

PROPOSED REGULATION TEXT

Responsible Battery Recycling Act Permanent Regulations  
Division of Circular Economy

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY  
CALIFORNIA CODE OF REGULATIONS

Note: All text is added text to title 14, division 7 of the California Code of Regulations.

TITLE 14

DIVISION 7

CHAPTER 11

**ADOPT**

ARTICLE 5: Battery Stewardship Program

**Adopt sections, 18976, 18976.1, 18976.2, 18976.3, 18976.4, 18976.5, 18976.6, 18976.7, 18976.8, 18976.9, 18976.10, 18976.11, 18976.12, 18976.13, 18976.14, 18976.15, and 18976.16. California Code of Regulations, title 14.**

## **ARTICLE 5: Battery Stewardship Program**

### **Section 18976. Definitions**

(a) Except as otherwise noted, the following definitions shall govern the provisions of this Article and supplement the definitions set forth in Chapter 7.5 (commencing with section 42420), Part 3, Division 30 of the Public Resources Code:

(1) “Act” means the Responsible Battery Recycling Act of 2022, Chapter 7.5 of Part 3 of Division 30 of the Public Resources Code (sections 42420 through 42428).

(2) “All administrative and operational costs” as identified in section 42423.1 of the Public Resources Code include all sub-groupings of costs and expenses listed in section 18976.3(g)(1)(B).

(3) “Brand registration date” means the date on which a brand is subject to an approved stewardship plan.

(4) “Chemistry of the covered battery” means the material of a covered battery that was manufactured to produce an electrical charge, including, but not limited to, lithium-ion, nickel-cadmium, nickel-metal hydride, alkaline, and carbon-zinc.

(5) “Common household tools” means tools that are readily available and routinely used by the majority of households, such as slotted and crosshead screwdrivers, paper clips, coins, or hex keys. “Common household tools” do not include hammers, mallets, scissors, pliers, knives, ratchets, saws, chisels, screwdrivers with active U.S. patents, tools that require the use of batteries, electricity, or fuel to power, or tools that require the application of heat, solvents, or significant force to separate a covered battery from a product.

(6) “Confidential proprietary” information shall, exclusively for the purposes of subdivision (e) of section 42424 of the Public Resources Code and section 18976.14(e)(1), only include information that satisfies all the criteria set forth in subparagraphs (A) through (D) of this paragraph:

(A) Commercial or financial.

(B) Privileged or confidential.

(C) Identified as such by the entity providing the information to the department.

(D) Not required to be disclosed under any other law or any regulation.

(7) “Damaged or defective battery” means a battery that is corroded, cracked, broken, leaking, swollen, or bloated, shows burn marks, emitting an odor, missing one or more components, or was identified by the manufacturer as being faulty or flawed for safety reasons, or that has the potential of producing a dangerous evolution of heat, fire, or short circuit.

(8) "Designed to be easily removed from a product by the user of the product, with no more than common household tools" means that the product is manufactured so that covered batteries contained within can be simply and readily removed by a consumer using the product using only common household tools. For example, a battery that is purposefully built into, glued, or otherwise secured within the product by the manufacturer in a manner that requires specialized or proprietary tools or a trained technician to remove is not considered to meet this definition. Conversely, a battery that is marketed to or commonly understood by the general public to be removed from a product by the consumer using common household tools is considered to meet this definition. A battery contained in a product that has a warranty or instructions acknowledging or permitting consumer battery removal using common household tools is also considered to meet this definition.

(9) "DTSC" means the Department of Toxic Substances Control or a successor agency.

(10) "Electronic waste recycler" has the same meaning as "covered electronic waste recycler" pursuant to section 42463 of the Public Resources Code.

(11) "Participant deregistration date" means the date on which a producer that was once subject to an approved stewardship plan is no longer subject to an approved stewardship plan.

(12) "Participant registration date" means the date on which a producer is subject to an approved stewardship plan.

(13) "Permanent collection site" means a fixed location in the state where covered batteries may be dropped off at no cost during regular hours the location is open to the public or a Permanent Household Hazardous Waste Collection Facility as defined by subdivision (h) of section 25218.1 of the Health and Safety Code.

(A) "Regular hours" for retail collection sites that sell covered batteries means the days and hours the business sells covered batteries.

(14) "Recalled battery" means a battery, identified by battery model; serial, batch, or lot numbers, that a producer has determined does not perform as expected or presents a safety hazard, and is listed online as recalled on a website of the producer, the manufacturer, a program operator, or a governmental entity with appropriate jurisdiction.

(15) "Temporary collection site" means a non-permanent collection site location in the state where covered batteries may be dropped off at no cost.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Section 25218.1, Health and Safety Code; sections 42420, 42420.1, 42420.2, 42420.3, 42420.4, 42421, 42421.2, 42422, 42422.1, 42422.3, 42422.4, 42422.5, 42422.6, 42423, 42423.1, 42424, 42424.1, 42424.4, 42425, 42425.1, 42425.2, 42425.3, 42425.4, 42426, 42427, 42428, and 42463, Public Resources Code.

## Section 18976.1. Program Operator Submittals

### (a) Lists of Covered Batteries and Brands

(1) In fulfillment of the list submittal requirements of subdivision (b) of section 42421, subdivision (a) of section 42422.1, and subdivision (f) of section 42424.1 of the Public Resources Code and in accordance with the timelines specified therein, program operator list submittals shall be electronically submitted in a spreadsheet unless the department establishes an electronic database for the submission of this information, then the database shall be used, and include the following information in separate columns:

(A) Names and contact information of each producer participating in the program operators' stewardship plan that sells, distributes for sale, imports for sale, or offers for sale covered batteries in or into the state, including separate columns for:

- (i) Producer name.
- (ii) Contact name and title.
- (iii) Mailing street number and street name.
- (iv) Mailing city.
- (v) Mailing state.
- (vi) Mailing zip code.
- (vii) Physical street number and street name.
- (viii) Physical city.
- (ix) Physical state.
- (x) Physical zip code.
- (xi) Contact phone number.
- (xii) Contact email address.

(B) Each participant registration date.

(C) The brand or brands of the participating covered batteries for each producer.

(D) Each brand registration date.

(E) The covered battery type, primary or rechargeable, which, when combined with the brand indicated in subparagraph (C) of this paragraph, constitutes the combination of brand and covered battery referred to in subdivisions (c) and (d) of section 42425 of the Public Resources Code.

(2) Lists submitted to the department pursuant to this section shall be consistent with the standards set forth for state governmental agencies in section 7405 of the

Government Code and the Web Content Accessibility Guidelines (WCAG) 2.2 published in 2024 by the World Wide Web Consortium at <https://www.w3.org/TR/WCAG22/>. The entirety of the Web Content Accessibility Guidelines (WCAG) 2.2 published in 2024 are incorporated by reference.

(3) A program operator shall provide the department with updates to its list within 60 calendar days of any changes to the information contained in that list. The update shall include a summary statement that identifies changes since the last list submission, including:

(A) The date the updated list is effective.

(B) The names of producers and brands added, and the participant registration dates those producers and brands became registered participants of the stewardship program.

(C) The names of producers and brands removed, and the participant deregistration dates for those producers and brands which are no longer registered participants of the stewardship program.

(4) Failure to meet the requirements of this section constitutes grounds for the department's rejection of the list.

(b) Stewardship Plans

(1) Program operators shall submit stewardship plans electronically to DTSC and to the department. The date of electronic submittal to DTSC shall be considered the date of receipt by the DTSC. The date of electronic submittal to the department shall be considered the date of receipt by the department.

(A) The program operator may elect to proceed with submitting a stewardship plan to the department for review even if it has been less than 150 calendar days since submitting a proposed stewardship plan to DTSC for review, if:

(i) A program operator does not receive a response from DTSC within 90 calendar days after submitting a plan to DTSC for review pursuant to paragraph (3) of subdivision (a) of section 42422.5 of the Public Resources Code; or

(ii) DTSC issues a determination of compliance pursuant to paragraph (4) of subdivision (a) of section 42422.5 of the Public Resources Code.

(2) Upon the submittal of a stewardship plan to the department, a program operator shall make the stewardship plan available to the public by posting the stewardship plan to its internet website. A program operator shall maintain approved stewardship plans on its internet website until a new plan is approved, or the plan expires or is revoked.

(3) Department disapproval of an initial stewardship plan or revised initial stewardship plan submitted by a program operator shall not cause execution of a contingency plan.

(c) Notice of Stewardship Program Implementation Status

(1) Within 12 months of approval by the department of an initial or revised stewardship plan, a program operator shall electronically submit to the department a written notice that demonstrates that it has fully implemented its stewardship program or that explains the program's incomplete implementation. At a minimum, the notice shall contain the following information:

(A) A statement of the program operator's status regarding the implementation of the stewardship program within 12 months of plan approval.

(i) A program operator that has fully implemented its stewardship program shall certify its full implementation of its program.

(ii) A program operator that did not fully implement its stewardship program shall state that its program is not fully implemented, describe the stewardship program activities that are not fully implemented, and identify a timeline to fully implement those stewardship program activities.

(B) A list of producers participating in the stewardship program.

(C) A list of operational collection sites participating in the stewardship program with the same format and information required in section 18976.3(h)(3).

(D) A list of operational service providers involved in the process of managing covered batteries following collection, including, but not limited to, transporters, sorters, consolidation sites, reuse facilities, and recyclers, including the following information:

(i) Business name.

(ii) Mailing and physical address.

(iii) Service(s) provided.

(E) The website address for the program operator's operational website that includes, at a minimum, a list of operational collection sites.

