

Department of Resources Recycling and Recovery
AB 1311 Alternative Schedule Permanent Regulations

INITIAL STATEMENT OF REASONS

INTRODUCTION

The Department of Resources Recycling and Recovery (CalRecycle), Division of Recycling (Division) administers the California Beverage Container Recycling Program (BCRP), which was created through the California Beverage Container Litter Reduction Act (Act) (Public Resources Code (PRC) section 14500 et seq.) as a California Redemption Value (CRV) deposit and return system to reduce the beverage container component of litter and increase convenient beverage container redemption opportunities in the state.

These redemption opportunities consist of independent and industry operated recycling centers and other recycling systems that help ensure all consumers in every region of the state can return beverage containers conveniently, efficiently, and economically. It is the joint responsibility of CalRecycle, recyclers, and other industry entities to provide these redemption opportunities. CalRecycle certifies recycling centers to provide redemption opportunities for California's consumers, and under existing regulations, the recycling centers are required to be open a minimum of 30 hours per week unless located in a rural area. This requirement does not take into account unique business needs and is costly for recycling center operators.

Assem. Bill No. 1311 (Reg. Sess. 2021-2022) (AB 1311) expands eligibility for certified recycling centers to operate on an alternative schedule other than the schedule established in PRC 14571(a)-(b). PRC section 14571(c)(1) allows CalRecycle to certify recycling centers with reduced hours.

PRC section 14571(c)(3)(A) requires CalRecycle to develop and implement a process pursuant to which certified recycling centers can apply to CalRecycle for authorization to operate on an alternative schedule. CalRecycle must include the criteria it will use to authorize certified recycling centers to operate on an alternative schedule and is authorized to set a minimum number of hours that a recycling center must operate on an alternative schedule. PRC section 14571(d) requires CalRecycle to consider how these alternative schedules further the goals of the Act and whether they will significantly impact consumer ability to conveniently redeem their beverage containers for their refund value.

Sen. Bill No. 353 (Reg. Sess. 2023-2024) (SB 353) amended PRC section 40401(a)(2) to properly vest the authority to enforce PRC Division 12.1 in the Department of Resources Recycling and Recovery instead of the Division of Recycling.

PROBLEM STATEMENT

Prior to the passage of AB 1311, PRC section 14571(a) and section 2500(a)(4) of title 14 of the California Code of Regulations (CCR) required certified recycling centers to be open a minimum of 30 hours per week, 5 of which must be other than Monday through Friday from 9am to 5pm. Due to increasing labor costs, diminishing commodity value of aluminum, plastic, and glass, as well as challenges brought forward by the COVID-19 global pandemic, recycling center operators found it increasingly difficult to meet this requirement, and the Legislature provided a solution in the form of AB 1311. AB 1311 allows recycling centers to apply for certification to operate a recycling center fewer than 30 hours per week, change existing hours to an alternative schedule, and operate up to 50% of their hours outside of the Monday through Friday 9am to 5pm requirement. CalRecycle must engage in rulemaking to implement AB 1311.

CalRecycle is seeking to permanently establish regulations to clarify the language introduced by AB 1311 and to implement the application requirements. CalRecycle is proposing amendments to 14 CCR 2030(h) to effectuate PRC 14571(c)(1). Current regulatory text does not permit CalRecycle to approve recycling center applicants to operate less than 30 hours per week unless all conditions in paragraph (1), (2), and (3) are met. This language is based on PRC 14571. AB 1311 amended PRC 14571(c)(1) to allow for applications to be approved to operate fewer than 30 hours per week if either condition in subparagraph (A) or (B) are met.

CalRecycle is proposing amendments to 14 CCR 2045(a)(11) to implement PRC 14571(c)(1). Current regulatory language for the Certification Application for Recycling Centers and Processors form (Application) does not provide for applicants to include if they plan to be open fewer than 30 hours a week. The Application is now incompatible with the statute after the enactment of AB 1311.

Additionally, CalRecycle is proposing amendments to 14 CCR 2500(a)(5) to implement PRC 14571(b). PRC 14571(b) gives CalRecycle authority to require certified recycling centers to operate up to 50 percent outside of normal operating hours.

CalRecycle is also proposing to add 14 CCR 2503 to implement PRC 14571(c)(3), which authorizes CalRecycle to develop a process so recycling centers can apply for authorization to operate on alternative schedule. Current regulatory text does not have a process in place, so adoption of the language is needed.

Further, CalRecycle is proposing to amend 14 CCR 2516(a)(5) to specify that recycling centers that are claiming handling fees must be working no less than 30 hours a week. This regulatory change serves to clarify handling fee eligibility for recycling centers operating on a reduced schedule pursuant to PRC 14571(c)(1) or an alternative schedule pursuant to PRC 14571(c)(3) and clarifies that any recycling center not operating at least 30 hours cannot qualify for handling fees. Handling fees are a statutory payment made to recycling centers located in one-mile radius zones around a supermarket to cover costs associated with operating a recycling center in a geographically restricted area for the purpose of increasing consumer convenience in the redemption of used beverage containers for CRV. The prevention of a recycling

center with an approved alternative schedule from receiving handling fees is consistent with statute and harmonizes the purposes of 14571(a) and 14585.

CalRecycle is also making conforming changes to remove “these regulations” in any section being amended in this rulemaking action.

Finally, CalRecycle is updating references to “department” instead of “Division” throughout these regulations to address the changes made by SB 353 to the Department of Resources Recycling and Recovery being vested with the authority to enforce PRC Division 12.1 instead of the Division of Recycling.

SPECIFIC PURPOSE AND NECESSITY OF THE PROPOSED REGULATIONS

TITLE 14. NATURAL RESOURCES

DIVISION 2. DEPARTMENT OF CONSERVATION

CHAPTER 5. DIVISION OF RECYCLING

SUBCHAPTER 2. GENERAL REQUIREMENTS

ARTICLE 1. CERTIFICATION APPLICATION PROCEDURES

SECTION 2030. Review of Applications

Subsection (a)

The purpose of this amendment is to delete the phrase “these regulations” and replace it with “this chapter”. The purpose of this amendment is also to replace “Division” with “department”.

It is necessary to delete the phrase “these regulations” because it is vague and unclear as to what sections of Title 14 of the California Code of Regulations that the phrase refers to. Inserting “this chapter” in place of “these regulations” is necessary to clarify that the department must review certification applications for compliance with Chapter 5 of Division 2 of Title 14 of the California Code of Regulations, which spans from section 2000 to 2997 of Title 14. and contains the entirety of the regulations applicable to the Beverage Container Recycling Program.

Replacing “Division” with “department” is a non-substantial change because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

Subsections (b) through (d)

The purpose of these amendments is to replace “Division” with “department”.

This is a non-substantial change because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC

Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (e)

The purpose of this amendment is to delete the phrase “these regulations” and replace it with “this chapter”. The purpose of this amendment is also to replace “Division” with “department”.

It is necessary to delete the phrase “these regulations” because it is vague and unclear as to what sections of Title 14 of the California Code of Regulations that the phrase refers to. Inserting “this chapter” in place of “these regulations” is necessary to clarify that the department must determine whether an operator is likely to operate in accordance with Chapter 5 of Division 2 of Title 14 of the California Code of Regulations, which spans from section 2000 to 2997 of Title 14. and contains the entirety of the regulations applicable to the Beverage Container Recycling Program.

Replacing “Division” with “department” is a non-substantial change because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (f)

The purpose of these amendments is to replace “Division” with “department”.

This is a non-substantial change because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (g)(1)

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

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

Subsection (g)(7)

The purpose of this amendment is to replace “Division” with “department”.

