

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

**Economic Impact Statement Supplemental Information**

**Background of Bill and Regulations**

The Department of Resources Recycling and Recovery (CalRecycle) is proposing to adopt regulations contained in Title 14, Division 2, Chapter 5 of the California Code of Regulations (CCR) to implement alternative schedules that were established by Assem. Bill No. 1311 (Reg. Sess. 2021-2022) (AB 1311), allowing recycling centers to operate fewer than 30 hours per week.

The California Beverage Container Recycling and Litter Reduction Act (Act) (Chapter 1290, Statutes of 1986) was established to promote beverage container recycling and reduce litter by utilizing the California Refund Value (CRV) deposit and return system. The Act and related regulations require that certified recycling centers be operational for a period of not less than 30 hours per week if not located in a rural area. This requirement does not take into consideration unique business needs, flexibility for emergencies, or consumer desires. This puts an unreasonable burden on small businesses or family-owned businesses, which most recycling center operators fall into.

AB1311 expands eligibility for certified recycling centers to operate on an alternative schedule other than the schedule established in Public Resources Code (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.

The proposed regulations provide the form and manner for completing mandated applications by recycling center operators as specified in PRC section 14571. The proposed regulations include application requirements to facilitate collecting the required information for the Division to be able to determine if the alternative schedule can be approved or if it significantly decreases the consumer's ability to conveniently redeem CRV beverage containers. The proposed regulations also include definitions of the eligible entities (small or family-owned business) along with the definitions of natural disasters or states of emergencies as specified in PRC sections 14571(c)(3)(B)(ii).

## **Anticipated Benefits from this Regulatory Action**

The goal of AB 1311 is to provide recycling centers operated by small or family-owned organizations more flexibility in providing redemption for Californians while still ensuring that these alternative schedules do not significantly reduce consumer convenience when it comes to redemption of beverage containers subject to CRV.

Additionally, the proposed regulations will benefit the health and welfare of California residents along with the state's environment by providing the specificity necessary to implement alternative schedules in times of natural disasters or states of emergency.

## **Methodologies for Individual Answers – Economic Impact Statement**

### **A. Estimated Private Section Cost Impacts**

#### **1a. Impacts business and/or employees**

The proposed regulations affect recycling center operators by specifying the form and manner of applying for an alternative schedule and setting the criteria used by CalRecycle to authorize a certified recycling center to operate on an alternative schedule. The proposed regulations only affect those recycling center operators that desire to reduce the hours they are open to the public. Recycling centers are not required to implement an alternative schedule.

#### **1b. Impacts small businesses**

Public Resource Code section 14571(c)(3)(B)(ii) requires that CalRecycle allow a subset of recycling centers, those that are family-owned or are a small business, to be allowed the option to implement an alternative schedule. Virtually all recycling centers are operated by small businesses; however, the legislation requires CalRecycle to make a determination that such a schedule does not significantly decrease the ability of consumers to conveniently return beverage containers for the refund. As a result, CalRecycle is further defining the definition of “small businesses” under Government Code section 11342.610 in its proposed regulations and not applying the broader definition of small business as found in Government Code section 11342.610 to allow approximately 70% of the recycling center operators to be eligible for alternative schedules, by allowing them to meet the small business definition of this section. Government Code section 11346.3(b)(4)(B) definition of a “small business” 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.

## **2. Estimated economic impact of this regulation**

CalRecycle estimates that the economic impact is below \$10 million annually. In making this determination, CalRecycle considered the factors germane to the entities subject to the application requirements of PRC section 14571: recycling center operators.

Specifically, CalRecycle analyzed the time and effort expected to complete and submit the application to request an alternative schedule as set forth by specificity outlined in this regulation:

A detailed analysis is provided in Section B with Year 1 implementation costs expected to not exceed \$5,000, and with subsequent years' implementation costs also expected to not exceed \$5,000.

## **3. Estimated number of businesses impacted**

There are approximately 1,265 recycling centers certified by CalRecycle as of September 2023. Out of these recycling centers CalRecycle has determined that approximately 15 percent, an estimated 191 recycling centers, will use the voluntary process provided for in the proposed regulations. Additionally, under the proposed regulations recycling centers receiving handling fees from CalRecycle may apply to operate on an alternative schedule but would no longer be eligible to continue receive handling fees if they do not operate a minimum of 30 hours per week. The rationale of this is to ensure that recycling centers that are receiving handling fees are meeting the needs of their community. PRC section 14585 requires CalRecycle to pay handling fees to recycling centers as an incentive to provide consumers with convenient opportunities to redeem their beverage containers at supermarket sites or 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.