(2) Upon the submittal of a notice of full implementation to the department, a program operator shall make the notice available to the public by, at a minimum, posting the notice to its internet website. A program operator shall maintain a notice of full implementation on its internet website for at least 180 days following submission to the department or upon submission to the next annual report to the department, whichever date is earlier.

(d) Annual Reports

(1) Program operators shall electronically submit annual reports to the department on or before April 15 of each year after department approval of the initial stewardship

plan. The date of electronic submittal will be considered the date of receipt by the department.

(2) Upon the submittal of an annual report to the department, a program operator shall make the annual report available to the public by, at a minimum, posting the annual report to its internet website. A program operator shall maintain an annual report on its internet website until the department notifies the program operator if the annual report is compliant or noncompliant or a revised annual report is submitted to the department and posted on the program operator's internet website.

(3) An annual report submitted to the department and posted online pursuant to this section shall be consistent with the standards set forth for state governmental agencies in section 7405 of the Government Code and the Web Content Accessibility Guidelines (WCAG) 2.2 published in 2024 by the World Wide Web Consortium at <http://www.w3.org/TR/WCAG22/>. The entirety of the Web Content Accessibility Guidelines (WCAG) 2.2 published in 2024 are incorporated by reference.

(4) The department's 120-day annual report review period specified in subdivision (a) of section 42424.4 of the Public Resources Code excludes any duration of time the department takes to consult with DTSC pursuant to subdivision (c) of section 42424.4 of the Public Resources Code, including any time that DTSC takes to review an annual report. The department shall electronically notify the program operator's contact identified pursuant to section 18976.7(b)(1) when the department's review may exceed 120 days from receipt of the annual report due to consultation with DTSC.

(5) The department shall review any proposed stewardship plan modifications or revisions a program operator includes in its annual reports pursuant to subdivision (u) of section 42424.1 of the Public Resources Code and notify the program operator whether it can proceed with implementing the proposed modifications or revisions or if the proposed modifications or revisions require any of the following:

(A) Submission of a revised stewardship plan.

(B) Submission of an amendment to its stewardship plan.

(C) Submission of additional information to corroborate or clarify the proposed stewardship plan modifications or revisions.

(6) The department shall find that an annual report fails to meet the requirements of section 42424.1 of the Public Resources Code and is noncompliant when either of the following occurs:

(A) The program operator omits required information or provides erroneous information that prevents the department from ascertaining, to the extent such a determination could be made by evaluation of a complete and correct annual report provided pursuant to section 42424.1 of the Public Resources Code and section 18976.7, that the program operator is providing free-at-drop-off,

convenient, and safe collection, transportation, recycling, and otherwise proper management of covered batteries.

(B) The program operator provides information pursuant to section 42424.1 of the Public Resources Code and section 18976.7 identifying program deficiencies that, taken as a whole, jeopardize the free-at-drop-off, convenient, and safe collection, transportation, recycling, and otherwise proper management of covered batteries. In reaching its determination, the department shall consider the magnitude and the duration of the deficiency and the likelihood of the program operator's remedial actions to cure the deficiency successfully.

(7) The department shall include in its notification to the program operator, pursuant to section 42424.4 of the Public Resources Code, whether the program operator is required to submit a revised annual report.

(e) Five-Year Stewardship Plan Review

(1) No less than one year prior to a program operator's stewardship plan review deadline, a program operator shall notify the department in writing whether it intends to submit a revised stewardship plan or believes revisions to its stewardship plan are not necessary. The program operator's statement of intention does not bind the program operator from deciding to pursue a different course of action in the future. Prior to notifying the department, the program operator shall engage in a consultative process with the advisory body to receive advice on the implementation of the stewardship plan and any potential updates to the stewardship plan.

(2) If a program operator determines, upon review of its stewardship plan, that revisions to the plan are necessary, it shall electronically submit a revised stewardship plan to the department for review no less than 90 calendar days prior to the review deadline and shall include a cover letter that certifies that it reviewed the entirety of the plan and describes what revisions were made to the stewardship plan compared to its prior stewardship plan.

(3) Upon the submittal of a revised stewardship plan to the department, a program operator shall post the plan to its internet website. A program operator shall maintain approved stewardship plans on its internet website until a new plan is approved, or the plan expires or is revoked.

(4) If a program operator determines upon review of its stewardship plan at least every five years, that revisions are not necessary, it shall electronically submit a letter to the department that includes an explanation of the basis for its determination.

(A) The department shall consult with or submit the program operator's letter for review to DTSC.

(B) The duration of time the department takes for the consultation shall not count toward its 30-day time limit to disapprove the program operator's determination.



(5) Department disapproval of a revised stewardship plan resubmitted by a program operator, or failure to resubmit a revised stewardship plan pursuant to subdivision (c) of section 42422.5 of the Public Resources Code, constitutes grounds for revocation of the stewardship plan pursuant to section 18976.6.

(6) If a program operator determines at any time that proposed stewardship program modifications necessitate amendments to its stewardship plan to achieve the requirements established pursuant to section 42422.1 of the Public Resources Code, but do not warrant an entire revised stewardship plan, it shall electronically submit the proposed plan amendments to the department for review.

(A) Upon the submittal of a stewardship plan amendment to the department, a program operator shall post the plan amendment to its internet website. A program operator shall maintain any approved plan amendments, on its internet website until a new stewardship plan is approved, or the plan, and associated amendments, expire or are revoked.

(B) The department shall approve, disapprove, or conditionally approve the plan amendment in a manner consistent with the review process specified in subdivision (b) of section 42422.5 of the Public Resources Code and provide written notice to the program operator of its decision.

(f) Penalty of Perjury

(1) All documents created and submitted by program operators to the department shall be provided to the department under penalty of perjury. A party who is responsible for the contents of the document shall sign the document and provide the following certification statement: "I am authorized to sign this document by the program operator, I am responsible for its contents, and I hereby declare, under penalty of perjury, that the information provided in this document is true and correct, to the best of my knowledge."

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Sections 7405 and 7920 et seq. Government Code; section 25218.1, Health and Safety Code; sections 42421, 42422.1, 42424.1, 42422.5, 42424, and 42424.4, Public Resources Code.

Section 18976.2. Convenient Collection System

(a) Retail collection sites shall not be required to accept more covered batteries than can fit in a two-gallon container from a single consumer in a single day.

(b) Permanent Household Hazardous Waste Collection Facilities and Temporary Household Hazardous Waste Collection Facilities shall not be required to accept more covered batteries than can fit in a 15-gallon container from a single consumer in a single day.

(c) Collection sites participating in a stewardship program are not required to accept battery-embedded products, non-removable batteries contained in electronic devices, or any other products that are not a “covered battery” as defined in subdivision (d) of section 42420.1 of the Public Resources Code.

(d) For the purposes of demonstrating achievement of the convenient collection system requirements established pursuant to subdivision (d) of section 42422.1 of the Public Resources Code:

(1) The program operator shall satisfy the minimum numeric requirements for collection sites in each county with at least 90 percent of those identified collection sites being permanent collection sites.

(2) Once the minimum numeric requirements for collection sites in each county identified are achieved pursuant to paragraph (1) of this subdivision, the program operator may maintain additional temporary collection sites and the existence of such additional temporary sites shall not affect the percentage calculated pursuant to paragraph (1).

(e) A program operator shall not prohibit collection sites that participate in its stewardship program from also participating as a collection site for another program operator.

(f) A program operator shall not collect covered batteries at a collection site in the same container as another program operator collects covered batteries.

Authority cited: Sections 40401, 40502, 42420.2, and 42420.3, Public Resources Code.  
Reference: Sections 42420.1 and 42422.1, Public Resources Code.

#### Section 18976.3. Stewardship Plans

A program operator shall submit a complete stewardship plan to the department that shall include the information required pursuant to section 42422.1 of the Public Resources Code, and by this Article, including:

(a) Contact Information and Business Organization

(1) Contact information for the corporate officer, or designee, responsible for submitting and overseeing the stewardship plan on behalf of the program operator, including, but not limited to:

(A) Name of the program operator.

(B) Contact name and title.

(C) Mailing and physical address(es).

(D) Telephone number.

(E) Contact email address.

(F) Internet website address.

(2) Contact information for each producer covered by the stewardship plan, consistent with the requirements in section 18976.1(a)(1).

(b) An explanation of how the stewardship organization is organized and the stewardship organization's relationship with related organizations, accompanied by the following supportive documents that verify the stewardship organization's current exemption from taxation under section 501(c)(3) of the federal Internal Revenue Code of 1986:

(1) Ruling or determination letter issued by the Internal Revenue Service to the stewardship organization establishing that it meets the requirements of section 501(c)(3) of the federal Internal Revenue Code of 1986 under which it is claiming an exemption.

(2) Articles of incorporation or organization most recently filed with the California Secretary of State, or the equivalent formation documents filed in the stewardship organization's state of formation.

(3) A list of members of the 501(c)(3) organization.

(4) A list naming the entities which are the stewardship organization's related organizations, as that term is understood pursuant to Schedule R of the Internal Revenue Service Form 990, its instructions, and Instructions for Form 990 Return of Organization Exempt From Income Tax, including entities that are associated or affiliated with the stewardship organization, have control over the stewardship organization, or are controlled by the stewardship organization.

(c) Name and titles of each member of the program operator's board of directors, if applicable.

(d) A description of procedures and requirements established by the stewardship organization for producers to register and deregister with that stewardship organization.

(e) A description of the program operator's audit schedule for participating producers, including the program operator's process to determine which producers to audit, and when to conduct the audits.