This is a non-substantial change because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (h)(1)

The purpose of this amendment is to organizationally add paragraph (1) so that later enumerated paragraphs can be used in this section, correct the word “subsection” with “subdivision” and to replace the word “all” with “either” to align with the statutory language set forth by PRC section 14571(c)(1). Additionally, the purpose of the amendment is to also replace “Division” with “department”.

The rationale for the change in the words from “all” to either is because PRC section 14571(c)(1) was amended to no longer require both conditions to be met for a recycling center to operate at less than 30 hours.

The change from “Division” to “department” is a non-substantial change because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made to this chapter over time as more regulation sections are added, amended, or otherwise modified.

Subsection (h)(1)(A)

The purpose of this amendment is to replace paragraph 1 with subparagraph A and to capitalize the word “the” to “The”. This amendment also deletes a semi-colon, the word “and”, and a comma, and adds a period. This amends the punctuation of the regulatory language to be consistent with other amendments. These changes are non-substantive and without regulatory effect.

The rationale for this change is to correctly organize this condition under the amended paragraph 1.

Subsection (h)(1)(B)

The purpose of this amendment is to replace paragraph 3 with subparagraph B and to capitalize the word “the” to “The”. These changes are non-substantive and without regulatory effect.

The rationale for this change is to correctly organize this condition under the amended paragraph 1.

Subsection (h)(2)

The purpose of this amendment is to delete language requiring that a recycling center not be located in a convenience zone to be able to qualify to operate for less than 30 hours per week and to add language that a recycling center must operate 10 or more hours per week.

The rationale for this amendment is because this language no longer reflects the current state of PRC section 14571 and the statutory relationship between subdivisions (a) and (c). Because AB 1311 changed section 14571 to specifically allow recycling centers to operate at less than 30 hours per week regardless of whether they are in a rural region, this statutorily permits any recycling center to operate at less than 30 hours per week so

long as the needs of the community and the goals of the Act are met by permitting certification. CalRecycle selected 10 hours per week as the minimum for certification pursuant to this subdivision because 10 hours represents the minimum standards for a reverse vending machine to have an attendant available to accept all types of empty beverage containers found in PRC section 14571(i)(1)(A). This minimum standard was presented to a workshop for interested parties on June 6, 2022.

Subsection (h)(3)

The purpose of this subsection is to add language to notify operators that their reduced hour approval is conditioned on meeting the criteria to operate at less than 30 hours per week.

The rationale for this addition is for CalRecycle to reserve the right to assess the ability of any recycling center operating at less than 30 hours per week to meet the needs of the community and the goals of the Act. This provision is necessary because if the region a recycling center operating less than 30 hours in was previously a rural region and later determined to no longer be rural, the department needs to reserve the right to rescind the approval to operate on an alternative schedule. Similarly, circumstances may change so that the criteria mentioned in subsection (h)(1)(B) are no longer met. For instance, if a convenience zone in which a recycling center is approved to operate less than 30 hours triples in population, then the ability of consumers to conveniently return beverage containers may be significantly decreased by a recycling center operating less than 30 hours. The department needs to reserve the right to rescind an approval to operate an alternative schedule in the case of those changed circumstances when a recycling center no longer meets the requirements of section 14571(c)(1)(A) or (c)(1)(B) of the Act.

ARTICLE 2. CONTENT OF CERTIFICATION APPLICATIONS

SECTION 2045. Applications for Recycling Centers and Processors

Subsection (a)(10)(B)(i)

The purpose of this amendment is to correct regulatory format by replacing paragraph “1” with subclause “i”. This change is non-substantive and without regulatory effect.

Subsection (a)(10)(B)(ii)

The purpose of this amendment is to correct regulatory format by replacing paragraph “2” with subclause “ii”. This change is non-substantive and without regulatory effect.

Subsection (a)(10)(B)(iii)

The purpose of this amendment is to correct regulatory format by replacing paragraph “3” with subclause “iii”. This change is non-substantive and without regulatory effect.

Subsection (a)(11)(A)

The purpose of this subparagraph is to insert added language to require applicants for recycling centers to state whether they are requesting to operate under 30 hours per week on their certification application form.

The rationale for this addition is to comply with the amendment to PRC section 14571(c)(1) to allow for applicants to become certified to operate less than 30 hours per week. This statement on the form alerts CalRecycle staff to apply the conditions in proposed subsection (h) of section 2030 of the proposed regulations when reviewing the application.

Subsection (a)(11)(B)

The purpose of this subparagraph is to clarify for recycling center applicants that applications with reduced hours components can still be certified for the normal hours without requiring a new form.

The rationale for this is to still allow an applicant to be approved to operate recycling center for 30 or more hours even if they do not meet the conditions to operate for fewer than 30 hours. This will save the applicant and CalRecycle time and effort from having to submit a new application for a recycling center operating 30 or more hours after the denial of an application for a recycling center operating less than 30 hours.

Subsection (a)(12)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11). This change is a non-substantive change without regulatory effect.

Subsection (a)(13)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11). This change is a non-substantive change without regulatory effect.

Subsection (a)(14)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11). This change is a non-substantive change without regulatory effect.

Subsection (a)(15)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11).

This renumbering change is a non-substantive change without regulatory effect.

Subsection (a)(16)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11). This change is a non-substantive change without regulatory effect.

Subsection (a)(17)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11). This change is a non-substantive change without regulatory effect.

Subsection (a)(18)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11). This change is a non-substantive change without regulatory effect.

Subsection (a)(19)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11).

This renumbering change is a non-substantive change without regulatory effect.

Subsection (a)(20)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11). This is a non-substantive change without regulatory effect.

Subsection (a)(21)

The purpose of this amendment is to renumber the paragraph to allow for newly added language inserted at paragraph (11). This change is a non-substantive change without regulatory effect.

SUBCHAPTER 6. RECYCLING CENTERS
ARTICLE 1. REQUIREMENTS FOR RECYCLING CENTERS

SECTION 2500. OPERATION STANDARDS

Subsection (a)(1)

The purpose of these amendments is to replace “Division” with “department”.

These are non-substantial changes to existing regulations because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (a)(3)

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

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

Subsection (a)(4)(C), (a)(4)(C)1., (a)(4)(C)2., and (a)(4)(C)3.

This purpose of this amendment is to delete the language in subparagraph (C) and its corresponding clauses to remove the obsolete language of 15 hours requirement (which was 50% of 30 open hours).

The rationale for this deletion is because AB 1311 allows up to 50 percent of the open for business hours for a recycling center to be other than Monday through Friday 9AM to 5PM. Additionally, the statutory requirement to conduct a public hearing, pursuant to PRC section 14571(c), before CalRecycle determines that a recycling center may operate up to 15 hours of operation other than 9:00 a.m. to 5:00 p.m. meets the recycling goals specified in PRC section 14501 was removed by Sen. Bill No. 332 (Reg. Sess. 1999-2000).

Subsection (a)(5)

The purpose of this subparagraph is to add language for CalRecycle to require recycling centers to operate up to fifty percent of its hours other than Monday through Friday 9AM to 5PM if CalRecycle demonstrates that this is necessary to meet the goals of the act.

The rationale for this addition is because AB 1311 removed the specific direction that CalRecycle can require only 15 of its 30 hours of operation and changed it to 50 percent of its hours of operation to allow for flexibility in the situation where a recycling center is operating an alternative schedule of less than 30 hours per week. A recycling center operating on an alternative schedule of less than 30 hours per week may be working only 15 hours which would preclude CalRecycle from mandating the recycling center operate any of those hours outside of 9:00 a.m. to 5:00 p.m. Additionally, this addition is necessary because requiring a recycling center to operate 50 percent of its hours of operation other than 9 a.m. to 5 p.m. may better meet the goals of the Act as set forth in PRC section 14501, and specifically PRC section 14501(f), to provide consumers with convenient recycling opportunities.