## **4-6. Number of businesses and jobs that will be created or eliminated**

The Estimated Costs section outlines the expected workload for the statutorily mandated application pursuant to PRC section 14571(c) and the additional considerations added pursuant to these regulations. The Beverage Container Recycling Program (Program) is unique to the state of California and changes to this program affect entities statewide. However, no businesses or jobs are anticipated to be created nor eliminated statewide as the scope of the regulations is limited to those recycling centers who wish to voluntarily reduce their operating hours to fewer than 30 hours per week.

## **B. Estimated Costs**

## 1a-b. Year 1 and Annual Ongoing Costs

The costs of these proposed regulations are based on the time it is anticipated to take a recycling center operator to complete an application for an alternative schedule.

### Section B, Part 1: Cost to Complete and Submit Annual Reports

Part 1 of Section B describes the implementation cost for recycling center operators to complete an application form for an alternative schedule. The annual ongoing costs assume that these requests will happen twice per year for a Type 1 application and once a year for a Type 2 (natural disaster) application.

It is anticipated that 10% (approximately 127) of recycling centers will apply to operate a Type 1 alternative schedule and another 5% (approximately 64) of recycling centers will apply for a Type 2 alternative schedule because handling fees will serve as a strong disincentive to recycling centers to apply for an alternative schedule. As only small business recycling centers as specified above in Section A, Part 1b, can apply for a Type 1 alternative schedule, CalRecycle estimates that small business recycling centers will submit an application twice during the year, once for operational needs and another for a natural disaster or state of emergency. While all recycling centers can qualify for a Type 2 alternative schedule, CalRecycle is estimating that a recycling center will only do so once in a year for a natural disaster or a state of emergency.

Additionally, the hourly rate used in calculations for both Type 1 and Type 2 alternative schedules is based on the minimum hourly wage in California as of January 1, 2024<sup>1</sup>.

*Table 1: Cost for an Individual Business*

| Activity                          | Hours      | Hourly Rate | Cost per Application | Times per Year | Annual Cost |
|-----------------------------------|------------|-------------|----------------------|----------------|-------------|
| Small business recycling center   | 10 minutes | \$16.00     | \$2.67 <sup>2</sup>  | X2             | \$5.34      |
| Typical business recycling center | 10 minutes | \$16.00     | \$2.67 <sup>3</sup>  | X1             | \$2.67      |

*Table 2: Total Costs*

| Alternative Schedule Type               | # of RCs         | Total Cost | Times per Year | Cost per Year |
|-----------------------------------------|------------------|------------|----------------|---------------|
| <b>Type 1</b><br>(< than 30 hours/week) | 127 <sup>4</sup> | \$339.09   | X2             | \$678.18      |

<sup>1</sup> California Department of Industrial Relations, Labor Commissioner's Office, [Minimum Wage \(ca.gov\)](https://www.dir.ca.gov/minimum-wage)

<sup>2</sup> This figure has been rounded up.

<sup>3</sup> This figure has been rounded up.

<sup>4</sup> This figure has been rounded up.

|                                                     |                 |          |    |                  |
|-----------------------------------------------------|-----------------|----------|----|------------------|
| <b>Type 2</b><br>(natural disasters)                | 64 <sup>5</sup> | \$170.88 | X1 | \$170.88         |
| <b>Total Annual Cost</b><br>(Type 1 + Type 2)       |                 |          |    | <b>\$849.06</b>  |
| <b>Total Five-Year Cost</b><br>(Type 1 + Type 2) x5 |                 |          |    | <b>\$4245.30</b> |

There are no costs for an individual to comply with the proposed regulations. The proposed regulations only allow for applications by businesses, specifically recycling centers.

## 1. Lifetime Costs

The previous section *1a-b. Year 1 and Annual Ongoing Costs* describes Year 1 and Ongoing costs associated with all entities affected by these regulations. A high-level summary of these costs is provided in Table 2.

In calculating the lifetime costs of this proposed regulation, the following formula was applied, where lifetime cost refers to a five-year cost associated with these regulations:

$$[5\text{-year cost}] = [\text{Year 1 Costs}] \times (5)$$

CalRecycle assumed 5 years in the calculations for lifetime costs to account for sufficient time for the full effect of the alternative schedules.