(f) Consultation

(1) A summary of the consultative process between the program operator and the advisory body relating to plan development, including:

(A) The dates that meetings with the advisory body were held.

(B) Any written recommendations from the advisory body.

(C) An explanation of how the advisory body's recommendations were considered in the stewardship plan development and incorporated, or not incorporated, in the

stewardship plan, or will be incorporated into subsequent stewardship plans, plan amendments, or annual reports.

(2) A description of how the program operator will engage in a consultative process with the advisory body during implementation of the stewardship plan. At a minimum this includes participating in a meeting with the advisory body at least once per calendar year to receive advice on the implementation of the stewardship plan and any updates or revisions to the plan pursuant to section 42422.3 of the Public Resources Code.

(3) A description of how the program operator will consult with the California Environmental Protection Agency's Environmental Justice Task Force.

(g) Budget

(1) A stewardship program budget for each of the next three calendar years pursuant to paragraph (2) of subdivision (k) of section 42422.1 of the Public Resources Code that contains at a minimum, the following information:

(A) Funding level and anticipated annual revenues sufficient to fully fund and operate the stewardship program in a prudent and responsible manner, including:

(i) A description of how the full funding of the stewardship program is equitably distributed to and funds remitted from participating producers, which shall not include a point-of-sale fee.

(ii) A description of and anticipated amount of annual investment income, if applicable.

(iii) A description of how the program operator will ensure it can fully fund the stewardship program on an ongoing basis in the event of lower than expected revenue or higher than expected expenses, such as by establishing a reserve fund.

(B) Anticipated annual costs to implement the stewardship program, including, at a minimum, separate line items and descriptions of the types of activities relative to each of the following categories:

(i) Program development and planning.

(ii) Administration, personnel, overhead, and state agency administration.

(iii) Operations, including, but not limited to, collection, transportation, sorting, processing, and disposition of covered batteries.

(iv) Education and outreach, including, but not limited to, annual evaluation of the efficacy of the comprehensive statewide education and outreach program.

(v) Technology and equipment.

(vi) Legal and professional services.

(vii) Expenses related to grants, loans, sponsorships, memberships, partnerships, and collaborations, if applicable.

(C) A description of any costs for implementing elements of the stewardship program, including amounts that the program operator requests to share with other program operators, if applicable.

(D) The methodology for calculating the cost of satisfying the program operator's obligations over an initial six-month period in which the contingency plan may be executed, consistent with the requirements in section 18976.4, and the anticipated contingency fund balance calculated by the program operator employing this methodology.

(h) Convenient Collection System

(1) The program operator's affirmation of its obligation to abide by the limits set forth in section 18976.2(a) and (b), its commitment to bind all of its collection sites to those limits, its process for ensuring that collection sites adhere to those limits, and its disciplinary process for collection site non-compliance with those limits.

(2) The program operator's affirmation of its obligation to meet the requirement set forth in section 18976.2(d).

(3) A list of collection sites in a spreadsheet, organized by county, that will be or are collecting covered batteries managed by the program operator, including separate columns for the following information:

(A) Name of business or entity.

(B) Contact name and title.

(C) Contact email address.

(D) Street number and street name.

(E) City.

(F) State.

(G) Zip code.

(H) Latitude.

(I) Longitude.

(J) Identify whether the collection site is a permanent collection site as defined in section 18976(a)(13) or whether it is a temporary collection site as defined in section 18976(a)(15).

(K) Identify whether the collection site is a retailer, household hazardous waste collection facility, or other alternative collection systems, such as those described in section 25218.1 of the Health and Safety Code, collection events, large quantity collection program, consumer mail-back, or other collection mechanism.

(L) Days and hours that covered batteries will be or are collected.

(4) A list of potential collection sites that were notified of the opportunity to serve as collection sites for the proposed stewardship program, and the method by which each potential collection site was notified.

(5) A description of the reasons for excluding any potential collection site that requested to participate, if applicable.

(6) A description of how collection sites will be spread throughout counties to facilitate widespread access and convenience pursuant to paragraph (3) of subdivision (d) of section 42422.1 of the Public Resources Code.

(7) A description and list of any alternative covered battery collection systems offered by the program operator, such as the household hazardous waste collection program types defined in section 25218.1 of the Health and Safety Code (e.g., curbside household hazardous waste collection programs, door-to-door household hazardous waste collection programs, mobile household hazardous waste collection facilities), collection events, large quantity collection program, consumer mail-back, or other collection mechanisms.

(8) A description of the rules and conditions that the program operator requires of participating collection sites, including how the program operator will judge whether a collection site has sufficient staff and resources to comply reliably, and how the program operator will ensure personnel at collection sites are properly trained to handle covered batteries.

(9) A description of the containers that the program operator provides to collection sites to collect covered batteries, including container capacity, and how the collection containers facilitate the safe collection and proper management of covered batteries.

(10) A description of the program operator's procedure for how covered batteries will be handled at collection sites, including, but not limited to, inspecting covered batteries, taping terminals, and other means of properly handling covered batteries.

(11) A description of the process for collection sites to schedule a pick-up of their collection containers, including an explanation of how service schedules were determined to ensure that collection sites do not exceed capacity, and procedures to be followed if capacity is reached.

(12) A description of how the program operator will train collection sites to identify batteries, including batteries that are not required to be collected under the Act, such as damaged and defective batteries, and recalled batteries that are, at the time of the

recall, no longer considered covered batteries. The description shall include examples of the information the program operator will provide to collection sites to provide to consumers on how and where to manage any batteries that the collection site refuses to accept, including:

(A) Instructions on how to identify and manage recalled batteries.

(B) The closest location(s) at which the program operator has confirmed accepts damaged or defective batteries and has approved the program operator directing consumers to take damaged or defective batteries.

(13) A description of how the program operator will ensure that data and metrics for covered battery activities are kept separate from data and metrics for non-covered battery activities, if any collection sites participating in the stewardship program will also collect non-covered batteries, such as electronic waste recyclers, electronic waste dismantlers, and community-based organizations.

(i) Management of Covered Batteries

(1) A description of the planned transportation, sorting, and processing infrastructure that is necessary and proper for the program operator to carry out the duties required by the Act and this Article, including the following information:

(A) The name and contact information of transporters that will be transporting covered batteries from collection locations.

(B) The name, address, and contact information of recycling facilities that process the collected covered batteries.

(C) The name, address, and contact information of any other service providers involved in the management of covered batteries, including sorting, and proper disposal.

(2) A description of the materials that will be recovered from recycled covered batteries for use in new products that will use postconsumer covered battery content, including examples of products that use recycled covered battery materials.

(3) A description of how covered battery residual materials that cannot be recycled will be managed.

(4) The methodology and information the program operator will use to determine and calculate the total weight and number of covered batteries sold in or into the state attributed to a producer participating in the program operator's plan, that are collected in the state and recycled by the program operator each year.

(5) A description of how the program operator will track and calculate the weight of covered batteries collected, and covered battery components recycled, or managed via any other disposition method.

(6) A description of how the program operator will ensure that the collection, transportation, and processing infrastructure it utilizes maintains compliance with national and sub-national law, including the laws of jurisdictions within and outside of the United States, including those that require permits, licenses, and other clearance.

(7) A description of the program operator's compliance audit schedule for service providers involved in the transportation and processing of covered batteries, including which service providers it will audit and on what frequency.

(j) Education and Outreach

(1) A description of how the program operator will ensure that its internet website is designed with functionality for mobile platforms and maintained to ensure all information is up to date and accurate. The internet website shall include, but is not limited to, the following:

(A) Collection site addresses.

(B) Collection site telephone numbers.

(C) Collection site days and hours of operation.

(D) Addresses of locations in the state that accept damaged or defective batteries.

(E) Limits on the number of covered batteries to be deposited by a single consumer in a single day.

(F) Information and instructions for properly managing recalled batteries.

(2) Program operator's telephone number for consumers to call to locate covered battery collection sites and learn other stewardship program information.

(k) Labeling

(1) A description of how the program operator will ensure that beginning January 1, 2031, all participating producers' covered batteries and packaging for covered batteries are marked with labeling in a conspicuous manner that is visible to consumers to ensure proper collection and recycling, including the following information:

(A) The brand name of the covered battery.

(B) The chemistry of the covered battery or the standard abbreviation for the chemistry of the covered battery.

(C) An indication that the battery must be recycled or disposed of properly.

(2) A description of how the program operator proposes to coordinate with other program operators to develop strategies to implement proper labeling of covered batteries.



(3) A description of how the program operator will notify participating producers of the labeling requirements, and the activities the program operator will require of its participating producers to meet the January 1, 2031, labeling requirements.

(4) A commitment to remove any producer from participating in the stewardship program within 30 calendar days of identifying or learning that a participating producer is not complying with the labeling requirements, subject to the program operator's procedures and requirements pursuant to paragraph (2) of subdivision (a) of this section.

(l) DTSC Determinations

(1) Include all determinations, if any, provided to the program operator by DTSC based on its review of the proposed stewardship plan.

(2) If DTSC did not respond to a request for review within 90 calendar days of receipt of the stewardship plan, the program operator shall include in its stewardship plan documentation of its request and a written certification, signed by a representative of the program operator, that, at the time of submittal to the department, the stewardship plan is consistent with all laws and regulations relevant to DTSC's authority, and DTSC did not respond within 90 calendar days of receipt of the stewardship plan.

(m) A contingency plan that meets the requirements in subdivision (q) of section 42422.1 of the Public Resources Code and section 18976.4.

