BEVERAGE MANUFACTURER AND DISTRIBUTOR FORMS AND REGISTRATION
FINAL STATEMENT OF REASONS
CALIFORNIA CODE OF REGULATIONS
TITLE 14. Natural Resources
DIVISION 2. Department of Conservation
CHAPTER 5. Division of Recycling

UPDATED INFORMATIVE DIGEST

In the original noticed informative digest, the Department identified changes that will facilitate the registration, recordkeeping, reporting, and payment processes for distributors and beverage manufacturers and clarify through definitions the general application of terms established in statute. These proposed changes have been amended or removed from the final text: 1) Provide that "transfer" includes beverage containers given as a donation, promotional give-away, or as a sample; 2) Specify that labeling approval is required prior to the offer for sale, sale, or transfer of the beverage container; 3) Require copies of agreements between distributors and those who have agreed to pay/report on their behalf; and 4) Require a registration process that contains information requirements.

The Department did not receive a request for a public hearing, however, written comments were received for the initial 45-day comment period from July 1, 2011 through August 31, 2011. As a result of these comments, the original proposed text was revised. The 15-day renotice from January 23, 2012 through February 6, 2012 was posted on the Department's website and the revised text, along with a summary explaining the changes made to the text, was sent via e-mail to the commenters and to a list of interested parties. The text was revised again for a second 15-day comment period from May 7, 2012 to May 21, 2012.

The Department has made revisions to the specific sections outlined in the Initial Statement of Reasons (ISOR) as provided in the following paragraphs. See the ISOR for the initial justification of all of the proposed language and references.

§ 2000. DEFINITIONS.

<u>New Subsection 2000(a)(47.25):</u> This subsection was added in the original proposed text to provide the definition of "transfer," as it relates to the Beverage Container Recycling and Litter Reduction Act (Act), in that "transfer" is referenced in Public Resources Code sections 14523, 14574 (a)(1), 14575 (g)(1), 14575 (g)(3)(B), and 14575 (j)(2), but is not defined as it is related to the Act . The Department has received comments opposed to this proposed amendment for both the first 45-day comment period and the first 15-day renotice. The comments seek to remove the proposed definition of transfer or exempt donated bottled water from fees and payments. This

proposed addition has been deleted from the final text including the authority references. The second 15-day renotice containing this deletion received favorable comment from the public. The Department will consider adding a definition of “transfer” to the regulations at a later date.

New Subsection 2000(a)(47.5): This subsection was added to add the definition of “vegetable juice” as it relates to the Act, in that “vegetable juice” is referenced in Public Resources Code 14504 (a)(10), but is not defined as it is related to the Act. There have been no comments received regarding this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

SUBCHAPTER 3. MANUFACTURERS

Article 1. Labeling

§ 2200. LABELING REQUIRED.

Subsection 2200 (a): This subsection was amended in the original proposed text to provide clarity that labeling of nonrefillable beverage containers by the beverage manufacturer is required prior to the offer for sale, sale, or transfer of beverage containers in this state. The amendment required the beverage manufacturer to provide a sample proposed label to the Division for approval within thirty (30) days prior to labeling the beverage container, if prior approval of the label by the Division had not been obtained. The Department received comments expressing that the 30 day timeline for the submission of beverage container labels for approval was too stringent and that many registered companies are compliant and informed of their responsibilities. The text has been revised in response to the comments. Entities new to the Program must submit labels but without the 30 day deadline. Entities already registered with the Program may submit their labels on a voluntarily basis for review and approval, however, the Department may request any entity to submit their product label for review should the necessity arise for such a request. This subsection has been renumbered to add 2200(a)(1) and (2) and revise 2200(a)(1) to 2200(a)(3). There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

Subsection 2200 (a)(1): This subsection was amended in the original proposed text to provide clarity that Division approval of the labeling of nonrefillable beverage containers by the beverage manufacturer must be obtained prior to the offer for sale, sale, or transfer of beverage containers in this state. This section has been renumbered to 2200(a)(3) and the originally proposed text has been deleted from this subsection because it is repetitive of the same statement contained in Section 2200(a). There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice. The final text has been revised to add a comma punctuation after the word “type” for readability. This is a nonsubstantive change.