Subsections (b)

The purpose of this amendment is to replace “Division” with “department”.

This is a non-substantial change to existing regulations because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (c)(2)

The purpose of this amendment is to add an “and” following the semi-colon to indicate an additional condition in subsection (c)(3). This is a non-substantive change without regulatory effect.

Subsection (c)(3)

The purpose of this amendment is to correct a grammar error in current regulatory language and replace a semicolon with a period at the end of a sentence. This is a non-substantive change without regulatory effect.

Subsection (d)

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

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

Subsections (e), (e)(2)(B), (f), (f)(2), (f)(3),

The purpose of these amendments is to replace “Division” with “department”.

These are non-substantial change to existing regulations because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

Subsection (h)

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

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

SECTION 2503. Alternative Schedules for Recycling Centers

Subsection (a)

The purpose of this section is to define terms which require definitions to ensure regulatory consistency and clarity. These terms have specific meanings to describe the various types of business and events applicable to alternative schedules for the purpose of this section.

This section is necessary to clarify the alternative schedule types and what recycling centers may qualify to obtain an alternative schedule. If these terms are not defined, the meanings may be supposed to be defined differently in other bodies of law and would cause confusion for the regulated public or may cause regulators to fail to interpret the regulations properly.

Subsection (a)(1)

The purpose of this subsection is to define “family-owned business”. This subsection defines a family-owned business by referencing how the business is owned and its employees. AB 1311 introduced criteria to be used by CalRecycle to authorize a certified recycling center to operate an alternative schedule in PRC section 14571(c)(3)(B)(ii). This criteria includes family-owned businesses.

This section is necessary to define a key term in the regulations and application forms and to maintain consistency in CalRecycle’s regulations. CalRecycle chose this definition because “family-owned business” by its own definition must mean more than one family member owns the business otherwise it would be an individually owned business. Additionally, the definition requires more than 50 percent of the employees be members of the same family. This additional prong of the definition promotes the clear legislative mandate that this be a category similar in nature to a small business (see Sen. Rules Com., Off. Of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 1311 (2021-2022 Reg. Sess.) as amended September 3, 2021, p. 6) and the operational requirement for more than 50 percent of the employees be members of the same family ensures that large family-owned businesses should not qualify for an alternative schedule. This is important because in addition to qualifying for a natural disaster or state of emergency based alternative schedule, a family-owned business can obtain an alternative schedule to operate less than 30 hours to address any specific challenges the family-owned business faces.

Subsection (a)(2)

The purpose of this subsection is to define “natural disaster” to mean a natural catastrophe and provides common California-centric examples as this is one of the requirements for all recycling centers to qualify for an alternative schedule pursuant to PRC section 14571(c)(3)(B)(ii).

The rationale for this definition is that the clearest definition of a natural disaster is by referencing various types of disasters common to California that can qualify under the definition but does not limit it to just those stated in the proposed language so as to be inclusive of all potential forms of a natural catastrophe. This section is necessary to define a key term that is in the regulations and application forms and to maintain consistency in CalRecycle’s regulations.

Subsection (a)(3)

The purpose of this subsection is to define “small business”. This subsection defines a small business by referencing the number of employees a business has and limiting it to five or less.

The rationale for this definition of small business different from that found in the Government Code section 11346.3(b)(4)(B) is because that is too broad to be applied to recycling centers. Currently CalRecycle has around 1265 certified recycling centers and out of those 1197 have fewer than 100 employees. The intent of the bill was to provide additional assistance to smaller recycling centers relative to larger ones within the

industry otherwise the statute would grant the ability to operate a recycling center less than 30 hours per week to all recycling centers, which if CalRecycle adopted the Government Code section 11346.3(b)(4)(B) definition of small business would be the practical effect (see Sen. Rules Com., Off. Of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 1311(2021-2022 Reg. Sess.) as amended September 3, 2021, p. 6). This is important because in addition to qualifying for a natural disaster or state of emergency based alternative schedule, a PRC section 14571(c)(3)(B)(ii) small business can obtain an alternative schedule to operate less than thirty hours to address any specific challenges small business faces. This section is necessary to define a key term that is in the regulations and application forms and to maintain consistency in CalRecycle's regulations.

Subsection (a)(4)

The purpose of this subsection is to define "state of emergency". This subsection defines a state of emergency by referencing how the emergency must be declared and the magnitude of its effect on safety and property. The definition lays out some examples of conditions that could be considered under this definition but does not limit it to just those stated in the proposed language.

The rationale for this addition is to provide a definition that is clear to apply. By requiring that only certain persons be able to declare a state of emergency, this precludes any unofficial declarations of a state of emergency forcing CalRecycle to permit a recycling center to operate on an alternative schedule. This section is necessary to define a key term that is in the regulations and application forms and to maintain consistency in CalRecycle's regulations.

Subsection (b)

The purpose of this subdivision is to clarify that CalRecycle will allow recycling centers to apply to operate on an alternative schedule that is in compliance with either paragraph (1) or (2). This subdivision is necessary to clarify the two types of alternative schedules that will be accepted for recycling centers to operate on. The language clarifies that the alternative schedules differ from the standard minimum operation of 30 hours per week and cites to the appropriate regulatory provision that states that hourly requirement.

Subsection (b)(1)

The purpose of this subsection is to name this type of alternative schedule "Type 1" and to establish how many hours under the Type 1 alternative schedule a recycling center is allowed to operate weekly. CalRecycle has set the hours on a weekly schedule as this provides consumers with convenient and consistent redemption opportunities.

The rationale for this definition is to name this type of alternative schedule to provide an easy way to differentiate it from the other possible alternative schedule. This definition is necessary because it provides clarity on the numbers of hours that will need to be worked and the frequency under a Type 1 schedule and ensures recycling centers

comply with the proposed regulations when applying to operate under a Type 1 schedule. CalRecycle selected 10 hours per week as the minimum for certification pursuant to this subsection because 10 hours represents the minimum standards for a reverse vending machine to have an attendant available to accept all types of empty beverage containers found in PRC section 14571(i)(1)(A). and 29 hours is the maximum hours before a recycling center is no longer on an alternative schedule CalRecycle offered a 10-hour minimum in the workshop held on June 6, 2022.

Subsection (b)(2)

The purpose of this subsection is to name this type of alternative schedule “Type 2” and to establish the number of hours under Type 2 schedules that a recycling center is allowed to operate.

The rationale for this definition is to name this type of alternative schedule to provide an easy way to differentiate it from the other possible alternative schedule. A Type 2 alternative schedule is an alternative schedule allowed for in the event of a natural disaster and in such an event a recycling center may operate any number of hours and even cease operations if necessary. CalRecycle chose this definition as it clarifies when a natural disaster occurs, a recycling center will need temporary authority to operate any schedule to align with the legislative intent of AB 1311 to address situations when Recycling Centers are impacted by a natural disaster. CalRecycle chose the possibility of a recycling center to temporarily shut down in the event of natural disasters because of its experience dealing with the Camp Fire in November of 2018. During the Camp Fire, three recycling centers burned to the ground along with 18,800 other structures and the deaths of 85 people (see Governor’s Office Press Release dated November 9, 2021). Without the possibility of temporary closure, CalRecycle would have forced three Recycling Centers to decertify if it had been safe for CalRecycle employees to inspect those locations to see if they continued to operate at least 30 hours per week. By allowing a Type 2 alternative schedule, CalRecycle will no longer be forced to shut down recycling centers that are temporarily impacted by a natural disaster. This subsection is necessary as it provides clarity on the requirements for Type 2 schedules and allows recycling centers to comply with the regulations when operating under a Type 2 schedule.