(n) Acknowledge that the stewardship plan objectives are the collection and recycling of covered batteries and compliance with the Act and this Article.

(o) Authorize the trustee or entity to develop and implement, subject to department approval, adaptive management strategies to ensure that the stewardship plan objectives are met if specific plan elements conflict with the achievement of the plan objectives while the contingency plan is being executed.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Section 501, Internal Revenue Code; section 25218.1, Health and Safety Code, section 7405, Government Code; sections 42422.1, 42422.3, and 42422.4, Public Resources Code.

Section 18976.4. Contingency Plans

(a) The contingency plan shall include the following information:

(1) Pertaining to the trustee or entity that will implement the contingency plan if executed, including:

(A) Primary and secondary contact names, contact information, and affiliations.

(B) A description of the credentials, qualifications, requisite industry knowledge, financial experience, and skill in contract administration that will enable the

trustee or entity to be capable of fully executing all duties required by the Act, this Article, and the contingency plan.

(C) A description of how the program operator's agreement with the trustee or entity empowers it to satisfy the obligations of the program operator and implement the contingency plan.

(D) A scope of work that includes a description of how the trustee or entity will perform its responsibilities.

(E) A description of how the trustee or entity will facilitate the transfer of program implementation to successor program operators, or the successor trustee or entity.

(F) A description of how the trustee or entity will receive payment for its services.

(2) A statement certifying that all contracts are fully assignable to and assumable by the trustee or entity and fully assignable by the trustee or entity to successor program operators or successor trustees or entities, including standard contract provisions that the program operator will use to enable assignability and ability to be assumed.

(3) The program operator's acknowledgement that the department is both the trust protector for the trust identified in this contingency plan and the beneficiary of the trust and an explanation of how it will give effect to these roles in its preparation and implementation of contingency planning activities and documents, including trust documentation developed by the program operator.

(4) The names, roles, and responsibilities of key entities affected by or who have responsibilities pursuant to the initiation of the contingency plan, including, but not limited to, producers, collection sites, recycling service providers, intermediate supply chain entities, and contractors supporting the program operator's implementation of its stewardship plan, such as transportation contractors, including:

(A) A description of the program operator's plans for communicating with key entities necessary for activation and carrying out the contingency plan and directing communications to the trustee or entity and the department.

(5) A description of the letter of credit maintained by the program operator, including identification of the institution issuing the letter and the value of the credit extended to the program operator, if the contingency plan is not fully funded until 36 months of the department's first approval of the program operator's stewardship plan.

(6) Documentation that demonstrates that the program operator has created and will maintain, in the manner specified herein, a contingency fund in a trust account, that is dedicated solely to satisfying the obligations of the program operator during the

time the contingency plan is being executed, will exist continuously through to the transfer of the account to the trustee, and is maintained separately from the program operator's other accounts:

(A) Providing at all times from 36 months of the department's first approval of the program operator's stewardship plan for the full funding of the activities necessary to carry out the program operator's obligations described in the stewardship plan during at a minimum, the initial six-month period in which the contingency plan may be executed.

(B) Into which all other unexpended funds of a stewardship organization shall be deposited in the event the contingency plan is executed.

(C) That identifies the department as the beneficiary and as the authorized entity to provide direction to the trustee or entity and authorized to remove and replace a trustee or entity at its discretion.

(7) An explanation of how the program operator will provide the department and the trustee or entity with all necessary documents and information pursuant to paragraph (7) of subdivision (b) of this section, including a list of the types of documents and information that will be provided.

(8) An explanation of how the contingency plan will self-execute:

(A) Five business days after the revocation of the program operator's stewardship plan, or

(B) On the termination date specified in the department's decision letter accepting the program operator's notice of intent to terminate a stewardship plan.

(9) A stewardship organization's contingency plan operations budget, which details the money the stewardship program will retain and not transfer to the trustee upon the self-execution of the contingency plan but will instead be used by the stewardship organization to fulfill its obligations in furtherance of the contingency plan that arises after the contingency plan is activated.

(10) A description of the program operator's bookkeeping process, including its identification of the dates on which it closes its books.

(b) The program operator shall:

(1) Ensure that all its contracts and other agreements are assignable to and assumable by the trustee or entity, assignable by the trustee or entity to successor program operators and successor trustees or entities, and assignable to and assumable by successor program operators or successor trustees or entities.

(2) Maintain evidence that demonstrates, at any given time from 36 months of the department's first approval of its stewardship plan to the transfer to the trustee or entity that the current contents of the contingency fund can fully satisfy the program operator's obligations during the initial six-month period in which the contingency plan may be executed. Such evidence shall:

(A) Include financial modeling that assures fund solvency through the initial six-months of contingency plan execution, based on current program activities and most recent cost and revenue data.

(B) Be provided to the department in annual reports and within 30 business days upon the request of the department.

(3) Notify the department of any of the following circumstances at the time specified:

(A) Immediately upon discovery that the current contents of the contingency fund are insufficient to support the estimated cost to fulfill the program operator's obligation over the initial six-months in which the contingency plan may be executed.

(B) No more than five business days after the program operator determines that the trustee or entity is temporarily or permanently unwilling or unable to carry out its obligations under the contingency plan.

(4) Immediately deposit an amount that will establish contingency fund solvency if the program operator finds at any time from 36 months of the department's first approval of the program operator's stewardship plan to the transfer to the trustee or entity that the contingency fund is underfunded or upon written direction from the department due to the department finding the contingency fund is underfunded.

(5) Upon the program operator's first close of books after transmitting its notice to terminate or receiving the department's notice of intended revocation, and each month thereafter until the cessation of program operator status, provide the department with the following:

(A) Most recent accounting books and financial records, including its general ledger and bank statements.

(B) Records maintained for the purpose of complying with the Act and this Article.

(6) Upon self-execution of the contingency plan, carry out all actions assigned to it under the contingency plan, unless directed otherwise in writing by the department.

(7) Provide the department and the trustee or entity with all records necessary to execute the contingency plan, including contract and agreement records, preliminary accounting and balance of the contingency fund and other accounts relevant to the

California program, and contact information for key entities. Records shall be provided by the following deadlines:

(A) Where the contingency plan is being executed due to plan revocation, no later than five business days after plan revocation.

(B) Where the contingency plan is being executed due to plan termination, on the established termination date.

(8) Immediately upon self-execution of the contingency plan:

(A) A stewardship organization shall transfer the contingency fund, complete with all unexpended funds held by the California program except those monies that comprise the program operator's 30-day transfer budget, possess a receipt confirming the transfer, and provide a complete accounting of the fund balance, along with accounts payable and receivable. Thereafter, the program operator shall provide to the department and trustee or entity any additional information concerning the plan received by the program operator.

(B) A program operator that is not a stewardship organization, as defined by subdivision (q) of section 42420.1 of the Public Resources Code, shall transfer its contingency fund and provide a complete accounting of the fund balance, along with accounts payable and receivable. Thereafter, the program operator shall provide to the department and trustee or entity any additional information concerning the plan received by the program operator.

(C) The program operator shall assign all third-party contracts to the trustee or entity contemporaneously with the transfer of the contingency fund.

(c) The trustee or entity shall:

(1) Notify the department immediately upon determining that it is temporarily or permanently unable or unwilling to implement its obligations under the contingency plan.

(2) Receive the contingency fund on the effective date of the contingency plan execution and administer it thereafter.

(3) As appropriate, assume or accept the assignment of all program operator contracts and agreements.

(4) Implement the program operator's most recent stewardship plan, including any adaptive management strategies of the plan, if applicable.

(A) Propose adaptive management strategies to the department for its approval and implement them once approved.

(5) Upon written request, immediately provide to the department records necessary to determine compliance with the Act and this Article. At the department's option, records shall be provided either by allowing physical access to the department or other duly authorized regulatory agency or by submitting them to the department by electronic means.

(6) Meet weekly as required by the department, to discuss the administration of the contingency plan.

(7) Submit an annual report to the department that contains the information required by section 42424.1 of the Public Resources Code and section 18976.7.

(8) Oversee the dissolution of the trust or escrow account and settle the obligations of the trust or escrow account if the trustee or entity and the department concur that funds are insufficient to continue the implementation of the contingency plan or if the department exercises its discretion not to continue the contingency plan.

(9) Transfer all responsibilities to a successor program operator or program operators, or successor trustee or entity and assign all contracts and agreements to the appropriate entity upon direction of the department. A successor program operator shall retain the right to renegotiate or terminate contracts and agreements as it deems necessary to implement its plan.

(d) The department is authorized to:

(1) Advise a trustee or entity.

(2) Dismiss a trustee or entity if it fails to effectively carry out the stewardship plan objectives or fails to comply with all applicable laws and regulations.

(3) Appoint a trustee or entity upon its dismissal of a trustee or entity or the trustee's or entity's inability to serve.

(4) Request and review all records necessary to determine compliance with the Act and this Article.

(5) Review and approve, if warranted, written requests from the trustee or entity to implement adaptive management strategies pursuant to the program operator's previously approved plan, if the plan's objectives cannot be met without adaptive management strategies.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Sections 42424.1, 42425.2, 42422.1, 42420.1, and 42420.4, Public Resources Code.