Article 3. Registration, Accounting and Reporting Requirements for Beverage Manufacturers

§ 2230. APPLICABILITY.

Article 3.: The title of Article 3 has been amended to add the word "Registration" because this section has been amended to include registration as a requirement for beverage manufacturers. There has been no change to this originally proposed text.

Subsection 2230 (a): This subsection was amended to provide clarity to the beverage manufacturer registration component by ensuring a registration process is specifically addressed. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

Subsection 2230 (b): This subsection was amended to correct a grammatical inconsistency in the use of plural and singular tenses, and to provide consistency in referencing the “Act,” rather than both the “Act” and the “Public Resources Code." There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

Subsection 2230 (c): This subsection was amended in the original proposed text to provide clarity with the addition of a specific time frame of ten (10) working days for the beverage manufacturer to submit to the Division any revised agreements to report and pay on the beverage manufacturer's behalf. The current text of this subsection also requires that a copy of the initial written agreement be provided within10 working days. The time frames for both requirements have been revised to twenty (20) working days to reflect the time frames established in Section 2300 for distributors which was revised in response to public comments expressing that the time frame of ten working days is too stringent. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

Subsection 2230 (c)(1-4): These subsections were amended to provide consistency in the use of “entity” rather than use of both “entity” and “company” and to allow for a potential plural form of “business and mailing address;” that is, "business and mailing address(es).” There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2230 (d): This subsection was added to provide an additional method to seek assurance, on behalf of the beverage manufacturer for which another entity has agreed to report and pay on its behalf, that an entity provided in the beverage manufacturer’s listing is in fact paying and reporting on its behalf. There have been no

comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2230 (e): This subsection was added in the original proposed text to require the beverage manufacturer to contact the Division with any changes to the information provided pursuant to Section 2231 within twenty working days. This text transferred from the Registration Section where it was originally proposed and placed in the Applicability Section because the requirement to advise the Division of changes in information is an ongoing responsibility once the registration process is complete. In addition, the time frame was extended from ten to twenty working days in response to public comment that the time frame of ten working days is too stringent. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

Subsection 2230 (f): This subsection was renumbered from Subsection 2230 (d) to Subsection 2230 (e) due to the addition of new subsection 2230 (d). This subsection was renumbered again for the first 15-day comment period from Subsection 2230 (e) to Subsection 2230 (f) due to the addition of a new subsection 2230 (e). There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

§ 2231. REGISTRATION.

New Section 2231, Registration: This section was added to provide a registration process to register the beverage manufacturer, in that a registration process ensures that information is reported in a standardized manner, and utilizes the information obtained to effectuate payment and reporting responsibilities. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (a): This subsection was added to require the beverage manufacturer to participate in a registration process and to receive a unique numerical beverage manufacturer identification number. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b): This subsection was added to require the beverage manufacturer to contact the Division prior to the sale or transfer of beverages to ensure that the registration process is conducted as efficiently as possible. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(1): This subsection was added to require the legal name and any “Doing Business As” names of the beverage manufacturer registering. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(2): This subsection was added to require the beverage manufacturer to provide its federal tax identification number (also known as an Employer Identification Number). There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment. The final text has been revised to place a closing parenthesis which was inadvertently omitted when the text was originally proposed. This is a nonsubstantive change.

New Subsection 2231 (b)(3): This subsection was added to require the beverage manufacturer to provide its Department of Alcoholic Beverage Control (ABC) Certificate of Compliance Number, if it is an out-of-state beer or other malt beverage manufacturer. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(4): This subsection was added to require the physical business address. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(5): This subsection was added to require the beverage manufacturer to provide its mailing address. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(6): This subsection was added in the original proposed text to require additional business addresses, including: (A) Rented, leased, or owned California warehouse(s); (B) Sales office(s); (C) Corporate office(s); and (D) Other. The request for this information was questioned during the initial 45-day comment period. This language was retained in the text because of the necessity of obtaining this information in order to identify the correct entities responsible for reporting and payments. There were no opposing comments received regarding this requirement during the 15-day renotice when an explanation for the necessity of requesting this information was provided. The final text has been revised by moving the word “and” from 2231(b)(6)(B) to 2231(b)(6)(C) and adding a semi-colon after the words “Corporate offices(s)”. These are nonsubstantive changes for grammatical correctness and consistency.

