

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

**FINAL STATEMENT OF REASONS**

**UPDATE TO INITIAL STATEMENT OF REASONS**

The Initial Statement of Reasons (ISOR), released on April 12, 2024, is incorporated by reference herein. The ISOR contained a description of the rationale for the proposed amendments. On April 12, 2024, all Documents Relied Upon and identified in the ISOR were made available to the public. The updates to the proposed regulatory action that were made subsequent to the release of the ISOR did not result in any necessary updates for the ISOR.

**LOCAL MANDATE DETERMINATION**

CalRecycle has determined that this regulatory action will not result in a mandate to any local agency or school district the costs of which are reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

**CONSIDERATION OF ALTERNATIVES**

For the reasons set forth in the ISOR, in CalRecycle's summary and response to public comments, and in this Final Statement of Reasons (FSOR), CalRecycle has determined that no alternative considered by CalRecycle would be more effective in carrying out the purpose for which the regulatory action was proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the action taken by CalRecycle.

**STATEMENT REGARDING SMALL BUSINESS ALTERNATIVES**

No alternatives were considered by CalRecycle nor otherwise identified and brought to CalRecycle's attention that would lessen any adverse economic impact on small business, pursuant to Government Code section 11346.9(a)(5).

**STATEMENT REGARDING DUPLICATION WITH STATE OR FEDERAL STATUTE**

The regulations duplicate or overlap a state or federal statute or regulation which is cited as "authority" or "reference" for the proposed regulation and the duplication or overlap is necessary to satisfy the "clarity" standard of Government Code section 11349.1(a)(3).

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD AND 15-DAY COMMENT PERIOD.**

**SUMMARY OF COMMENTS RECEIVED**

Written comments were received by CalRecycle during the 45-day comment period which began on April 12, 2024 and ended on May 29, 2024. Written and oral comments were additionally received at a public hearing on May 29, 2024.

The comments received during the 45-day comment period and public hearing are displayed on the attached 45-Day Comment Period Matrix, which shows the corresponding comment code, California Code of Regulations (CCR) section that the comment is in reference to (if applicable), the commenter's name, their organization, and CalRecycle's response to the comment. Please refer to the 45-Day Comment Period Matrix for the list of 6 total comments received during the 45-day comment period and public hearing. Please note that 1 of the 6 total comments received contain the full comment submissions that were broken down and responded to as discrete comments. Thus C-1-1 does not have a corresponding response in the comment matrix, as the comment of the submission was responded to starting with comment code C-1-2. The 45-Day Comment Period Matrix contains a key of comment codes of all 6 comments. The 45-Day Comment Period Matrix is incorporated by reference into this FSOR. In both this FSOR and the 45-Day Comment Period Matrix, I = a comment from an Individual, C = a comment from a Company, and O = a comment from an Organization.

There were no comments received during the 15-day comment period conducted from October 16 to October 31, 2024.

## **CALRECYCLE'S RESPONSE TO COMMENTS RECEIVED**

CalRecycle would like to express its appreciation to the individuals that participated in the 45-day comment period and public hearing. CalRecycle concluded that only the changes to section 2503 were necessary as a result of the received comments.

A summary of comments on the AB 1311 Alternative Schedule rulemaking, as well as CalRecycle's responses, are provided below. Comment letters received during the public comment period, as well as the 45-Day Comment Period Matrix that includes CalRecycle's responses are posted on the [AB 1311 Alternative Schedule Permanent Regulations - CalRecycle Home Page](#).

### *CalRecycle Response 1: Comment on Recycling Centers Disappearing and Surplus Funds in the California Beverage Container Recycling Fund*

**Comment:** CalRecycle received one comment where the commenter noted that recycling centers have been disappearing and that there were \$672 million in the California Beverage Container Recycling Fund.

Comment Code: I-1-1.

**Response:** CalRecycle rejects this comment. The scope of this rulemaking is limited to allowing recycling centers to operate an alternative schedule in specific circumstances. To the extent that the commenter is asking for funds to be distributed back to

consumers, CalRecycle does not have any statutory authority to implement such a distribution. To the extent that the commenter is requesting that this rulemaking prevent recycling centers from disappearing, CalRecycle notes that this rulemaking is intended to allow more recycling centers to remain open when they are a small or family-owned business that needs a more flexible schedule or for all recycling centers when a natural disaster or state of emergency occurs.

*CalRecycle Response 2: Requiring Recycling Centers to Operate More than Five Hours Other than 9-5 Monday-Friday*

Comment Code: C-1-2.

**Comment:** CalRecycle received one comment that requested that the requirement to operate more than five hours other than from Monday to Friday, 9 a.m to 5 p.m. should not be mandatory.

**Response:** CalRecycle rejects this comment as the commenter is requesting a change that is outside the scope of the proposed regulations. To the extent the commenter is asking for the deletion of subsections 2500(a)(4)(B) or 2030(g)(3), CalRecycle rejects this comment because Public Resources Code (PRC) section 14571(a) specifically requires a recycling center to operate a minimum of 5 hours occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m. CalRecycle cannot engage in rulemaking to develop regulations that are contrary to statute.

*CalRecycle Response 3: Including Events not Declared as State of Emergency or Natural Disaster as a Basis for a Type-2 Alternative Schedule*

Comment Code: C-1-3.

**Comment:** CalRecycle received one comment that requested that the determination of a natural disaster or state of emergency not be required to be declared by a government entity.

**Response:** CalRecycle rejects this comment. The regulation comports with the requirements found in PRC section 14571(c)(3)(B)(ii), which states "experiencing operational challenges due to natural disasters or states of emergency, as determined by the department". CalRecycle does not have the resources to determine if every circumstance is the cause of a natural disaster or state of emergency, and by relying on declarations from a government, CalRecycle is imposing the least costly regulation compliant with statute.

*CalRecycle Response 4: Request for More Flexibility in Types of Organizations for Family-owned or Small Business*

Comment Code: C-1-4.

**Comment:** CalRecycle received one comment that requested that there be more flexibility in types of organization for a family-owned or small business that could apply for a Type-1 Alternative Schedule instead of just a privately owned partnership or sole-proprietorship.

**Response:** CalRecycle accepts this comment and proposes changes to sections 2503(a)(1) and 2503(a)(3) to remove the phrase "a privately owned partnership or sole proprietorship" and replace with "an organization" in order to include other types of business entities.

*CalRecycle Response 5: Request that No End Date be Required to Apply for a Type-2 Alternative Schedule.*

Comment Code: C-1-5.

**Comment:** CalRecycle received one comment that suggested a Type-2 Alternative Schedule application should not require an end date.

**Response:** CalRecycle rejects this comment. The regulation comports with the requirements found in PRC section 14571(c)(3)(B)(ii), which states "experiencing operational challenges due to natural disasters or states of emergency, as determined by the department". Unlike Type 1 alternative schedules that are indefinite, Type 2 alternative schedules are temporary in nature since they are based on a limited time natural disaster or state of emergency. Therefore, an end date for Type 2 alternative schedules is reasonable and necessary.