### Section 18976.5. Stewardship Plan Termination

- (a) A plan expires when the plan is terminated by the program operator.
- (b) A program operator can terminate its stewardship plan by proposing an expiration date and complying with this section.
- (c) No fewer than 180 calendar days prior to the program operator's proposed expiration date of the stewardship plan, the program operator shall electronically submit a proposal to the department containing the following information:
  - (1) The proposed effective date of plan expiration, including a description of why the effective date is appropriate.
  - (2) The program operator's reason for proposing to terminate its stewardship plan.
  - (3) A detailed description of:
    - (A) How the program operator will implement the stewardship plan until the proposed effective date of plan expiration.
    - (B) Thereafter, how the trustee or entity will meet the requirements pursuant to subdivision (b) of section 42425.2 of the Public Resources Code.
  - (4) An explanation of the program operator's outstanding obligations to the department and its service providers and how it will fulfill these obligations prior to the proposed effective date of plan expiration, including:
    - (A) When the program operator will execute its communication plan and notify key entities of its decision to terminate the stewardship plan, including, but not limited to, producers, collection sites, recycling service providers, intermediate supply chain entities, and contractors supporting the program operator's implementation of its stewardship plan.
    - (B) A statement addressing whether the program operator intends to dissolve, and, if the program operator does intend to dissolve, the program operator shall include the planned milestones for its dissolution and its anticipated timing for those milestones.
- (d) The program operator's proposal shall be considered received on the date it is transmitted if the day of transmission is a business day. If transmitted on a day other than a business day, the date of receipt shall be the first business day following the date of transmission.
- (e) Within 45 calendar days of the department's receipt of the program operator's proposal, the department shall review the proposal and accept the program operator's request for termination and establish the program operator's expiration date unless the department finds that the proposal does not include information sufficient to determine that the program will be transferred in an orderly manner to the trustee in a condition

that will allow the contingency plan to function effectively. If the department does not approve the proposal, it shall notify the proposing program operator of the deficiencies in the proposal and direct the program operator to revise its proposal accordingly.

(f) A program operator shall notify the department 30 calendar days prior to each of the following actions:

(1) Its board of directors or membership holds a vote concerning the dissolution of the organization.

(2) The program operator seeks a waiver concerning dissolution from the California State Attorney General or the Attorney General of the state in which the program operator is incorporated or organized.

(3) The program operator files documents related to dissolution with the California Secretary of State or any other government agency, including tax authorities providing tax clearances and governmental agencies in the state in which the program operator is incorporated or organized.

(g) A program operator shall notify the department immediately of a successful vote in favor of dissolution of the program operator.

(h) The program operator shall meet at least monthly with the department to ensure that the actions described in the program operator's proposal pursuant to subdivision (c) of this section are being carried out appropriately. If the department determines that, as a result of the program operator's actions or inaction, it is unlikely that the stewardship program will be transferred to the trustee or entity in a condition that will allow the contingency plan to function effectively, the department shall void the plan expiration date. Upon the voiding of the expiration date, the department shall direct the program operator:

(1) To revise the expiration date and submit it for approval without the resubmission of the termination proposal.

(2) To submit a new notice, following the process identified in subdivision (b) of this section, that addresses the requirements of that subdivision and provides for the orderly transfer of the program to the trustee or entity in a condition that will allow the contingency plan to function effectively. The department shall review the proposal and respond to the program operator as specified in subdivision (e) of this section.

(i) The program operator's stewardship plan will terminate on the established expiration date unless the expiration date is voided. Notwithstanding that termination, the provisions of the stewardship plan that detail the program operator's responsibilities to implement the contingency plan shall remain in effect and, after the expiration of its stewardship plan, the program operator shall continue to implement its responsibilities



under its contingency plan until it ceases to be a program operator pursuant to subdivision (k) of this section.

(j) On the established expiration date, the program operator shall provide a written electronic notice to the department that it has completed its contingency plan obligations and request the cessation of its program operator status. The notification shall include, but is not limited to, the following documents:

(1) Asset inventory and disposition.

(2) Liabilities.

(3) A report meeting the requirements for an annual report pursuant to section 18976.7, but with a scope spanning from the end of its last completed annual report to the expiration date.

(4) An independent financial audit, including all working papers and supporting documentation, meeting the requirements for the annual financial audit pursuant to section 18976.7(j)(1), but with a scope spanning from the end of its last completed annual audit to the expiration date.

(5) A letter from the trustee or entity attesting to the program operator's completion of its obligations under the contingency plan.

(k) Within 30 calendar days of the request of cessation pursuant to subdivision (j) of this section, the department shall issue a response to the program operator accepting the program operator's request for cessation of program operator status or denying the request because the program operator has failed to satisfy its obligations under the Act or the contingency plan, or because an audit is necessary to determine compliance with the Act. Upon the issuance of the department's letter accepting the program operator's request, the program operator shall cease to be a program operator, except as specified under subdivision (l) of this section.

(l) Entities that were formerly program operators remain:

(1) Liable under the Act as program operators for violations and civil penalties arising from conduct that occurred prior to the cessation of their program operator status.

(2) Financially responsible as program operators to the department and DTSC for their costs arising from program operator conduct that occurred prior to the cessation of their program operator status.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Sections 42425.2, and 42422.1, Public Resources Code.

## Section 18976.6. Stewardship Plan Revocation and Cessation of Program Operator Status

- (a) Notwithstanding the revocation of its stewardship plan, the program operator shall continue to implement its responsibilities under its contingency plan from the date of revocation until it ceases to be a program operator pursuant to subdivision (c) of this section.
- (b) Within 10 calendar days after the stewardship plan's revocation date, the program operator shall provide a written electronic notice to the department that it has completed its contingency plan obligations and request the cessation of its program operator status. The notification shall include, but is not limited to, the following documentation:
- (1) Asset inventory and disposition.
  - (2) Liabilities.
  - (3) A report meeting the requirements for an annual report pursuant to section 18976.7, but with a scope spanning from the end of its last completed annual report to the revocation date.
  - (4) An independent financial audit, including all working papers and supporting documentation, meeting the requirements for the annual financial audit pursuant to section 18976.7(j)(1), but with a scope spanning from the end of its last completed annual audit to the revocation date.
  - (5) A letter from the trustee or entity attesting to the program operator's completion of its obligations under the contingency plan.
- (c) Within 30 calendar days of the request of cessation pursuant to subdivision (b) of this section, the department shall issue a response to the program operator accepting the program operator's request for cessation of program operator status or denying the request because the program operator has failed to satisfy its obligations under the Act or the contingency plan, or because an audit is necessary to determine compliance with the Act. Upon the issuance of the department's letter accepting the program operator's request, the program operator shall cease to be a program operator, except as specified under subdivision (d) of this section.
- (d) Entities that were formerly program operators remain:
- (1) Liable under the Act as program operators for violations and civil penalties arising from conduct that occurred prior to the cessation of their program operator status.
  - (2) Financially responsible as program operators to the department and DTSC for their costs arising from program operator conduct.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.  
Reference: Sections 42422.1, 42425.2 and 42424, Public Resources Code.

### Section 18976.7. Annual Reports

Annual reports shall include the information required by section 42424.1 of the Public Resources Code and the following:

(a) An executive summary of the annual report that includes the highlights of the year, the weight of covered primary and rechargeable batteries collected, respectively, the weight of covered primary and rechargeable batteries recycled, respectively, the covered primary and rechargeable battery recycling efficiency rates achieved, respectively, and a statement regarding whether the convenience requirements in subdivision (d) of section 42422.1 of the Public Resources Code were achieved.

#### (b) Contact Information and Business Organization

(1) Contact information for the corporate officer, or designee, responsible for submitting the annual report on behalf of the program operator consistent with the requirements in section 18976.3(a)(1).

(2) Contact information for each producer covered by the stewardship plan, consistent with the requirements of section 18976.1(a)(1).

(3) A description of any changes to the corporate organization of the stewardship organization, as compared to its most recent annual report, or, if there is no preceding annual report, the stewardship plan.

(4) The names of the stewardship organization's disregarded entities, related organizations, and unrelated organizations, as those terms are understood in sections 501(c), 527, and 4947(a)(1) of the Internal Revenue Code, Instructions for Schedule R and the Form 990 instructions issued by the Internal Revenue Service, and the nature of the stewardship organization's relationship with the entities or organizations.

(5) The names of the program operator's corporate membership and the name and titles of each member of the program operators' board of directors, if applicable.

#### (c) Advisory Body Consultation Summary

(1) A summary of advisory body consultation activities, including, but not limited to:

(A) The dates that meetings were held with the advisory body pursuant to section 42422.4 of the Public Resources Code and section 18976.3(f).

(B) Any written recommendations provided by the advisory body.

(C) An explanation of how the advisory body's recommendations were considered, and incorporated, or not incorporated, into the annual report.

(d) Financing Mechanism

(1) Total annual revenue, including, but not limited to, the following:

(A) Revenue collected from participating producers.

(B) A description of and amount of investment income or losses, if applicable.

(C) A description of and amount of revenue that was not obtained directly from producers and the source of that revenue.

(2) A description of changes to the methodology for equitable distribution of the stewardship program costs among producers, or a statement affirming that no changes were made.

(3) A description of any proposed changes to the upcoming year's budget allocations and an explanation of the reasons for the changes.

(4) All administrative and operational costs incurred to implement the stewardship program, including, at a minimum, separate line items and descriptions of the activities relative to each of the cost categories identified in section 18976.3(g)(1)(B).

(5) A description of and amount of costs that the program operator shared with other program operators, if applicable.

(6) The calculated cost of satisfying the program operator's obligations over an initial six-month period in which the contingency plan is executed.

(7) The contingency fund balance.

(e) Convenient Collection System

(1) A description of the training provided to collection sites, including the following:

(A) Education on the limit of covered batteries that can be deposited at a single collection site by a single consumer in a single day, as identified in section 18976.2(a) and (b).