New Subsection 2231 (b)(7): This subsection was added to require the primary and secondary contact information of the beverage manufacturer, including name, title,

telephone number, e-mail address, facsimile number, and web site, as applicable, to effectuate the Division's ability to contact the beverage manufacturer by means other than mailing and physical addresses. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(8): This subsection was added in the original proposed text to require the beverage manufacturer to indicate its type of business ownership structure, along with copies of ownership documentation. In response to comments that the request was burdensome to businesses and should only be requested in the event of an audit, the requirement to provide documentation was removed from this subsection, requiring only that the company indicate the type of business ownership structure. This subsection was revised again for the second 15-day renotice to remove the examples of the copies of correlating ownership documentation to be consistent with the deletion of the requirement to provide these copies. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice and the second 15-day renotice.

Subsection 2231 (b)(9): This subsection was added in the original proposed text to require the beverage manufacturer to provide the effective date of beverage sales or transfer in California. Comments received expressed that this requirement would hinder a company's ability to donate bottled water to charity. Section 14575(g)(1) of the Act requires beverage manufacturers to pay any applicable processing fees for containers sold or transferred. This subsection remains in the proposed text because this effective date establishes the initial reporting period for the collection of reports and payments from beverage manufacturers. There were no opposing comments received regarding this requirement during the 15-day renotice when an explanation for the necessity of requesting this information was provided.

New Subsection 2231 (b)(10): This subsection was added to require the beverage manufacturer to indicate if beverages are offered for sale or transfer, or proposed to be offered for sale or transfer to common carriers. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(11): This subsection was added to require the beverage manufacturer to indicate if free beverage samples are offered, or proposed to be offered in California. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(12): This subsection was added to require the beverage manufacturer to provide the types of beverages, their container types, and the container sizes offered for sale or transfer, or proposed to be offered for sale or transfer in California. There have been no comments received for this change therefore no

amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(13): This subsection was added to require the beverage manufacturer to indicate if the beverages for sale or transfer are refillable or nonrefillable. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(14): This subsection was added in the original proposed text to require the beverage manufacturer to indicate whether a California co-packer and/or contract bottler is used, or is proposed to be used, and contact information. A comment received questioned the necessity of providing the information to the Division as it may breach confidentiality agreements between the beverage manufacturer and the co-packers. This subsection is retained in the text because this provides information that helps the Division determine the entity holding the responsibility as the beverage manufacturer or distributor. There were no opposing comments received regarding this requirement during the 15-day renotice when an explanation for the necessity of requesting this information was provided. This subsection was revised for the second 15-day renotice to remove the word “your” for grammatical consistency. There were no opposing comments received regarding this change during the second 15-day renotice.

New Subsection 2231 (b)(15): This subsection was added to require the beverage manufacturer to indicate whether beverages are purchased or supplied from an entity outside of California. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2231 (b)(16): This subsection was added in the original proposed text to require the beverage manufacturer to identify the entities in California to which beverages are sold or transferred, including distributor contact information, if applicable. Comments received questioned the necessity of obtaining this information which may be an inconvenience to some companies if the information changes regularly. This subsection is retained in the text because obtaining this information will assist the Division in determining the entity holding the responsibility as the beverage manufacturer or distributor. There were no opposing comments received regarding this requirement during the 15-day renotice when an explanation for the necessity of requesting this information was provided. The final text has been revised to change the semi-colon punctuation at the end of this line to a period because this subsection is now the end of the end of the section after proposed subsection 2231(c) was moved. This is a nonsubstantive change.