Subsection (c)

The purpose of this subdivision is to clarify that CalRecycle will not require a recycling center to operate 50 percent of the open hours outside of Monday through Friday 9AM to 5PM; however, a recycling center may choose to do so.

The rationale for this language is to clarify the notwithstanding of PRC 14571(b) in PRC 14571(c)(3)(A) and allows those provisions to be read together in a manner that is logical and comports with the stated purpose of AB 1311 (Sen. Rules Com., Off. Of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 1311 (2021-2022 Reg. Sess.) as amended September 3, 2021).

Subsection (d)(1)

The purpose of this subsection is to add a process to submit a form titled “Request for Type 1 Alternative Schedule- Small or Family-Owned Business.”

The rationale for this addition is to clarify and add consistency in how a recycling center may apply for Type 1 alternative schedule if the recycling center is already certified to operate 30 or more hours per week pursuant to PRC section 14571. CalRecycle determined that a recycling center can apply for as many Type 1 alternative schedules as an operator needs as there are no constraints in PRC section 14571(c)(3)(A) and the intent of the bill (see Sen. Rules Com., Off. Of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 1311(2021-2022 Reg. Sess.) as amended September 3, 2021, p.6). CalRecycle selected a deadline of 30 calendar days prior to the start of the Type 1 alternative schedule because a Type 1 alternative schedule need is not from the result of a natural disaster but from the need of a family-owned or small business needing more flexibility, and CalRecycle needs to review the Form to ensure that granting such a request will still promote the goals of PRC section 14501(f). CalRecycle offered a 30 day prior deadline in the workshop held on June 6, 2022. CalRecycle mandates that submission of the form must be either through physical or electronic mail because there needs to be a mechanism for the recycling center to deliver the form to CalRecycle.

Subsection (d)(2)

The purpose of adding this subsection is to add a provision to clarify the timeframe in which CalRecycle will notify recycling centers regarding their alternative schedule request.

The rationale for this addition is because CalRecycle needs a certain amount of time to review the form and evaluate whether the goals of the Act per PRC section 14501(f) are served by granting this form. 30 working days was selected because this is the same amount of time for CalRecycle to evaluate whether a recycling center application is complete pursuant to PRC section 14538 and CalRecycle anticipates that these reviews will require a similar amount of time. This time period for review was also presented at the workshop on June 6, 2022. This is necessary to ensure recycling centers know the timeframe in which they will receive a response.

Subsection (d)(3)

The purpose of adding this subsection is to clarify that CalRecycle will only approve Type 1 alternative schedules that meet the requirements of being a small business or family-owned business as defined in (a)(1) and (a)(3).

The rationale for the limitation as to whom may receive an approval of a Type 1 Alternative Schedule is to conform to PRC section 14571(c)(3)(A) and the legislative intent of AB 1311 (see Sen. Rules Com., Off. Of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 1311(2021-2022 Reg. Sess., p. 6). This is necessary for recycling centers to understand that the Type 1 form is only applicable for those recycling centers that are family-owned or small business as defined by this section.

Subsection (d)(4)(A)

The purpose of adding this subsection is to clarify that recycling centers that have already been approved to operate under a Type 1 alternative schedule can at any time increase their hours of operation by submitting an amended application (form) in the manners prescribed.

This is necessary so recycling centers operating under an approved Type 1 alternative schedule are aware that they are not required to submit a new form to increase their hours and that they may begin to do so once the amended application (form) has been received by CalRecycle. CalRecycle will always favor a recycling center operating more hours than less as that promotes the goals of the Act in PRC section 14501(f) by increasing convenient recycling opportunities for consumers, and no review is necessary by CalRecycle to approve a recycling center to operate more hours. However, CalRecycle does need to be notified of the change in the hours of operation to ensure that CalRecycle staff and consumers are aware of the new hours of operation because CalRecycle makes that information available to the public on its website.

Subsection (d)(4)(B)

The purpose of adding this subsection is to clarify that recycling centers that have already been approved to operate under a Type 1 alternative schedule that are interested in decreasing their hours further will be required to submit an entire new application and that the change is not effective until CalRecycle has approved the application in the prescribed timeframe.

The rationale for this addition is to ensure that the request for an even lower amount of hours comports with the goals of the Act in PRC section 14501(f) and the legislative intent of AB 1311 (see Sen. Rules Com., Off. Of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 1311(2021-2022 Reg. Sess., p. 6). 30 working days was selected because this is the same amount of time for CalRecycle to evaluate whether a recycling center application is complete pursuant to PRC section 14538 and CalRecycle anticipates that these reviews will require a similar amount of time. This time period for review was also presented at the workshop on June 6, 2022. This is necessary to distinguish the different process that recycling centers will have in regard to increasing or decreasing their hours under an approved Type 1 alternative schedule and provide recycling centers with a timeframe on when a response will be received.

Subsection (d)(5)

The purpose of adding this subsection is to list the criteria that certified recycling centers that have been approved to operate on a Type 1 alternative schedule needs to comply with as it pertains to signage and posting.

The rationale for this addition is that these are requirements of 14 CCR 2500 and PRC section 14571(c)(2). These requirements are restated here in this subsection to make clear the statutory requirements for signage without having to reference the statutory language. This subsection references subdivision 2500(e) because that subdivision sets

forth legibility and location requirements for the signage regarding operating hours. This is necessary to make clear that recycling centers are required to comply with the criteria if they want to operate under a Type 1 alternative schedule.

Subsection (d)(5)(A)

The purpose of this subsection is to make sure that certified recycling centers that operate under a Type 1 alternative schedule provide their customers with their fixed schedule and display it in a location that is visible to consumers. CalRecycle further specifies that these are fixed hours for when the recycling center opens and closes and does not permit ranges of hours for when a recycling center can open or close.

The rationale for this addition is that this is the requirement set forth in subdivision 2500(e) because that subdivision sets forth legibility and location requirements for the signage regarding operating hours. The rationale for requiring fixed hours is that this promotes the goal of the Act in PRC section 14501(f) to provide convenient recycling opportunities to consumers and accurately reflects what hours CalRecycle approved for the applicant recycling center. Consumers rely on the posted hours of a recycling center to know when a center opens and closes to be there when the recycling center is open to physically redeem the material. By specifying fixed hours of operation on the signage, this reduces unnecessary multiple trips by consumer to a recycling center to redeem their used beverage containers for CRV.

Subsection (d)(5)(B)

The purpose of this subsection is to ensure that consumers continue to have convenient redemption opportunities by providing them with the nearest location that is operates at least 30 hours per week should the consumers want to redeem their containers at a certified recycling centers that is open for more hours than the recycling center approved to operate on an alternative schedule.

The rationale for adding this subsection is because it promotes the goal of the Act in PRC section 14501(f) to provide convenient recycling opportunities to consumers and is a requirement of PRC section 14571(c)(2). Should a consumer already make the trip to a recycling center approved to operate an alternative schedule and it is closed, this will at least inform the consumer of the nearest recycling center most likely to be open to redeem their used beverage containers.

Subsection (e)(1)

The purpose of adding this subsection is to add a process to submit a form titled “Request for Type 2 Alternative Schedule Due To a Natural Disaster or State of Emergency.”

The rationale for this addition is to clarify and add consistency in how a recycling center may apply for Type 2 alternative schedule if the recycling center is already certified to operate 30 or more hours per week pursuant to PRC section 14571. CalRecycle selected a deadline of seven working days before or after the natural disaster or state of

emergency because this provides ample time for a recycling center to submit the form in event of a natural disaster or state of emergency. In the event of a natural disaster or state of emergency there will be many priorities competing for an operator's attention, and CalRecycle does not expect operating a business to be at the top of that list. However, seven working days should allow enough time to address those other priorities so that the operator can return to meeting the needs of their recycling center. CalRecycle presented this timeline at a workshop on June 6, 2022. Additionally, the form for a Type 2 Alternative Schedule must be standardized so that the operator knows what information to provide and to allow CalRecycle to efficiently review the request. CalRecycle mandates that submission of the form must be either through physical or electronic mail because there needs to be a mechanism for the recycling center to deliver the form to CalRecycle.

