INITIAL STATEMENT OF REASONS

Title 14 Natural Resources
Division 2. Department of Conservation
Chapter 5. Division of Recycling

The Department of Conservation (Department) proposes to amend a section of Title 14 of the California Code of Regulations (CCR). On May 7, 2002, the Department received a petition from TOMRA Pacific, Incorporated, pursuant to Government Code §11340.6, requesting that the Department undertake a rulemaking proceeding to amend the current commingled rate regulations. TOMRA Pacific, Incorporated operates reverse vending machines (RVMs) and has requested the calculation of a separate statewide commingled rate for RVMs. The Department has granted the petition for rulemaking to TOMRA Pacific, Incorporated. Section 2930(c) will be amended to determine how a separate statewide commingled rate will be calculated for RVMs.

"Commingled rate" means the ratio of empty beverage containers, as defined in Public Resources Code (PRC) Section 14512, to all other containers, of the same material type, as determined by the Department. PRC Section 14549.5 authorizes the Department to recalculate commingled rates "to ensure payment of the most accurate commingled rate feasible", and also implies that the Department may look at alternatives to the "exclusive reliance on a (single) statewide commingled rate". RVMs currently receive payment for refund values based on the statewide commingled rate established for recycling centers. However, TOMRA Pacific, Incorporated contends that, due to advanced technology, their RVMs have an improved and enhanced accuracy and ability to distinguish between CRV and non-CRV materials. The Department has concluded a study and determined that the ratio of CRV to non-CRV beverage container materials is higher for RVMs than the ratio at staffed recycling centers, and therefore a separate statewide commingled rate is warranted for RVMs. Since a commingled rate for RVMs is not currently calculated, these regulations will clarify the procedure for calculating a RVM commingled rate.

This regulatory package will amend CCR Section 2930(c) to determine how a separate statewide commingled rate for RVMs will be calculated.

SUBCHAPTER 12. DOR REQUIREMENTS

Article 1. DOR Determinations and Calculations

§2930 COMMINGLED RATE

Section 2930(b) This amendment is necessary in order to clarify that reverse vending machines will be excluded from the commingled rate calculations for staffed recycling centers. In addition, this amendment will clarify to industry that a separate methodology will be used to calculate a commingled rate for RVMs.

New Section 2930(c) This amendment is necessary to clarify the method to calculate a commingled rate per pound for RVMs. The RVM commingled rate per pound calculation methodology is based on the weight and analysis of loads of empty beverage containers and other containers in their post-filled state redeemed or returned by consumers to reverse vending machines.

New Section 2930(c) will not affect current commingled rate calculation practices for individual loads received or the operations at non-RVM recycling centers. This subsection is necessary to clarify the RVM commingled rate per pound calculation methodology.

Section 2930(d) has been renumbered from Section 2930 (c) due to the addition of new Section 2930(c).

Reference Sections 14506.7 and 14549.5 have been added to Section 2930 because it authorizes the Department to recalculate commingled rates to ensure payment of the most accurate commingled rate feasible, and also implies that the Department may look at alternatives to the exclusive reliance on a (single) statewide commingled rate.