New Subsection 2231 (c): This subsection was added in the original proposed text to require the beverage manufacturer to contact the Division with any changes to the information provided pursuant to new Subsection 2231 (b)(1-16) within (10) ten working days of the changes. Comments received requested an extension of the imposed time

and also questioned the necessity of providing this information. This subsection was deleted and the text moved to Subsection 2230(e) because this requirement to keep information current is an ongoing responsibility, while the Registration Section 2231 is the initial point of communication. This information keeps contact information current and, in the event that the new information shifts responsibilities to other entities, allows the Division to correctly assign reporting and payment responsibilities. The timeline has been extended to twenty (20) working days. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

§ 2235. RECORDKEEPING.

Subsection 2235 (d): This subsection was amended to delete from regulations the image of the “Beverage Manufacturer Report, DR-4” form in its hard copy format, and to delete “DR 4 (1/00),” the Division’s form number. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

§ 2240. REPORTING.

This section was amended to delete from regulatory text “DR-4 (1/00),” a Division form number, in two instances, and to add the title of "Beverage Manufacturer Report," in place of the deleted form numbers for clarity. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

Subsection 2240 (b): This subsection was amended to delete from the regulatory text “DR 4 (1/00),” a Division form number, and to add the title of "Beverage Manufacturer Report," in place of the deleted form number. This subsection was amended to revise examples of due dates. This subsection was also amended to state that the Beverage Manufacturer Report must be submitted no later than the tenth day of the second month following the month of sales instead of on the 10th day of the second month following the month of sales. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

SUBCHAPTER 4. DISTRIBUTORS

Article 1. Distributor Requirements

§ 2300. APPLICABILITY.

Subsection 2300 (a): This subsection was amended to specifically outline the key components within the responsibilities of the distributor for registration, recordkeeping, reporting, and redemption payment requirements. There have been no comments

received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2300 (b)(1-4): This subsection was added in the original text to provide that a distributor shall: 1) notify the Division in writing if another entity has agreed to report and/or make redemption payments on its behalf; 2) provide a copy of the written agreement to report and/or make redemption payments within ten (10) working days of the initial agreement; and 3) submit any revised agreements to the Division, including termination of the agreement, within ten (10) working days of the revision. Comments received expressed concerns that the copy of agreement may be a confidential document. The Division removed the requirement to submit a copy of the agreement, however, the information outlined in 2300(b) (1-4) remains because the information is necessary for the Division obtain information in such relationships, to identify which party is responsible for making reporting and payments. The timeline of 10 working days was revised to twenty (20) working days. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

New Subsection 2300 (c): This subsection was added to require the provision of an annual listing which is necessary as an additional method to seek assurance, on behalf of a distributor for which another entity has agreed to report and pay on its behalf, that each entity provided in the distributor's listing is in fact paying and reporting on its behalf. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2300 (d): This subsection was added in the original proposed text in Subsection 2301 (c) to require the distributor to contact the Division with any changes to the information provided pursuant to new Subsection 2301 (b)(1-15) within (10) ten working days of the changes. Comments received requested an extension of the imposed time and also questioned the necessity of providing this information. This subsection was deleted and the text added as this subsection because this requirement to keep information current is an ongoing responsibility, while the Registration Section 2231 is the initial point of communication. This information keeps contact information current and, in the event that the new information shifts responsibilities to other entities, allows the Division to correctly assign reporting and payment responsibilities. The timeline has been extended to twenty (20) working days. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice. This subsection was revised again for the second 15-day renotice to correct an error indicating that the beverage manufacturer should contact the Division for any changes in information. Because this subsection pertains to distributors, not beverage manufacturers, the term "beverage manufacturer" was replaced with "distributor. There were no opposing comments regarding the changes to this subsection during the second 15-day renotice.

Subsection 2300 (e): This subsection was added in the original proposed text as 2300(d) to provide that the Division will assert its authority to hold responsible the distributor, dealer, and/or consumer liable for any due and unpaid redemption payments. This language remains intact but the numbering changed to Subsection 2300 (e) to accommodate the insertion of the new subsection 2300(d). There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

§ 2301. REGISTRATION.

