

## **REQUEST FOR APPROVAL**

**To:** Zoe Heller  
Director

**From:** Kate Nitta  
Assistant Chief Counsel, Legal Affairs Office

**Request Date:** January 16, 2025

**Subject:** AB 1311 Alternative Schedule Permanent Regulations

**Action By:** January 31, 2025

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### **Summary of Request:**

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 Public Resources Code (PRC) section 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 California Beverage Container Recycling and Litter Reduction 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 vest the authority to enforce PRC Division 12.1 in the Department of Resources Recycling and Recovery.

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 California Code of Regulations (CCR) section 2030(h) to effectuate PRC section 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 section 14571. AB 1311 amended PRC section 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) is met.

CalRecycle is proposing amendments to 14 CCR section 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 section 2500(a)(5) to implement PRC section 14571(b). PRC section 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 section 2503 to implement PRC 14571(c)(3), which authorizes CalRecycle to develop a process so recycling centers can apply for authorization to operate on an 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 section 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 section 14571(c)(1) or an alternative schedule pursuant to PRC section 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 California Redemption Value (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 PRC sections 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.

### **Background Information, Analysis, and Findings:**

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 with reduced hours, or temporarily shut down due to a natural disaster or state of emergency and then reopen later, and provide recycling options to consumers. This reduces 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.

### **Economic and Fiscal Impact:**

Businesses affected by the proposed regulations include recycling centers that participate in the California Beverage Container Recycling Program. The estimated economic impact amount is below the \$50 million threshold for major regulations. The impact of this regulation is estimated to be \$4,245.30 over five years. An initial determination has been made that the proposed regulations will have no significant statewide adverse economic impact on businesses. The cost impact of the proposed regulations on a representative private person or business is estimated to be \$2.67 as an initial cost and \$2.67 as an ongoing annual cost. The cost impact of the proposed relations on a representative small business is estimated to be \$2.67 as an initial cost, and \$5.34 as an ongoing annual cost.

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.

### **Recommendation:**

Prior to the passage of AB 1311, PRC section 14571(a) and 14 CCR section 2500(a)(4) 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.

Based on the information presented in this Request for Approval, staff recommends the Director to approve the proposed regulatory text for the AB 1311 Alternative Schedule regulations.

Upon approval of this request, staff will work with the Legal Office to make the necessary filings with the Office of Administrative Law to enact the regulations.

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**Director Action:**

On the basis of the information and analysis in this Request for Approval, I hereby approve the adoption of the AB 1311 Alternative Schedule regulations amendments detailed in CCR title 14, sections 2030, 2045, 2500, 2503, 2516 and in doing so, fulfill CalRecycle's obligations pursuant to PRC section 14571.

  
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Zoë Heller  
Director

1/31/25  
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Date Signed

**Attachments:**

1. Proposed Regulatory Language, Title 14 California Code of Regulations, Chapter 5.