Subsection (e)(2)

The purpose of adding this subsection is to clarify the timeframe in which CalRecycle will notify recycling centers of CalRecycle's decision regarding their alternative schedule application. The subsection provides CalRecycle with two working days to review and decide on the request.

The rationale for this addition is because CalRecycle needs a certain amount of time to review the form and evaluate whether the Type 2 Alternative Schedule application meets the explicit criteria of PRC 14571(c)(3)(B)(ii). Two working days was selected because a Type 2 alternative schedule will be applied for in the event of a natural disaster or state of emergency and it is critical that an operator know as soon as possible whether the request is granted. Furthermore, two working days will allow adequate time for CalRecycle to expedite review of a Type 2 Alternative Schedule application given CalRecycle resources to process the expected number of applications estimated from the prior year's number of natural disasters and states of emergency declared in California (see [Chronological List of Governor-Proclaimed Disasters for Property Tax Purposes](#)). This time period for review was also presented at the workshop on June 6, 2022.

Subsection (e)(3)

The purpose of adding this subsection is to standardize the process and timeframe for when CalRecycle receives an alternative schedule application under Type 2 that is incomplete. The subsection provides CalRecycle with two working days to review the application and notify the recycling center of an incomplete application which is consistent with the time given to the department in (e)(2).

The rationale for this addition is because CalRecycle contemplates receiving incomplete Type 2 Alternative Schedule forms. CalRecycle anticipates that these Type 2 Alternative Schedule forms will be submitted when circumstances are still in flux and operator may not take care in completing the form. By providing a regulatory mechanism for CalRecycle to notify the operator of an incomplete form, it saves CalRecycle and the operator from having the form rejected and not considered. Additionally, if the operator

does not submit a complete form within three working days of the notification it is clear what CalRecycle will do in the event of incomplete forms that are left incomplete. Three working days was selected because CalRecycle determined that should be enough time to correctly complete the form after submission but still allows ample time in the case the notification is received by the operator on a Wednesday through Friday of week. CalRecycle presented this time period at the workshop on June 6, 2022. CalRecycle determined that three business days would be the appropriate time for recycling centers to submit the necessary information given that the process for a Type 2 alternative schedule application has short turnaround times given the urgency of providing flexibility for recycling centers who are dealing with a natural disaster or state of emergency. This subsection is necessary to clarify the process for an incomplete application and standardize the timeframes for both the department and recycling centers.

Subsection (e)(4)

The purpose of this subsection is to set an initial limit to the timeframe that a recycling center can operate under a Type 2 alternative schedule to not exceed six months. The subsection allows for an extension of this alternative schedule if access to recycling center location is prohibited by authorities listed in the subsection.

The rationale for this addition is because six months after the end of a natural disaster or state of emergency is enough time for an operator to know whether they will continue to operate a recycling center or not. Further, even in the event of the end of a natural disaster or state of emergency, access to the physical location may be impaired such as in the case of earthquakes or fires, and this provision addresses those situations.

Subsection (f)

The purpose of adding this subdivision is to clarify when CalRecycle will deny a Type 1 or Type 2 alternative schedule.

The rationale for this addition is to detail the bases upon which CalRecycle will deny a Type 1 or Type 2 Alternative Schedule form. This subdivision serves as the leading organizational header for the reasons an application will be denied. This subdivision is necessary to set for the reasons for which CalRecycle will deny Type 1 and Type 2 form applications.

Subsection (f)(1)

The purpose of adding this subsection is to clarify when CalRecycle will deny an alternative application that does not sufficiently identify the criteria for an alternative schedule. For a Type 1 Alternative schedule, the operator must set forth the operational challenges that are the basis for the request to operate less than 30 hours per week, but at least 10 hours per week. For a Type 2 Alternative schedule, the operator must identify the natural disaster or state of emergency that is the basis for the request to operate less than 30 hours per week or even zero hours per week.

The rationale for this addition is that a recycling center cannot qualify to operate an alternative schedule of either type unless it meets specific requirements. Without these being identified on their respective forms, CalRecycle cannot execute its statutory authority to authorize the request pursuant to PRC section 14571(c)(3). This subsection is necessary because CalRecycle needs to ensure that there is a consistent standard when reviewing and denying applications. CalRecycle wants to ensure that recycling centers have provided sufficient information to be able to operate under an alternative schedule.

Subsection (f)(2)

The purpose of adding this subsection is to clarify when CalRecycle will deny a Type 1 or Type 2 alternative schedule that does not further the goals of the Act.

The rationale for this addition is because PRC section 14571(d) requires CalRecycle to analyze whether approval of the alternative schedule furthers the goals of the Act. This subsection is necessary because CalRecycle is authorized to implement the Act and is required to ensure that the process for alternative schedules schedule does not conflict with the goal set in PCR sections 14501(f) and 14571(d).

Subsection (f)(3)

The purpose of this subsection is to clarify when CalRecycle will deny an alternative schedule if it determines that the alternative schedule significantly reduces consumer ability to redeem beverage containers.

The rationale for this addition is because PRC section 14571(d) requires CalRecycle to analyze whether approval of the alternative schedule would decrease the ability of consumers to conveniently return beverage containers for the refund value. The intent of the Act is to create convenient redemption opportunities for consumers throughout the state.

Subsection (g)

The purpose of adding this subdivision is to standardize the information that will be included in the Type 1 or Type 2 alternative schedule application forms.

The rationale for this addition is to set forth the contents of a Type 1 or Type 2 application form in a list form. The list form is clearest method for outlining the required information in a Type 1 or Type 2 application form and is used to ensure that the basic information is provided to allow CalRecycle sufficient information to ensure a complete review of a Type 1 or Type 2 application form.

Subsection (g)(1)

The purpose of adding this subsection is to require that recycling center applicants applying for an alternative schedule provide certification number, organization name,

facility name, and facility address of the recycling center of the operator submitting a Type 1 or Type 2 application form.

The rationale for this addition is to ensure that enough identifying information is provided to make sure CalRecycle can identify the recycling center of the operator applying for a Type 1 or Type 2 alternative schedule. By asking for multiple items of identification, this will ensure that the operator is applying for the correct recycling center, which may become problematic if the operator operates multiple recycling centers. This subsection is necessary because to review an application CalRecycle will need to ensure that recycling centers applying for an alternative schedule are certified with the department.

Subsection (g)(2)

The purpose of adding this subsection is to require that recycling centers applying to operate under an alternative schedule provide CalRecycle with the complete schedule that they would be working under if the alternative schedule is approved by specifying their daily hours of operation, including any hours the operator is closed for lunch.

The rationale for this addition is because CalRecycle needs this information to evaluate whether the request is compliant with the limitation set forth in PRC section 14571(d), which mandates that CalRecycle evaluate whether the goals of the Act or access for consumers to redeem their used beverage containers are negatively impacted in a significant manner. Additionally, requiring a detailed list of the proposed daily hours will allow CalRecycle to publish this information, if approved, to the public to promote awareness of the recycling center's operating hours to promote recycling in California.

Subsection (g)(2)(A)

The purpose of adding this subsection is to ensure recycling center applicants applying for an alternative schedule provide the proposed actual days and hours open for business and proposed lunch breaks of the recycling center of the operator submitting a Type 1 or Type 2 application form.