New Section 2301, Registration was added to provide clarity in regard to the distributor registration component, by ensuring the registration function is specifically addressed. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (a): This subsection was added to require the distributor to participate in a registration process and to receive a unique numerical distributor identification number. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b): This subsection was added to require the distributor to contact the Division prior to the sale or transfer of beverages to ensure that the registration process is conducted as efficiently as possible. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(1): This subsection was added to require the legal name and any “Doing Business As” names of the distributor registering. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(2): This subsection was added to require the distributor to provide its federal tax identification number (also known as an Employer Identification Number), which is necessary to assist the Division's auditing staff in their conduct of audits, as its provision enables the identification of legally responsible parties. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(3): This subsection was added to require the distributor provide its physical business address. There have been no comments received for this

change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(4): This subsection was added to require the distributor to provide its mailing address. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(5): This subsection was added in the original proposed text to require additional business addresses, including: (A) Rented, leased, or owned California warehouse(s); (B) Sales office(s); (C) Corporate office(s); and (D) Other. The request for this information was questioned during the initial 45-day comment period. This language was retained in the text because of the necessity of this obtaining this information in order to identify the correct entities responsible for reporting and payments. There were no opposing comments received regarding this requirement during the 15-day renotice when an explanation for the necessity of requesting this information was provided. The final text has been revised by moving the word “and” from 2231(b)(6)(B) to 2231(b)(6)(C). This is a nonsubstantive change for grammatical correctness and consistency.

New Subsection 2301 (b)(6): This subsection was added to require the primary and secondary contact information of the distributor, including name, title, telephone number, e-mail address, facsimile number, and web site, as applicable, to effectuate the Division's ability to contact the distributor by means other than mailing and physical addresses. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(7): This subsection was added in the original proposed text to require the distributor to indicate its type of business ownership structure, along with copies of ownership documentation. In response to comments that the request was burdensome to businesses and should only be requested in the event of an audit, the requirement to provide documentation was removed from this subsection, requiring only that the company indicate the type of business ownership structure. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice. This subsection was revised again for the second 15-day renotice to remove the examples of the copies of correlating ownership documentation to be consistent with the deletion of the requirement to provide these copies. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice and the second 15-day renotice.

New Subsection 2301 (b)(8): This subsection was added in the original proposed text to require the distributor to provide the effective date of beverage sales or transfer in California. Comments received expressed that this requirement would hinder a company’s ability to donate bottled water to charity. Section 14560 of the Act requires

distributors to pay any applicable redemption fees for containers sold or transferred. This subsection remains in the proposed text because this effective date establishes the initial reporting period for the collection of reports and payments from distributors. There were no opposing comments received regarding this requirement during the 15-day renotice when an explanation for the necessity of requesting this information was provided.

New Subsection 2301 (b)(9): This subsection was added to require the distributor to indicate if beverages are offered for sale or transfer, or proposed to be offered for sale or transfer to common carriers. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(10): This subsection was added to require the distributor to indicate if free beverage samples are offered, or proposed to be offered in California. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(11): This subsection was added to require the distributor to provide the types of beverages, their container types, and the container sizes offered for sale or transfer, or proposed to be offered for sale or transfer in California. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(12): This subsection was added to require the distributor to indicate if the beverages for sale or transfer are refillable or nonrefillable. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(13): This subsection was added to require the distributor to provide the name and location of beverage suppliers in California, including contact information. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment. This subsection was revised for the second 15-day renotice to remove the word “your” for grammatical consistency. There were no opposing comments received regarding this change during the second 15-day renotice.

New Subsection 2301 (b) (14): This subsection was added to require the distributor to indicate if beverages are purchased or supplied from an entity outside of California. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

New Subsection 2301 (b)(15): This subsection was added in the original proposed text to require the distributor to identify the entities in California to which beverages are sold or transferred, including distributor contact information, if applicable. Comments received questioned the necessity of obtaining this information which may be an inconvenience to some companies if the information changes regularly. This subsection is retained in the text because obtaining this information will assist the Division in determining the entity holding the responsibility as the beverage manufacturer or distributor. There were no opposing comments received regarding this requirement during the 15-day renotice when an explanation for the necessity of requesting this information was provided.