(B) Training on how to identify non-covered batteries, including damaged, defective, and recalled batteries.

(C) A copy of the training materials and the website address, if applicable, where the training materials are available.

(2) A list of collection sites participating in the stewardship program during the reporting period, organized by county, consistent with the requirements in section 18976.1(c)(1)(C), as well as columns that identify the date each site began accepting

covered batteries, and, if applicable, any dates any permanent collection site was not accepting batteries.

(3) A description of how the convenience requirements were met pursuant to subdivision (d) of section 42422.1 of the Public Resources Code and section 18976.2(d), including the following:

(A) A description of the program operator's efforts to ensure that retailers with five or more locations in California were aware of the requirement that they make all locations serve as permanent collection sites.

(B) The number of collection sites in each county.

(C) The number of collection sites per applicable population increment in each county, based on the California Department of Finance's most recently reported annual data.

(D) The percentage of collection sites in each county that are permanent collection sites.

(E) A description of how collection sites are spread throughout each county to facilitate widespread access and convenience and an explanation of whether this spread met or did not meet the program operator's commitment in its plan pursuant to section 18976.3(h)(6).

(F) A statement identifying any dates during the reporting period when the program operator did not have the required number of sites in any county.

(4) If the convenience requirements pursuant to subdivision (d) of section 42422.1 of the Public Resources Code and section 18976.2(d) were not met in any county, describe efforts made to achieve compliance.

(f) Management of Covered Batteries

(1) The total weight of covered primary batteries recycled, and the total weight of covered rechargeable batteries recycled, respectively.

(2) The total weight of covered primary batteries managed via each other disposition method, and the total weight of covered rechargeable batteries managed via each other disposition method, respectively.

(3) A list of the transportation, sorting, and processing infrastructure used during the reporting period, in the manner provided in section 18976.3(i)(1).

(4) A description of the residual materials from covered batteries that were not recycled, including an explanation for why recycling was not economically or technically feasible, and how the residual materials were managed.

(5) A description of the steps the program operator took to ensure the processing facilities it utilizes maintained compliance with all national and sub-national laws, including the laws of jurisdictions within and without of the United States, including permits, licenses and other clearances.

(g) Education and Outreach

(1) Numerical results using the metrics identified in the stewardship plan compared with the goals identified in the stewardship plan to determine the success of the statewide education and outreach program pursuant to paragraph (5) of subdivision (o) of section 42422.1 of the Public Resources Code.

(2) A description of any adjustments to outreach strategies to maximize participation in the stewardship program.

(3) A description of efforts to support participation in the stewardship program by all California communities, including to communicate with consumers in languages other than English, and a list of languages in which outreach materials are available.

(4) Representative examples of outreach materials provided to consumers, collection sites, manufacturers, distributors, and retailers that are illustrative of the program operator's education and communications strategy.

(h) Labeling

(1) For annual reports covering reporting periods before January 1, 2031, include:

(A) A description of participating producer activities required by the program operator towards meeting the January 1, 2031, labeling requirements pursuant to subdivision (p) of section 42422.1 of the Public Resources Code and section 18976.3(k).

(B) A description of coordination efforts with other program operators to develop and implement proper labeling of covered batteries.

(2) For annual reports covering reporting periods starting on and after January 1, 2031, include a description of how the program operator ensured producers participating in its stewardship program have implemented proper labeling of covered batteries, packaging for covered batteries, and consumer product packaging sold with or containing covered batteries in a conspicuous manner that is visible to consumers.

(i) Reports

(1) A description of any reports, including, but not limited to, research, studies, pilot programs, testing, and evaluations relevant to the stewardship program produced by the program operator, or another entity on behalf of the program operator, pursuant to subdivision (s) of section 42424.1 of the Public Resources Code, including the following information:

(A) The purpose of the report and a brief explanation of how the activities are expected to benefit the stewardship program.

(B) The program operator's website address where the report is publicly available free of charge.

(C) An explanation of whether any report was redacted and justification for redacting information.

(2) A statement regarding whether the program operator submitted any reports to the department that include claimed non-disclosable information following the procedures outlined in sections 18976.15.

(j) Audits

(1) An independent audit of the program operator conducted in accordance with Generally Accepted Auditing Standards in the United States of America pursuant to subdivision (c) of section 42424 of the Public Resources Code. The Certified Public Accountant shall not perform non-audit services for the program operator or engage in any activities that could affect impartiality. The independent financial audit shall include:

(A) Stewardship program financial statements, as required by Generally Accepted Accounting Principles, including financial statements specific to the California program.

(B) An opinion on the program operator's compliance with the financial aspects of the Act and this Article.

(C) Findings and recommendations related to the financial aspects of the California stewardship program.

(D) Management Letter, if issued by the program operator's Certified Public Accountant.

(2) A description of the compliance audits conducted by the program operator or on behalf of the program operator of participating producers and service providers, including:

(A) The number of audits conducted.

(B) The purpose of the audits.

(C) Changes to the frequency of the audits, if applicable.

(3) The department shall have full access to any compliance audit reports upon request.

(k) Proposed Stewardship Plan Modifications or Revisions

(1) A description of any proposed modifications or revisions the program operator proposes to make to its stewardship plan subject to department review pursuant to section 18976.1(d)(5), including, but not limited to, any updates to rules and conditions required of participating collection sites, including the following:

(A) The proposed timing for implementation of the modifications or revisions.

(B) An explanation of how the modifications or revisions are intended to achieve the requirements of section 42422.1 of the Public Resources Code.

(l) Contingency Plan Updates

(1) Any updates to the names, roles, and responsibilities of key entities affected by or who have responsibilities pursuant to the initiation of the contingency plan required pursuant to subdivision (q) of section 42422.1 of the Public Resources Code and section 18976.4, including, but not limited to, producers, collection sites, transportation contractors, recycling service providers, intermediate supply chain entities, and contractors supporting the program operator's implementation of its stewardship plan.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Sections 42422.1, 42424.1, 42422.3, 42420, and 42422, Public Resources Code.

Section 18976.8. Record Keeping

(a) A producer, program operator, stewardship organization, manufacturer, distributor, retailer, importer, recycler, and collection site shall maintain records and make them available to the department for inspections and audits to demonstrate compliance with the requirements in the Act and this Article.

(b) The department, including its authorized employees, and agents authorized by and acting on behalf of the department, shall be allowed, as part of its inspections and audits, to enter the premises and to access all records of any entity subject to this Article during normal working hours. The department shall review and copy any records it deems necessary for inspections or audits. If the department specifies that the records are to be sent by priority certified mail, those records shall be mailed in that fashion by the entity subject to the request. If the department directs that the records are to be sent by electronic submission, the entity to whom the request is directed shall send the records to the e-mail address identified in the request.

(c) A producer, program operator, stewardship organization, manufacturer, distributor, retailer, importer, recycler, or collection site's failure to provide the department with access to or maintain records constitutes grounds for the department to impose civil penalties and take disciplinary action.



(d) Documentation program operators maintain shall include, but is not limited to, the following:

(1) Minutes, books, and records that clearly reflect the activities and transactions of the program operator's stewardship program.

(2) Records sufficient to identify all entities that collect, transport, ship, or recycle the covered batteries deposited in the program operator's collection containers, and the timeframes during which those activities occurred. Records may include, but are not limited to, bills of lading, manifests, or other documentation that trace the custody and transfer of covered batteries.

(3) Records sufficient to identify the transport or shipment of covered batteries and covered battery residuals to entities other than recyclers.

(4) Permits, licenses, clearances, or other information, including inspection reports, documenting compliance and noncompliance, as applicable, with its stewardship plan and national and subnational laws, including the laws of jurisdictions within and without of the United States.

(5) Records of complaints, penalties, or violations taken against the program operator.

(6) Copies of audits pursuant to section 18976.7(j).

(e) Documentation covered battery retailers maintain shall include, but is not limited to:

(1) Records sufficient to identify the producer of the covered batteries sold or offered for sale by the retailer, unless the retailer claims to be the producer of the covered batteries sold. If the retailer claims to be the producer of the covered batteries sold, records sufficient to justify the claim are instead necessary.

(2) Records sufficient to identify the date(s) and the entity from which the retailer purchased the covered batteries.

(3) A copy of the certification letter issued by the department pursuant to subdivision (b) of section 42425 of the Public Resources Code, to the producer of a covered battery sold or offered for sale by the retailer if that producer is compliant with the Act but is not listed on the department's internet website as compliant.

(f) Documentation covered battery importers maintain shall include, but is not limited to:

(1) Records sufficient to identify the producer of the covered batteries imported in or into the state, unless the importer claims to be the producer of the covered batteries imported. If the importer claims to be the producer of the covered batteries imported, records sufficient to justify the claim are instead necessary.

(2) Records sufficient to identify the date(s) the covered batteries were imported in or into the state.

(3) Records sufficient to identify the entity to which it transfers title and the entity that transfers title to the importer.

(4) Records sufficient to identify the owner and the purchaser at the time of import.

(5) A copy of the certification letter issued by the department pursuant to subdivision (b) of section 42425 of the Public Resources Code, to the producer of a covered battery imported in or into the state by the importer, if that producer is compliant with the Act but is not listed on the department's internet website as compliant.

(g) Documentation covered battery distributors maintain shall include, but is not limited to:

(1) Records sufficient to identify the producer of the covered batteries distributed, unless the distributor claims to be the producer of the covered batteries distributed. If the distributor claims to be the producer of the covered batteries distributed, records sufficient to justify the claim are instead necessary.