The rationale for this addition is that CalRecycle needs this information to evaluate whether the request is compliant with the limitation set forth in PRC section 14571(d), which mandates that CalRecycle evaluate whether the goals of the Act or access for consumers to redeem their used beverage containers are negatively impacted in a significant manner. Additionally, requiring a detailed list of the proposed daily hours will allow CalRecycle to publish this information, if approved, to the public to promote awareness of the recycling center's operating hours to promote recycling in California.

Subsection (g)(2)(B)

The purpose of adding this subsection is to define the "actual days and hours open for business" a staffed recycling center operator must provide when submitting an alternative schedule application.

The rationale for this addition is to ensure that a staffed recycling center accurately determines the actual days and hours open for business provided in their alternative schedule application. This also begins a distinction between a recycling center that is staffed versus a recycling center that is a reverse vending machine. These two types of recycling centers have different criteria applied to them when determining whether they are open for business per PRC section 14571(f).

Subsection (g)(2)(C)

The purpose of adding this subsection is to define the “actual days and hours open for business” a recycling center that consists of a reverse vending machine must provide when submitting an alternative schedule application.

The rationale for this addition is to ensure that a recycling center that consists of a reverse vending machine accurately determines the actual days and hours their operation is open for business in their alternative schedule application. This information is necessary for CalRecycle to determine whether the proposed operating hours further the goals of the Act, or if they will significantly decrease the ability of consumers to conveniently return beverage containers.

Subsection (g)(2)(C)(i)

The purpose of adding this subsection is to ensure that the days and hours when the reverse vending machine is scheduled to be in operation are included in the alternative schedule application for reverse vending machine recycling centers.

The rationale for this addition is to ensure CalRecycle understands the exact alternative schedule being applied for by a recycling center. Specific days and times are necessary when CalRecycle makes a determination that the proposed operating hours will further the goals of the Act and that the proposed operating hours do not significantly decrease the ability of consumers to conveniently return beverage containers to a certified recycling center.

Subsection (g)(2)(C)(ii)

The purpose of adding this subsection is to require a reverse vending machine recycling center to include the days and hours when beverage containers that are odd-sized or made from materials other than aluminum, glass, and plastic will be redeemed in their alternative schedule application form.

The rationale for this addition is that if this information is published by CalRecycle for the public, knowledge of when certain materials and beverage containers are being redeemed will allow the consumer to be more informed of their opportunities to redeem. This information is required because there are technical limitations on what a reverse vending machine can redeem. Requiring this information for a Type 1 or Type 2 alternative schedule ensures there is consistency with PRC section 14571(g).

Subsection (g)(2)(C)(iii)

The purpose of adding this subsection is for a reverse vending machine recycling center to include the days and hours when beverage containers that are not accepted by the reverse vending machine will be redeemed by the host dealer.

The rationale for this addition is to ensure consistency with PRC section 14571(h) which requires a host dealer to redeem all empty beverage container types when a recycling center that is a reverse vending machine is not open for business during the hours of operation required and posted pursuant to the approval of a Type 1 or Type 2 alternative schedule.

Subsection (g)(3)

The purpose of adding this subsection is to ensure that recycling centers that are applying to operate under an alternative schedule clearly states the basis for the alternative schedule application form.

The rationale for this addition is because CalRecycle needs the operator to explain the reason upon which an alternative schedule may be approved. Applicants applying for a Type 1 alternative schedule will need to establish a description of the need for flexibility and whether they are a small or family-owned business. Applicants applying for a Type 2 alternative schedule will need to provide additional information regarding the natural disaster or state of emergency event and its effects on the recycling center. This subsection is necessary to determine which documentation requirements need to be met to establish qualification for either a Type 1 or Type 2 alternative schedule.

Subsection (g)(3)(A)

The purpose of adding this subsection is to ensure that applicants applying for a Type 2 alternative schedule provide CalRecycle with documentation of the natural disaster or state of emergency that had affected their recycling center. CalRecycle is not specifying the types of documentation that is required because it recognizes that there is not one primary outlet for declaring a state of emergency or natural disaster and because of this it wants to provide recycling centers with the flexibility to submit any form of documentation so long as it substantiates the event and meets the definition of state of emergency and natural disaster defined in this section.

The rationale for this addition is that CalRecycle may not be informed of a particular natural disaster or state of emergency, and will need this documentation to verify whether the event falls under the definition proposed in subsections (a)(2) and (a)(4). This subsection is necessary for CalRecycle to verify the exact natural disaster or state of emergency causing a recycling center to apply for a Type 2 alternative schedule.

Subsection (g)(3)(B)

The purpose of adding this subsection is for recycling centers who are applying for a Type 2 alternative schedule to list the operational challenges that have resulted from the

specific natural disaster or state of emergency. This is to ensure that applicants who are applying for a Type 2 alternative schedule can demonstrate that the events have affected their business operations and that these effects justify the end date that is requested in their application.

The rationale for this addition is CalRecycle wants to provide flexibility for recycling centers who have been affected by a natural disaster or state of emergency while ensuring that the length of the requested schedule aligns with the effects of the natural disaster or emergency event on the business and to ensure compliance with PRC section 14571(c)(3)(A) that contains the second prong of this analysis. Not only must a natural disaster occur but the recycling center must be experiencing operational challenges due to the natural disaster or state of emergency.

Subsection (g)(4)

The purpose of this subsection is to ensure that applicants that are applying for a Type 1 alternative schedule demonstrate that they meet the definition of small or family-owned business as defined in this section by requiring the number of employees and the basis for the family relationship.

The rationale for this addition is to assist CalRecycle to ensure only those who meet the definitions of small business or family-owned business are approved to operate on a Type 1 alternative schedule.

Subsection (g)(5)

The purpose of adding this subsection is providing applicants who are applying for a Type 2 alternative schedule some flexibility on the end date of their alternative schedule by requiring the applicant to state the end date of the Type 2 alternative schedule.

The rationale for this addition is that under the proposed regulation Type 2 alternative schedules have no minimum hours a week that must be worked and can be closed for an initial period of six months. CalRecycle recognizes that Type 2 applicants will have different alternative schedules based on the natural disaster or state of emergency affecting the recycling center by requesting that the applicant provide the end date. This helps CalRecycle ensure that the requested schedule is within the Type 2 requirements when reviewing the application and allows CalRecycle more information to evaluate whether the alternative schedule complies with PRC section 14571(d).

Subsection (g)(6)

The purpose of adding this subsection is to give applicants the opportunity to provide an explanation to why the alternative schedule they are proposing to work under will meet the recycling goals of the Act and to demonstrate to that they have considered how the alternative schedule will impact consumers ability to recycle and determined that the schedule proposed does not have significant negative impacts.

The rationale for this addition is because CalRecycle is responsible for administering the Act and therefore will need to this information to make a determination conforming to the requirements of PRC section 14571(d).

Subsection (g)(7)

The purpose of adding this subsection is to give applicants the opportunity to provide CalRecycle with an explanation of why the applicant believes that denying these proposed alternative schedules will have a negative impact on consumers ability to redeem beverages. This subsection allows the applicant to demonstrate to CalRecycle that they have taken the needs of the consumers they serve into consideration when proposing the alternative schedule and have determined that the proposed schedule is the best option for their consumers given the recycling centers circumstances.

The rationale for this addition is CalRecycle will need to evaluate the impacts that an alternative schedule has on a consumer's ability to redeem beverage containers when approving or denying an application as required per PRC section 14571(d). This subsection allows applicants to provide an analysis of those impacts for CalRecycle to consider.

Subsection (g)(8)

The purpose of adding this subsection is to require the name and signature of the applicant of a Type 1 or Type 2 alternative schedule, the date the form was signed and the applicant's email address.