New Subsection 2301 (c): This subsection was added in the original proposed text to require the distributor to apprise the Division of any changes to the information provided pursuant to new Subsection 2301 (b)(1-15) within (10) ten working days of the changes. Comments received requested an extension of the imposed time and also questioned the necessity of providing this information. This subsection was deleted and the text moved to Subsection 2300(d) because this requirement to keep information current is an ongoing responsibility, while the Registration Section 2301 is the initial point of communication. This information keeps contact information current and, in the event that the new information shifts responsibilities to other entities, allows the Division to correctly assign reporting and payment responsibilities. The timeline has been extended to twenty (20) working days. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

§ 2305. RECORDKEEPING.

Subsection 2305 (c): This subsection was amended to delete from regulations the image of the “Distributor Report, DR-3” form in its hard copy format; to delete “DR-3 (7/07),” the Division’s form number in two instances; and to add the title of "Distributor Report," in place of one of the deleted form numbers for clarity. There have been no comments received for this change therefore no amendments have been made to the original proposed text. Please see the ISOR for the reasons for this proposed amendment.

§ 2310. REPORTING.

Subsection 2310 (a): This subsection was amended to delete from regulatory text “DR 3 (7/07),” a Division form number. There have been no comments received for this change therefore no amendments have been made to the original proposed text.

Subsection 2310 (a)(1): This section was amended in the original proposed text to revise the distributor reporting due dates to be consistent with current payment schedule requirements in statute. Comments received by the Division expressed the inaccuracy of this proposed language once the payment schedule of Section 14574 of the Act changes effective July 1, 2012. The proposed text has been revised to support

both the current requirements and upcoming changes by using the payment schedule requirements outlined in Section 14574 so that any future changes to that section of the Act will be reflected in the regulations. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

Subsection 2310 (a)(2): This subsection was amended to delete from regulatory text “DR 3 (7/07),” a Division form number, and add "Distributor Report" in its place. There have been no comments received for this change therefore no amendments have been made to the original proposed text.

Subsection 2310 (a)(2)(D): This subsection was amended to delete " and total empty weight" because this information is not needed in the Distributor Reports. There have been no comments received for this change therefore no amendments have been made to the original proposed text.

Subsection 2310 (a)(2)(E): This subsection was deleted because it is redundant with information reported in subsection 2310 (a) (2) (D). There have been no comments received for this change therefore no amendments have been made to the original proposed text.

Subsection 2310 (a)(2)(F): This subsection was renumbered to Subsection 2310 (a) (2) (E) because the original Subsection 2310 (a) (2) (E) has been deleted. There have been no comments received for this change therefore no amendments have been made to the original proposed text.

Subsection 2310 (a)(2)(G): This subsection was renumbered to Subsection 2310 (a) (2) (F) because the original Subsection 2310 (a) (2) (E) has been deleted. There have been no comments received for this change therefore no amendments have been made to the original proposed text.

Subsection 2310 (a)(2)(H): This subsection was renumbered to Subsection 2310 (a) (2) (G) because the original Subsection 2310 (a) (2) (E) has been deleted. There have been no comments received for this change therefore no amendments have been made to the original proposed text.

§ 2320. PAYMENTS.

Subsection 2320(g): This subsection was amended in the original proposed text to delete the phrase "but not later than the last day of the third month following the sales or transfers" to make the regulation text consistent with current statutory requirements. Comments received by the Division expressed the inaccuracy of this proposed language when the payment schedule of Section 14574 of the Act changes effective on July 1, 2012. The proposed text has been revised to support both the current requirements and upcoming changes by using the payment schedule requirements outlined in Section 14574 so that any future changes to that section of the Act will

reflected in the regulations. There were no opposing comments received regarding this subsection when this revision was made and opened for comment during the first 15-day renotice.

REQUIRED STATEMENTS

Economic Impact Analysis

All agencies proposing to adopt, amend or repeal a regulation shall prepare an economic impact analysis that assesses whether and to what extent it will affect the following:

The proposed regulations do not have a significant cost impact as these changes only clarify and make specific existing statutory mandates that are already implemented by the Department and do not introduce new cost responsibilities to participants. Beverage manufacturers and distributors are required to report and pay for redemption and processing fees as established in statute and existing regulations. The Department already requests information from beverage manufacturers and distributors in order to identify parties responsible for reporting and payments and create accounts to enable payments. The registration process is being formalized in the regulations to clarify what information is necessary in order to establish accounts for beverage manufacturers and distributors.

