Division of Recycling
Program Enforcement Branch
Informal Regulatory Workshop
Pre-Payment Controls

December 8, 2015

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AGENDA

1. Overview - Beverage Container Recycling Program (BCRP) Fraud & Abuse
2. Overview – BCRP Pre-Payment Controls
3. Review & Discuss Working Assumptions for Pre-Payment Controls / Capture Feedback
4. Next Steps

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Examples of BCRP Fraud & Abuse

CA CRV FUND

Distributors not paying CRV on beverages sold in CA

Beverage Manufacturers not paying PFs on beverages sold in CA

Claiming CRV on imported empty beverage containers

Submitting false claims for reimbursement

Claiming CRV on previously redeemed containers

Claiming CRV on rejected containers

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STOP

1-800-GO-PENSKE
Special Savings for Members

PRE-PAYMENT CONTROLS

- **<u>Statutory Authority</u> - §14552. (a)**

  The department shall establish and implement an auditing system to ensure that the information collected, and refund values and redemption payments paid pursuant to this division, comply with the purposes of this division. Notwithstanding Sections 14573 and 14573.5, the auditing system adopted by the department may include prepayment or postpayment controls.

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PRE-PAYMENT CONTROLS

- **<u>Statutory Authority</u> - §14573.7**

  Notwithstanding Sections 14573 and 14573.5, the department may require a recycling center, pursuant to a prepayment review taken pursuant to subdivision (a) of Section 14552, to:

  - submit consumer transaction logs and consumer transaction receipts as support documentation for shipping reports submitted to processors.

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PRE-PAYMENT CONTROLS

- **<u>Statutory Authority</u> - §14573.7 (con't)**
  - The department may, pursuant to this section, authorize a processor to withhold refund value payments to a recycling center.
  - The department may suspend the certification of a recycling center without a hearing if the recycling center fails to comply with the documental submittal requirements of this section, upon providing notice of these requirements.

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PRE-PAYMENT CONTROLS

- **<u>Statutory Authority</u> - §14573.7 (con't)**
  - The recycling center which is the subject of the suspension may then request a hearing on the suspension, but the request for a hearing shall not stay the suspension. A hearing requested pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

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PRE-PAYMENT CONTROLS

- **Purpose**

  The application of prepayment controls is to ensure the integrity of the Beverage Container Recycling Fund (Fund) through the prepayment detection, prevention and/or mitigation of adverse impacts to the Fund associated with illicit claims for program payments submitted by certified and registered program participants.

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PRE-PAYMENT CONTROLS

- **Objectives**

1. Ensure all claims for CRV payments are supported by required point of sale documentation (i.e., receipts & logs, daily purchase summaries).
2. Prevent CRV payments from being paid on ineligible materials (i.e., imported empty beverage containers, non-CRV beverage containers, previously redeemed empty beverage containers, and rejected beverage containers).

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PRE-PAYMENT CONTROLS

- **Objectives**

3. Detect reporting anomalies and restrict claims for CRV payments to be made until they can be reviewed and/or validated by the department
4. Restrict designated certified recycling center, dropoff or collection program, Community Service Program or registered curbside program from submitting claims for CRV payment until they can be reviewed and approved by the department.

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PRE-PAYMENT CONTROLS

- **Objectives**

5. Restrict a certified processor's ability to invoice the department for CRV payments until designated shipping reports can be reviewed and approved by the department.
6. Minimize the department's review and approval time for all claims for CRV payments subject to prepayment controls.

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PRE-PAYMENT CONTROLS

- **Scenarios for Imposing Pre-Payment Controls**

1. If violations of the Act/Regulations are found during an inspection, review, audit and/or investigation.
2. If indicators of potential illicit activities are found by the department during the course of a review, inspection, audit and/or investigation of the certified or registered program participants operations, recordkeeping and/or reporting.

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PRE-PAYMENT CONTROLS

- **Scenarios for Imposing Pre-Payment Controls**

3. If the certified and/or registered program participant submits a claims for CRV payment that are not supported by program required records.
4. If CRV payment is being claimed on a loads comprised of ineligible materials (e.g. Previously baled, out-of-state, and scrap).

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PRE-PAYMENT CONTROLS

- **Scenarios for Imposing Pre-Payment Controls**

5. If certified and/or registered participants submit claims for CRV payments with anomalous volumes and/or recordkeeping violations.
6. If the certified and/or registered program participant fails to grant department staff immediate access to the program records, reports, and facility as required by regulations.

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PRE-PAYMENT CONTROLS

➢ Scenarios for Imposing Pre-Payment Controls

7. If the certified and/or registered program participant is subject to pending enforcement and/or administrative action initiated by the department (e.g., revocation or termination of a certificate, accusation, abandoned site, etc.)
8. If the certified and/or registered program participant has been subject to a Notice of Final Agency decision taken by the department.

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PRE-PAYMENT CONTROLS

- **Scenarios for Imposing Pre-Payment Controls**

9. If a newly certified and/or registered program participant is subject to conditions when the application is approved.
10. If a certified and/or registered program participant demonstrates continuous non-compliance with the Act/Regulations.

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PRE-PAYMENT CONTROLS

- **Types of Pre-Payment Controls**
  1. Prepayment Inspection Status (PIS)
  2. Recycler Inspection Program (RIP)
  3. Prepayment Claimed Volume Review & Analysis (CVR)

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DISCUSSION & FEEDBACK

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