## C. Estimated Benefits

Applying to operate under a Type 1 or Type 2 alternative schedule is optional. Recyclers who need to operate with fewer hours benefit from the flexibility. Recyclers may also opt not to avail themselves of this option because they could redeem more beverage containers with more open hours. The estimated benefits are based on business needs on an individual basis and difficult to quantify.

The proposed regulations follow the statutory requirement that a recycling center's operating hours not significantly decrease the ability for consumers to conveniently return beverage containers for the refund value. This cost benefit to consumers is difficult to measure.

## D. Alternatives to the Regulation

### 1. Alternatives to the regulation

*Alternative 1:* Do not adopt regulations and rely on PRC sections 14571 to implement the alternative schedule application process.

Reason for Rejecting Alternative 1: The statute lacks the specificity to implement the application process for alternative schedules. Regulations are needed to ensure

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<sup>5</sup> This figure has been rounded up.

sufficient information is provided in the applications completed by recycling center operators for CalRecycle to determine if the proposed schedule significantly decreases the consumer's ability to redeem CRV containers. Regulations are needed to set the criteria for approving the alternative schedules and clarifying certain statutory language such as emergency and small businesses and duration of approval. In addition, regulations are needed to specify the content of and procedures for submitting applications. Finally, regulations are needed to provide additional guidelines, preconditions, and timeframes to approve or deny said applications.

*Alternative 2:* 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 2:

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.

## **2. Total statewide costs and benefits from this regulation and each alternative considered**

CalRecycle is unable to estimate the monetary benefits of the proposed regulations or alternatives considered. Calculations of the costs for the proposed regulations and alternatives considered are included below.

*Regulation:*

As shown above in the answers to Section B, and with specific reference to Table 2 on the total cost of the proposed regulation, CalRecycle has calculated the lifetime cost to be \$4245.30.

*Alternative 1:* Do not adopt regulations and rely on PRC sections 14571 to implement the alternative schedule application process.

- The cost for CalRecycle to process non-standardized applications will be higher and cannot be quantified because each non-standardized form will result in

different costs to CalRecycle as each submission would be unique. The costs for Alternative 1 will be in addition to the costs identified to implement the regulations as proposed because the proposed regulation cost is for the processing of a standardized form.

*Alternative 2:* 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.

- It is unclear how CalRecycle could calculate the additional cost of not placing a minimum of 10 hours a week on the alternative schedule, resulting in decreased redemption and excessive contamination of redeemed materials. As this is a voluntary application, the number of recycling centers that will avail themselves of an alternative schedule will vary widely from year to year. The volumes from recycling center to recycling center vary widely from location to location, which makes quantifying the amount of material not redeemed and shifted to curbside collection impossible to determine. CalRecycle is unable to determine the number of recycling centers that would only be open during its most profitable hours to maximize handling fee payments and minimize labor costs. The alternative 2 costs will be in addition to the costs identified to implement the regulations as proposed because more recycling centers would qualify to apply for an alternative schedule than the proposed regulations allow and these recycling centers would not face the disincentive of not receiving handling fees for only operating at the most profitable hours instead of the mandated 30 hours per week minimum.

### **3. Potential issues when comparing costs and benefits**

As CalRecycle is unable to estimate the monetary benefits of the proposed regulations or the benefits and costs of the alternatives considered, CalRecycle cannot easily compare the benefits and costs of the actual and alternative regulatory updates. Broadly, the alternatives considered would not allow for CalRecycle to meet its program and statutory requirements in a cost-efficient manner.

### **Methodologies for Individual Answers – Fiscal Impact Statement**

#### **B. Fiscal Effects on State Government**

To determine fiscal effects on state government, CalRecycle calculated the price to process 127 Type 1 applications twice per year and 64 Type 2 applications once per year, assuming the labor cost to be \$36.48 per hour, and that each application would take 15 minutes to process. CalRecycle based the \$36.48 per hour labor cost on the salary of a Program Technician II, which is the civil service classification of the position that would process these applications.

CalRecycle determined the annual fiscal effect on state government to be \$2,900.16. With the passage of AB 1311, CalRecycle determined that implementation would be minimal and that this cost would be absorbed within existing resources.