The rationale of this addition is to ensure that the person submitting the application on behalf of the recycling center is a responsible party as defined in PRC section 14591.2(a). By requiring the date, signature and email address of the applicant, CalRecycle will know when the form was signed, that it is authorized for submission by signature and to obtain an email address when further communication about the application is necessary by CalRecycle.

This is necessary because CalRecycle will need to verify that the recycling centers' application is being submitted by an enforceable authority and ensure consistent communication between the recycling center and CalRecycle.

Subsection (h)

The purpose of adding this subdivision is to describe how a potential applicant for a Type 1 or Type 2 alternative schedule can obtain a Type 1 or Type 2 application form. CalRecycle will be responsible for keeping accessibility compliant application forms on its website and will provide this form to any person who requests a copy of it.

The rational of this addition is that this provides clarity to the regulated entities as to how to obtain a Type 1 or Type 2 form in the event they do not want to submit a document that may not include all of the elements of the Type 1 or Type 2 application form.

Subsection (i)

The purpose of this subdivision is to provide CalRecycle with the ability to issue a notice to affected recycling centers when the department is aware of an emergency event that has taken place in the area.

The rationale for this addition is that CalRecycle contemplates the existence of natural disasters or states of emergency where the operational challenges suffered by all recycling centers in an affected region will be apparent without any justification by a recycling center needed. By providing a general notice to the recycling centers affected by an event, CalRecycle can be proactive in ensuring it is working with recycling centers in providing them the flexibility needed during critical times and it helps prevent the department from getting many Type 2 applicants from around the same areas after an event. Additionally, by delaying and staggering these Type 2 alternative schedules, this will ensure that CalRecycle is able to respond to all application forms submitted in the accelerated Type 2 Alternative Schedule timeframe. This subdivision is necessary to standardize the process for when the department will send out a general notice and what the recycling centers will need to do subsequent to the notice.

Subsection (i)(1)

The purpose of adding this subsection is to clarify that recycling centers who have received a general notice from CalRecycle after a natural disaster or state of emergency event may operate reduced hours or cease operations at their choice as of the date specified in the General Notice. This subsection is necessary because it makes clear that all Type 2 applicants have the same flexibility when choosing how many hours to reduce their operations after an emergency event and the date specified starts the clock on when a recycling center must submit a Type 2 application to continue to operate on an alternative schedule.

Subsection (i)(2)(A)

The purpose of this subsection is to clarify that recycling centers who have received a general notice from CalRecycle after or during an emergency event that occurred near their facility will still need to submit a Type 2 alternative schedule Due to a Natural Disaster or State of Emergency application form within seven working days of the date specified in the General Notice. CalRecycle is requesting that the application be submitted within seven working days to ensure that there is a finite end point as to how long a recycling center may operate on an alternative schedule pursuant to the General Notice. CalRecycle selected 7 working days because it is the same requirement that a recycling center must submit an initial Type 2 application in subsection (e)(1) either 7 working days before or after a natural disaster or state of Emergency.

The subsection is necessary because CalRecycle wants to ensure recycling centers still submit a Type 2 Alternative Schedule Due to A Natural Disaster or State of Emergency application form within 7 working days of the date of the general notice issued in subsection (i), all recycling centers that do not have an approved alternative will be

deemed to be operating according to the hours described in their certification record. CalRecycle will need to keep track of the number of recycling centers who are responding to the general notice and applying for a Type 2 alternative schedule to be able to know the redemption opportunities in an area where a General Notice has been issued by CalRecycle.

Subsection (i)(2)(B)

The purpose of adding this subsection is to clarify that recycling centers who have received a general notice from CalRecycle after or during a natural disaster or state of emergency event that occurred near their facility will not face any administrative discipline for electing to reduce operational hours or cease operations.

The rationale for this addition is that CalRecycle contemplates the existence of natural disasters or states of emergency where the operational challenges suffered by all recycling centers in an affected region will be apparent without any justification by a recycling center needed. This is necessary because CalRecycle wants to assure recycling centers when a general notice regarding a natural disaster or state of emergency has been issued that the recycling center operator can operate only when it is safe to do so in their own discretion.

ARTICLE 2. HANDLING FEES

SECTION 2516. Operation Standards

Subsection(a)(5)

The purpose of adding this subsection is to ensure that recycling centers that are claiming handling fees must be working no less than 30 hours a week.

The rationale of this addition is to ensure that recycling centers that are receiving handling fees are meeting the needs of their community. PRC section 14585 requires CalRecycle pay handling fees to recycling centers as an incentive to provide consumers with convenient opportunities to redeem their beverage containers by locating at supermarket sites or are otherwise in a convenience zone as defined by PRC section 14509.4. Handling fees will serve as a strong incentive to a recycling center to not apply for a Type 1 or Type 2 Alternative Schedule unless there is no other recourse because handling fees are meant to provide an incentive for the redemption of empty beverage containers in convenience zones. This subsection is necessary because it makes clear that recycling centers who are eligible to receive handling fees must operate no less than 30 hours per week to receive handling fees, which is the original mandate in PRC section 14571(a) to establish a recycling center in each convenience zone that operates at least 30 hours per week.

Subsection (b)

The purpose of this amendment is to replace “Division” with “department”.

This is a non-substantial change to existing regulations because SB 353 changed PRC section 40401(a)(2) to better reflect that it is the department that is vested with the authority to enforce PRC Division 12.1. This particular update will be made over time to this chapter as more regulation sections are added, amended, or otherwise modified.

ECONOMIC IMPACT FOR “MAJOR REGULATIONS”

These proposed regulations do not meet the criteria for major regulations specified in Health and Safety Code section 57005(b) and do not need a Standardized Regulatory Impact Analysis. The estimated economic impact amount is below the \$50 million threshold for major regulations. CalRecycle estimates the economic impact of this regulation is negligible as the scope is generally limited to the form and manner of implementing application requirements for recycling centers to seek CalRecycle authorization to implement an alternative schedule as specified in AB 1311 (Chapter 506, Statutes of 2021). The Economic and Fiscal Impact Statement (STD 399) includes a discussion of alternatives as required by the California Environmental Protection Agency pursuant to Health and Safety Code section 57005.

ECONOMIC IMPACT ASSESSMENT

The proposed regulations will have the following effects:

Creation or Elimination of Jobs Within the State

CalRecycle has determined that the regulatory proposal will not have an effect on the creation or elimination of jobs within the State of California. The scope of these regulations is limited to the form and manner of implementing application requirements for recycling centers to seek CalRecycle authorization to implement an alternative schedule as specified in AB 1311. The regulatory proposal establishes a Type 1 alternative schedule that is specifically for small and family-owned business to apply to operate on an alternative schedule and a Type 2 alternative schedule for recycling centers having operational difficulties due to a natural disaster or state of emergency. Permitting current recycling centers or applicants to operate a recycling to operate less than 30 hours per week is not expected to increase or decrease jobs within the state. In fact, not permitting recycling centers or applicants to operate less than 30 hours per week would incentivize hiring by the recycling centers and would create jobs within the State.

Creation of New Businesses or Elimination of Existing Businesses Within the State

CalRecycle has determined that the regulatory proposal will not have an effect on the creation or elimination of businesses within the State of California. The scope of these regulations is limited to the form and manner of implementing application requirements for recycling centers to seek CalRecycle authorization to implement an alternative schedule as specified in AB 1311. The regulatory proposal establishes a Type 1 alternative schedule that is specifically for small and family-owned business to apply to

operate on an alternative schedule and a Type 2 alternative schedule for recycling centers having operational difficulties due to a natural disaster or state of emergency. While permitting current recycling centers or applicants to operate a recycling center to operate less than 30 hours per week may incentivize more people to operate a recycling center because they are no longer required to operate at least 30 hours per week, any such increase is speculative. Type 1 Alternative Schedule applications will only be granted in the case of small or family-owned businesses where such approval furthers the goals of the Act, and approval is not guaranteed. Additionally, Type 2 Alternative Schedule applications would only be granted where there is evidence of a natural disaster or state of emergency, circumstances that do not lend themselves to being a good environment to start a recycling center business.