The DORIIS (Division of Recycling Integrated Information System) system is in place to provide options for electronic reporting requiring flexibility in the naming of forms in the regulations. The requirement to report whether electronically or by mail is already in established.

The proposed amendments also improve the Division's ability to ensure the correct labeling of containers as currently mandated in statute. Companies already submit container labels electronically or through the mail to inquire if their products are required to be labeled or if they are labeled correctly if the company is new to the process.

These proposed amendments assist the Division in gathering pertinent information to facilitate the reporting and payment process.

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

<u>The creation of new businesses or the elimination of existing businesses within the State of California</u>

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

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

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment
The Department administers the California Beverage Container Recycling Program with the intent of reducing the beverage container component of litter in the state. The reporting and collection of processing fees assists the state and the environment by encouraging the use of materials that are less costly to recycle. The reporting and collection of redemption fees and the labeling of beverage containers assists the environment of the state by giving consumers the incentive to recycle these beverage containers. These regulations assist in the administration of the Program through the clarification of the reporting and payment responsibilities of beverage manufacturers and distributors.

Alternative Statement

The requirement to register a beverage manufacturer or distributor does not impose additional payment responsibilities for these entities. It is necessary for the Division to identify the parties responsible for reporting and payments. This is accomplished through the analysis of information provided by these entities to determine their roles and responsibilities in the Beverage Container Recycling Program in order to enable reporting and payments mandated in statute. The registration responsibilities do not impose new payment responsibilities incurring costs to affected parties.

Public input regarding the initial proposed text and the timeframes for submitting changes in information were considered too stringent. The Department adjusted the timeframes to assist businesses in complying. The revised changes were received favorable by the affected businesses.

The Department has determined that no reasonable alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective, and less burdensome, or more cost-effective to affected private persons or equally effective in implementing the statutory law than the proposed action.

Inconsistency or Incompatibility with Existing State Regulations

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

Benefits to the health and welfare of California residents, worker safety, and the state's environment

The Department has determined that the adoption of these regulations benefits the state's environment through the development of more effective means of reducing the beverage container component of litter in the state of California as set forth by the intent of the statutory mandates of the Act.

When entities that may not be aware of their responsibility to label, report and pay for the CRV or processing fee of a beverage container are identified as either a beverage manufacturer or distributor and informed of their responsibilities, it ensures that beverage containers subject to the Act are included in the Program. This allows for the assessment of the CRV fee insuring that these beverage containers carry the incentive of redemption of the CRV deposit when recycled. This helps remove these materials from the litter stream benefiting the state's environment.

Statement of Section 11346.3 (d)

The proposed requirement for the registration of beverage manufacturers and distributors in Sections 2231 and 2301 imposes a reporting requirement for these entities. All the information requested from these entities is listed in each section.

The Department has determined that the adoption of the proposed regulations is necessary for the health, safety, or welfare of the people of the state and that the regulations apply to businesses.

The requirement for the payment of processing fees for beverage manufacturers and redemption payments for distributors is established in statute and the reporting requirement already established in current regulations. The request for information through the registration process is necessary to identify the entities responsible for reporting and payments and establish accounts for payments. The Program benefits the health, safety, and welfare of the people of the state by protecting the environment through the reduction of the beverage container component of litter in the state.

Summary and Response to Comments

A summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change is included in the rulemaking file. The index of comments, summary of comments and responses to comments for the first 45-day

comment period, first 15-day renotice and second 15-day renotice are found in tabs E, H and I.

Local Mandate Statement

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

Financial Impact Statement

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

Cost Estimate Statements

The agency is not aware of any cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action. The proposed regulations will not result in either costs or savings to the Department. The proposed changes clarify existing statutory requirements. The Department has also determined that the proposed action will not cause any reimbursement required under Government Code Section 17561. Finally, the Department has determined the proposed action will have no effect on housing costs.