accessibility and convenience necessary to reach the 80% redemption rate goal established in PRC section 14501(c). This shows that, in addition to traditional recycling center methods of redemption not lowering compliance costs as described above in ALTERNATIVE 1, they do not achieve the beverage container redemption goals of the Act. Therefore, the performance

¹ CalRecycle 2022 Beverage Container Recycling in California Fact Sheet, <https://www2.calrecycle.ca.gov/Publications/Download/1901&sa=U&ved=2ahUKEwitytD20eWDAxXwl0QIHwYJB8QFnoECAMQAQ&usg=AOvVaw1pOeeG18EcOKoVwyR205lc>

standard of merely requiring 80% redemption without also mandating the specific technology of using a minimum of one innovative method of redemption is rejected.

INITIAL DETERMINATION THAT THE ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

Based on the Economic Impact Assessment discussed above, CalRecycle has made the initial finding that these proposed regulations will not have a significant adverse economic impact on businesses. The goal of the proposed regulatory action is to provide dealers in unserved convenience zones with a new pathway for compliance with their beverage container redemption obligations, i.e., forming a dealer cooperative. There are anticipated upfront costs in establishing and administering dealer cooperatives, such as infrastructure investments and recurring costs in staffing and servicing that infrastructure. However, it is anticipated that most, if not all, of these upfront and recurring costs would be offset by the handling fees and other payments that dealer cooperatives would be eligible to receive under the proposed regulations. Additionally, funding is available for dealer cooperatives under AB 179 and SB 101 budget item 3970-101-0133, schedule (1) for innovative methods of redemption and will be awarded by CalRecycle to dealer cooperatives for exactly this purpose.

Under current law, a dealer in an unserved convenience zone can choose to redeem empty beverage containers in-store or to pay \$100 per day pursuant to PRC section 14571.6(a). SB 1013 repeals that section as of January 1, 2025, and replaces the option to pay \$100 per day with the option to join a dealer cooperative pursuant to PRC section 14578(a)(2). Processing payments, handling fees, CRV refund reimbursement and payment of administrative fees from CalRecycle are expected to cover the ongoing costs of participation in a dealer cooperative. Also, participation in the dealer cooperatives option is voluntary, so if a dealer determines that this option is less economically efficient than the alternative (in-store redemption), they are free to choose this option. However, the alternative requirement to redeem in-store is imposed by PRC section 14578(a) and is not created by the proposed regulations, therefore its impact on dealers is not addressed in this analysis.

DUPLICATION OR CONFLICT WITH THE CODE OF FEDERAL REGULATIONS

Pursuant to Gov. Code section 11346.2(b)(6), CalRecycle has evaluated this regulatory proposal and has determined that there are no federal laws or regulations addressing the same issues as the proposed regulations. The proposed regulations will not be duplicative of federal regulations or statutes as the dealer requirements and dealer cooperative program are unique to the state of California and there are no federal regulations or statutes that are comparable to it nor any other agency outside of CalRecycle that administers payments and claims for recycling beverage containers within the State of California. Additionally, there is no other program within the state of California that administers or imposes requirements on dealers and dealer cooperatives relating to beverage container redemption. Therefore, these proposed regulations do not duplicate or conflict with any existing federal law or regulation.