Expansion of Businesses Currently Doing Business Within the State

CalRecycle has determined that the regulatory proposal will not have an effect on the expansion of business within the State of California. The scope of these regulations is limited to the form and manner of implementing application requirements for recycling centers to seek CalRecycle authorization to implement an alternative schedule as specified in AB 1311. The regulatory proposal establishes a Type 1 alternative schedule that is specifically for small and family-owned business to apply to operate on an alternative schedule and a Type 2 alternative schedule for recycling centers having operational difficulties due to a natural disaster or state of emergency. While permitting current recycling centers or applicants to operate less than 30 hours per week may incentivize existing operators to expand to operating additional recycling centers because they are no longer required to operate at least 30 hours per week at a particular site, any such increase is speculative. Type 1 Alternative Schedule applications will only be granted in the case of small or family-owned businesses where such approval furthers the goals of the Act, and approval is not guaranteed. Also, given the regulatory definition for small business and family-owned business proposed in section 2503(a)(1) and (3), respectively, an applicant's capacity to expand to operating more than one recycling center is circumscribed by the limitations on the number of employees. Additionally, Type 2 Alternative Schedule applications would only be granted where there is evidence of a natural disaster or state of emergency, circumstances that do not lend themselves to being a good environment to start an additional recycling center business.

Anticipated Benefits of the Regulation

The proposed regulations will benefit the health and welfare of California residents along with the state's environment. These regulations will provide recycling centers with the flexibility to stay open instead of the current requirement to close if the minimum 30 hours requirement cannot be met. As a result, more recycling centers will be able to stay open, or temporarily shut down, and provide recycling options to consumers, thus reducing the chances of littering and of recyclable material ending up in landfills without the requirement to decertify and reapply for certification, which can take up to 90 days minimum per PRC section 14538(a)(2). Recycling centers are vital to the efforts to recycle beverage containers and divert them from landfills, and these proposed

regulations are thus aligned with CalRecycle’s policy goal to achieve a circular economy.

Additionally, the proposed regulations will benefit worker safety because under existing law, recycling centers cannot close during their posted business hours. By allowing recycling centers to close during a natural disaster or state of emergency, it is anticipated that this may benefit worker and consumer safety by allowing the use of alternative schedules during such a time.

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

CalRecycle utilized the following sources in the development of the proposed regulations:

- Attachment 1: Senate Floor Analysis
- Attachment 2: Recycling Center Alternative Schedule Informal Preliminary Workshop
- Attachment 3: [Chronological List of Governor-proclaimed Disasters For Property Tax Purposes \(CA.gov\)](#), accessed February 15, 2024
- Attachment 4: Economic and Fiscal Impact Statement (STD 399)
- Attachment 5: STD 399 Appendix

ANTICIPATED BENEFITS

The proposed regulations will benefit the health and welfare of California residents along with the state’s environment. These regulations will provide recycling centers with the flexibility to stay open instead of the current requirement to close if the minimum 30 hours requirement cannot be met. As a result, more recycling centers will be able to stay open, or temporarily shut down, and provide recycling options to consumers, thus reducing the chances of littering and of recyclable material ending up in landfills without the requirement to decertify and reapply for certification, which can take up to 90 days minimum per PRC section 14538(a)(2). Recycling centers are vital to the efforts to recycle beverage containers and divert them from landfills, and these proposed regulations are thus aligned with CalRecycle’s policy goal to achieve a circular economy.

The proposed regulations will benefit worker safety by allowing recycling centers to close during a natural disaster or state of emergency, ensuring that workers can stay home and protect their own safety in such situations.

The proposed regulations will also promote fairness and social equity by providing the option of a Type 2 alternative schedule to regions that historically are subject to higher levels of natural disasters or states of emergencies due to socioeconomic factors. This provides equity across communities that have varying levels of exposure to natural disasters or states of emergencies.

CalRecycle is not aware of any anticipated benefits from these proposed regulations to consumer safety, the prevention of discrimination, or an increase in transparency in business and government.

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

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

Alternative 1

Alternative: Do not adopt regulations to implement AB 1311 and rely on existing statutory and regulatory language.

Reason for Rejecting: The aforementioned statute lacks the specificity to implement the alternative schedule for recycling centers. Regulations are needed to ensure a process is in place for certified recycling centers to apply to operate on an alternative schedule while continuing to meet the goal of the Division. PRC section 14571(c)(3)(A) mandates CalRecycle to develop and implement a process to which a certified recycling can apply to CalRecycle for authorization to operate on an alternative schedule. CalRecycle has no independent authority to accomplish developing this process outside of the rulemaking process pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Alternative 2

Alternative: Allow all certified recycling centers to apply for an alternative schedule not related to a natural disaster and not place a minimum of 10 hours a week.

Reason for Rejecting Alternative:

While all recycling center operators may apply for an alternative schedule related to a natural disaster, AB 1311 prohibits any alternative schedule, not related to a natural disaster, that significantly decreases the ability for consumers to conveniently redeem beverage containers. Additionally, AB 1311 made no modification to the handling fee eligibility for convenience zone recycling centers to qualify for handling fee payments, requiring they are open a minimum of 30 hours per week. The Legislature's intent is clear – that any reduction in operational hours through an alternative schedule cannot significantly impact the consumer's ability to redeem beverage containers in served convenience zones. Finally, the minimum of 10 hours per week still provides consumers that utilize recycling centers not located in convenience zones a minimum number of hours per week they can rely on to redeem their beverage containers. Any less availability would discourage redemption and likely drive redeemed materials into curbside recycling streams, which degrades the material quality through excessive contamination.

ALTERNATIVES STATEMENT

No reasonable alternative has been identified to the regulatory proposal within this Initial Statement of Reasons that would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

SPECIFIC TECHNOLOGIES OR EQUIPMENT, OR SPECIFIC ACTIONS OR PROCEDURES

The proposed regulations do not mandate the use of specific technologies or equipment, nor specific actions or procedures. The scope of the proposed regulations is limited to the provision of more flexibility in recycling center operational hours through an application process.

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

Based on the Economic Impact Assessment discussed above, CalRecycle has made the initial finding that these proposed regulations will not have a significant adverse economic impact on businesses. The goal of the proposed regulatory action is to provide recycling centers with more flexibility in their operational hours. Additionally, the alternative schedules proposed in the regulations are not mandatory, only recycling centers interested in operating on an alternative schedule that meets either of the two types of schedules described in the proposed regulations need apply. Further, the number of recycling centers that will qualify to operate on an Alternative Schedule will depend either on the number and nature of employees or the existence of a natural disaster or state of emergency.

FINDING ON NECESSITY TO REPORT

CalRecycle has found that the proposed regulatory action does not mandate any reporting requirements pursuant to Government Code section 11346.3(d).

DUPLICATION OR CONFLICT WITH THE CODE OF FEDERAL REGULATIONS

Pursuant to Government Code section 11346.2(b)(6), CalRecycle has evaluated this regulatory proposal and has determined that there are no federal laws or regulations addressing the same issues as the proposed regulations. The proposed regulations will not be duplicative of other existing regulations as the BCRP is unique to the state of California and there are no Federal Regulations that are comparable to it nor any other agency outside of CalRecycle that certifies and administers recycling centers. Therefore, these proposed regulations do not duplicate or conflict with any existing federal law or regulation.