(2) Records sufficient to identify the date(s) and the entity from which the distributor received the covered batteries.

(3) Records sufficient to identify the date(s) and the entity to which the covered batteries were distributed.

(4) A copy of the certification letter issued by the department pursuant to subdivision (b) of section 42425 of the Public Resources Code, to the producer of a covered battery distributed by the distributor, if that producer is compliant with the Act but is not listed on the department's internet website as compliant.

(h) Documentation covered battery producers maintain shall include, but is not limited to:

(1) Records sufficient to identify the date(s) the producer sold or distributed for sale the covered batteries in or into the state.

(2) Records sufficient to identify the entity to which the producer sold or distributed the battery for sale.

(3) A copy of the certification letter issued by the department pursuant to subdivision (b) of section 42425 of the Public Resources Code, to the producer of a covered battery if that producer is not listed on the department's internet website as compliant.

(i) Documentation covered battery recyclers maintain shall include, but is not limited to:

- (1) Records sufficient to identify the entity from which the recycler received the covered batteries.
- (2) Records sufficient to identify the date(s) on which the covered batteries were received.
- (3) Records sufficient to identify the weight of covered batteries the recycler received.
- (4) Records sufficient to identify the weight of residuals from processing the covered batteries.
- (5) Records sufficient to identify the weight of materials recycled from processing the covered batteries.
- (6) Permits, licenses, or other clearances sufficient to demonstrate compliance with national and sub-national laws, including the laws of jurisdictions within and without of the United States.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.  
Reference: Sections 42422.1, 42424, 42425.3, 42424.1, and 42420.4, Public Resources Code.

#### Section 18976.9. Compliance Evaluation and Determination

- (a) The department shall conduct investigations to examine operational activities and records to determine compliance with the Act and this Article. The investigations require entities subject to the Act and this Article to produce records requested by the department. The investigations also require the entity's cooperation with onsite inspections by the department, including its authorized employees and agents authorized by and acting on behalf of the department. An authorized department employee or agent shall be allowed to enter the premises of any entity subject to the Act and this Article during normal working hours to conduct inspections. Methods may include, but are not limited to, the review and copying of any records required by the Act and this Article.
- (b) Notices of violation issued by the department may identify additional records and information that the entity must produce regarding such noncompliance.
- (c) Except as specifically set forth in this section, for each discrete requirement of the Act and this Article, or a stewardship plan, each distinct condition, action, or course of action, as applicable, constituting or resulting in a violation of the requirement shall constitute a single violation of the Act. For example, a program operator that fails to implement its stewardship program fully due to its nonadherence to its labeling obligations to which it has committed itself in its plan and its concurrent failure to spread collection sites throughout each county to facilitate widespread access and convenience has committed

multiple violations of subdivision (a) of section 42422.6 of the Public Resources Code. The violation shall be deemed to occur on each day that distinct condition, action, or course of action, as applicable, occurs or persists.

(1) The program operator shall be found not to have implemented its stewardship program and thus have violated subdivision (a) of section 42422.6 of the Public Resources Code in every instance wherein it fails to satisfy its obligations established pursuant to the Act and this Article, including its obligation to implement its approved plan.

(d) If a producer, program operator, stewardship organization, manufacturer, distributor, retailer, importer, recycler, or collection site fails to maintain records or other evidence sufficient to demonstrate compliance with any requirement of the Act or this Article or fails to provide such records upon demand by the department, penalties for the absence of or failure to provide records shall accrue as follows, with each day of the violation being subject to the per-day penalties set forth in section 42425.1 of the Public Resources Code:

(1) Violations based on the failure to maintain records shall be deemed to have occurred on each day for which the entity failed to maintain sufficient evidence to demonstrate compliance.

(2) Violations based on the failure to provide records to the department upon request shall be deemed to begin on the date of the department's request and to have occurred for each day for which the party failed to provide to the records.

(e) For purposes of assessing penalties for violations of section 42425.1 of the Public Resources Code where the violation concerns covered batteries in retail packaging or individual covered batteries:

(1) Where a violation concerns covered batteries in retail packaging, the violative conduct for each distinct retail package of covered batteries shall be considered its own, single violation of the Act.

(2) Where a violation concerns covered batteries that are not in retail packaging, each distinct and individual covered battery resulting in a violation shall be considered its own, single violation of the Act.

(3) The violation shall be deemed to occur on each day that, with regard to the covered batteries in question, the violative conduct occurred or persisted.

(f) For purposes of paragraphs (1) through (3) of subdivision (j) of section 42420.1 of the Public Resources Code only, a person is in the state if the person is subject to the jurisdiction of California courts pursuant to section 410.10 of the Code of Civil Procedure with respect to the Act and any of the following is true:

(1) Service of summons, excluding service in a manner requiring a court order, on the person may be completed in the state pursuant to sections 413.10 through 417.40 of the Code of Civil Procedure (Article 1 of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure) or section 2110 of the Corporations Code.

(2) The person consents to being considered in the state, being served notices and statements of charges by any means chosen by the department pursuant to section 18976.12, and being personally subject to the jurisdiction of California courts. To be considered in the state, such person must, upon demand, confirm the foregoing consent in writing, such as by affidavit or written agreement, or through conduct consistent with such consent. Conduct consistent with such consent includes responding to a statement of charges, filing a pleading, or otherwise appearing in a legal proceeding in the state.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Sections 42420.1 subd. (j), 42422.6, 42425 through 42425.3, 42424, and 42423.1, Public Resources Code; sections 413.10 through 417.40 of the Code of Civil Procedure; section 2110 of the Corporations Code.

#### Section 18976.10. Compliant Producer List and Certification Letters

(a) A program operator's submission pursuant to section 18976.1(a) shall cause the department to publish its next list of compliant producers pursuant to section 42425 of the Public Resources Code. Only the producers that are included on program operators' most recent submissions to the department shall be included on the department's new list of compliant producers.

(1) To appear on the department's new list of compliant producers, a producer that formerly participated in a different program operator's stewardship program shall provide sufficient evidence to the department through its new program operator that it is participating in another stewardship program under a department-approved stewardship plan.

(b) A certification letter issued by the department pursuant to subdivision (b) of section 42425 of the Public Resources Code has the effect of demonstrating a producer, brand, and covered battery type are in compliance and may be treated as listed by retailers, distributors, and importers as compliant until the producer is determined to be noncompliant or the department publishes a new list of compliant producers, whichever is sooner.

(c) For the purposes of determining whether a retailer, importer, or distributor may sell, offer for sale, import, or distribute a covered battery pursuant to paragraph (1) of subdivision (d) of section 42425 of the Public Resources Code, that entity shall consult the department's internet website to ensure that the combined producer, brand, and covered battery type are identified together on the department's list.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code. Reference: Sections 42421, 42421.2, and 42425, Public Resources Code.

#### Section 18976.11. Administrative Civil Penalties

(a) The department shall issue a written notice of violation before commencing an action to impose administrative civil penalties. The notice of violation shall list and describe the nature of the violation(s). The department shall issue a notice of violation to the respondent if the department determines that any producer, program operator, stewardship organization, manufacturer, distributor, retailer, importer, recycler, or collection site has violated the Act or this Article.

(b) Any entity, such as a producer, program operator, stewardship organization, manufacturer, distributor, retailer, importer, recycler, or collection site, not in compliance with the Act or this Article is subject to penalties pursuant to subdivision (a) of section 42425.1 of the Public Resources Code.

(c) A penalty order shall be served in the manner as provided for statement of charges in section 18976.12(c).

(d) Subject to the procedural requirements in this Article, and except in the event of a default or other waiver by the person alleged by the department to have violated the Act, penalty determinations shall be made by the director or the director's designee based on evidence presented in hearings conducted pursuant to section 18976.13 addressing, at a minimum, the factual factors identified herein:

- (1) The nature, circumstances, extent, and gravity of the violation(s).
- (2) The number and severity of the violation(s).
- (3) The willfulness of the violator's conduct, including evidence that the violation was intentional, knowing, or reckless.
- (4) The violator's financial position, including its business scale and net worth.
- (5) History of violation(s) of the same or similar nature.
- (6) Whether the violator took good faith measures to comply with the Act and this Article and the period of time over which these measures were taken.
- (7) Evidence of any financial gain resulting from the violation(s).
- (8) The economic effect of the penalty on the violator.
- (9) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
- (10) Any other factor that justice may require.

Authority cited: Sections 40401, 40502, 42425.1, and 42420.2, Public Resources Code.  
Reference: Section 11520, Government Code; sections 42425.1, 42425.3, and 42425.4, Public Resources Code.

#### Section 18976.12. Notices

(a) Notices of violation, notices of disciplinary action, and all accompanying documents shall be delivered to the address on file with the department pursuant to section 18976.1, or should it be updated by annual report pursuant to section 18976.7, by one or more of the following means:

- (1) First-class mail, registered mail, or certified mail.
- (2) Commercial carrier.
- (3) Personal delivery.
- (4) Email to the address on file with the department pursuant to section 18976.1 of these regulations, or, for entities known by the department to have failed to maintain an up-to-date email address on file, any other email address, with written consent or written acknowledgement of receipt.

(b) For persons not required to file a primary business address with the department or that have failed to do so, notices of violation, notices of disciplinary action, and all accompanying documents shall be delivered using any of the methods described in subdivision (a) of this section to at least one of the following addresses:

- (1) The person's mailing address on file with the Secretary of State.
- (2) The person's last known business or mailing address.
- (3) The business or mailing address of the attorney, if any, who acknowledges in writing their representation of the person with respect to the department's allegations, or any other party authorized in writing to receive notices on behalf of the person.
- (4) The person's email address, with written consent or written acknowledgment of receipt.

(c) A statement of charges commencing an administrative proceeding to impose administrative civil penalties shall be served on the person to be penalized using any of the following means:

- (1) For persons required to have an address on file with the department pursuant to sections 18976.1 or 18976.7, by registered or certified mail.

(2) By personal service in any manner as provided for service of summons pursuant to sections 413.10 through 416.40 of the Code of Civil Procedure.

(3) By any other means, provided that the respondent subsequently files a notice of defense or otherwise appears in the administrative proceeding.

(d) For purposes of imposing penalties pursuant to section 42425.1 of the Public Resources Code, notices of violation are deemed to be issued on the fifth calendar day or, for notices delivered outside the State of California, the 10th calendar day, after the date on which the department deposits it with the United States Postal Service for delivery via certified mail, unless a notice is delivered by another method permitted pursuant to this section, in which case the notice is deemed to be issued upon delivery.

Authority cited: Sections 40401, 40502, 42425.1, and 42420.2, Public Resources Code; sections 11415.10 and 11440.20, Government Code.

Reference: Sections 42425.1, Public Resources Code; sections 413.10 through 416.40, Code of Civil Procedure; sections 11415.10, 11440.20, and 11505, Government Code.

#### Section 18976.13. Procedure for a Hearing

(a) All administrative hearings shall be conducted by the department as informal hearings and heard by the director or director's designee according to Article 10 of Chapter 4.5 (commencing with section 11445.10) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding the foregoing, the procedures and requirements set forth in sections 11505 and 11506 of the Government Code shall apply to any hearing conducted under this division.

(b) A respondent may submit to the department a request for a hearing to contest the imposition of penalties or other disciplinary action within fifteen (15) calendar days of being served a statement of charges pursuant to section 18976.12(c). Absent the department's finding that the respondent had good cause, failure to submit a timely hearing request shall waive the right to a hearing.

(c) Within fifteen (15) calendar days of receipt of a respondent's written request for a hearing pursuant to subdivision (b), the director or hearing officer shall provide the respondent with a written notice setting forth the procedures that will govern the hearing, including, at a minimum, procedures relating to the use and admissibility of oral and written testimony, depositions, subpoenas and witnesses, discovery, and other forms of evidence.

(d) After conducting a hearing on the merits, or if no hearing is requested, the department may take any disciplinary or remedial action authorized under the Act, including those described in section 18976.14.



Authority cited: Sections 40401, 40502, 42425.1, and 42420.2, Public Resources Code; section 11415.10, Government Code.

Reference: Sections 42041, 42425.1, 42425.2, and 42425.3, Public Resources Code; sections 11445, 11505, and 11506 of the Government Code.

#### Section 18976.14. Disciplinary Actions

(a) Actions taken in accordance with subdivision (b) of this section shall occur after notice and hearing, if one is requested in the manner specified in section 18976.13. The department shall issue a written notice of disciplinary action prior to imposing discipline pursuant to subdivision (b) of this section.

(b) In taking an action under subdivision (a) of section 42425.2 of the Public Resources Code, the department shall also take any of the following actions as necessary to ensure compliance with the requirements of the Act:

- (1) Revoke a previously approved plan.
- (2) Revoke its status as a program operator.
- (3) Require revisions and resubmittal of the stewardship plan within 60 calendar days or an alternative timeframe approved by the department.
- (4) Require additional reporting relating to compliance with the requirements of the Act or this Article that were not met within 60 calendar days or an alternative timeframe approved by the department.
- (5) Remove the producer, along with its brands and covered batteries from the department's list of compliant producers, as specified in section 42425 of the Public Resources Code.
- (6) Removes a producer's brand or covered battery type from the list described in paragraph (1) of this subdivision if the producer is only non-compliant with regard to that specific brand or covered battery type and the purposes of the Act are best served by a more limited de-listing.
- (7) Post the noncompliant entity onto a list of noncompliant entities.
- (8) Impose additional compliance reporting requirements.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code; section 11445.20, Government Code. Reference: Sections 42422.1, 42425, 42425.1, and 42425.2, Public Resources Code.

#### Section 18976.15. Information Partially or Wholly Exempt from Disclosure

- (a) All records submitted to the department pursuant to the Act and this Article are subject to mandatory disclosure under the Public Records Act, Division 10 (commencing with section 7920.000) of Title 1 of the Government Code, unless an express prohibition or an express exemption from mandatory disclosure applies under the Act or this Article, or the Public Records Act.
- (b) The department shall not disclose information that constitutes a trade secret, as defined in subdivision (d) of section 3426.1 of the Civil Code, in response to public records requests.
- (c) The department shall not disclose information that subdivision (e) of section 42424 of the Public Resources Code prohibits the department from disclosing.
- (d) The department shall not post, without appropriate redaction, a report submitted pursuant to subdivision (s) of section 42424.1 of the Public Resources Code disclosing information that is appropriately identified as trade secret, proprietary, or confidential information protected under existing law in the manner specified in subdivision (e) of this section and was redacted in the entity's submission.
- (e) For any information submitted to the department or DTSC that is claimed by the person submitting it to be partially or wholly exempt from disclosure under the Public Records Act, the person shall clearly identify such information and provide the legal basis for it being exempt, in the following manner:
  - (1) Specifically designate each portion of the submission containing such information. For example, confidential proprietary information protected by subdivision (e) of section 42424 of the Public Resources Code shall be designated "confidential proprietary," trade secret information shall be designated "trade secret," and private email addresses shall be labeled "personal privacy information." Such designation shall be made by directly labeling the portion as such or, if direct labeling is impractical, by submitting written explanation clearly explaining what portions of the submission contain information exempt from disclosure.
  - (2) At the time of submission, provide the name, address, and telephone number of the individual to be contacted regarding requests received by the department or DTSC for disclosure of the information.
  - (3) The entity is responsible for identifying this information in every submission and may not rely on identification of similar information in past submissions to support its claim of exemption from disclosure.
- (f) For any submission containing information that the entity claims should be withheld by following the process set forth in subdivision (e) of this section, the entity shall additionally submit a version of the document that reflects the redaction of the sections to which that claim pertains.

(g) In every submission, the entity shall certify the following:

(1) It has specifically identified, by following the process set forth in subdivision (e) of this section, all names of individuals, physical addresses, mailing addresses, email addresses, IP addresses, phone numbers, and other contact information that constitute private contact information, as well as information pertaining to personnel, medical, or similar files which, if disclosed, would constitute an unwarranted invasion of personal privacy.

(2) All information that is not specifically identified is public, business information that may be disclosed unless some other express exemption or prohibition applies.

(h) Any portions of submissions that are not specifically designated in the present submission as containing information that should be withheld from disclosure shall be considered not to contain such information and, unless some other express exemption or prohibition applies, shall be deemed subject to mandatory disclosure under the Public Records Act.

(i) The department shall follow the procedures set forth in section 40062 of the Public Resources Code when determining whether information has been properly identified a trade secret.

(j) For information that a person was required to submit pursuant to this chapter or the Act, the department shall follow the procedures set forth in section 40062 of the Public Resources Code when determining whether information has been properly identified a trade secret. The information shall be considered subject to section 40062 of the Public Resources Code regardless of the form in which it is maintained by the department, and sections 17044 through 17047 of Title 14 of the California Code of Regulations shall not apply to such information.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Sections 42424, 42424.1, 42422.5, 40062 and 42051.2, Public Resources Code; section 7920.000 et seq., Government Code; and section 3426.1, Civil Code.

#### Section 18976.16. State Agency Coordination and Fees

(a) Initial Plan Submittal Coordination

(1) Each potential program operator shall electronically notify the department in writing within 30 calendar days after the effective date of regulations, or at least 210 calendar days prior to submittal of an initial proposed stewardship plan to DTSC, of its intent to submit an initial proposed stewardship plan.

(2) The notification shall include the date the program operator intends to submit its initial proposed stewardship plan to DTSC.

(b) Agency Fees

(1) At least 90 calendar days before the date the program operator stated it will submit its initial proposed stewardship plan to DTSC pursuant to paragraph (2) of subdivision (a) of this section, the department and DTSC shall independently notify the program operator of its estimated anticipated costs.

(2) The department and DTSC's costs shall cover the full personnel costs related to the administration, implementation, and enforcement of the Act and this Article. Costs shall include labor, fringe benefits, travel, equipment, supplies, and contracts, as well as costs calculated using section 9213.1 of the State Administrative Manual, including for general administration, budgeting, accounting, business services, training, and legal.

(3) Program operators shall, on a schedule determined by the department and DTSC, as applicable to each agency's fees, pay the department and DTSC, respectively.

(A) DTSC will notify the program operators in writing of the required payment schedule at least 90 calendar days prior to the initial billing cycle and each year thereafter by July 1.

(B) The department will notify program operators in writing of the required payment schedule at least 90 calendar days prior to the initial billing cycle and each year thereafter by July 1.

(4) Within 30 calendar days of the department and DTSC notifying a program operator of each department's respective costs, the program operator shall pay the department and DTSC, for their full costs.

(5) Notwithstanding paragraph (2) of subdivision (a) of this section, program operators shall use the department and DTSC's actual incurred costs to estimate the department and DTSC future costs for the purpose of preparing budgets.

Authority cited: Sections 40401, 40502, and 42420.2, Public Resources Code.

Reference: Sections 42423 and 42422.1, Public Resources Code; and section 9213.1, State Administrative Manual.