

NOTICE OF PROPOSED ACTION

DIVISION OF RECYCLING INTEGRATED INFORMATION SYSTEM PROCESSOR AND RECYCLER REPORTING PERMANENT REGULATIONS

TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 2, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

SUBCHAPTER 2. GENERAL REQUIREMENTS

Article 4. General Accounting Requirements

§ 2090. REPORTS, NOTICES AND CLAIMS SUBMITTED TO THE DIVISION

Subsection 2090 (f): This subsection has been deleted. The deletion of this subsection will eliminate the consolidated shipping report. The purpose of this report is to eliminate the number of shipping reports that must be completed by certified recycling centers and processors, thus reducing the amount of hard copy documents prepared. However, with electronic reporting, the system will be able to accommodate entering data and submitting shipping reports much more quickly than the current amount of time required to complete a consolidated shipping report. Based on the Division's visits to recycling centers that are using consolidated shipping reports, it appears that most of these recycling centers will be using the Division of Recycling Integrated Information System (DORIIS) to report electronically, instead of submitting hardcopy consolidated shipping reports. The recycling centers that do not want to use DORIIS to report electronically will still be able to use the paper shipping reports but will need to create individual shipping reports instead of submitting a consolidated shipping report.

Figure 8: This figure has been deleted. The consolidated shipping report form is no longer needed because we have eliminated the consolidated shipping report from the regulations. Please see the explanation in subsection (f) above.

SUBCHAPTER 5. PROCESSORS

Article 3. Accounting and Reporting Requirements

§ 2425. Reporting

Subsection 2425 (a): This subsection has been amended to allow processors to submit processor invoice reports either electronically or by hardcopy. Processors will be allowed to submit up to thirty reports per calendar month, instead of up to eight reports per calendar month. Allowing for processor invoices to be submitted up to thirty times per month will significantly reduce the current cycle time for submission of processor claims and reimbursement by the state.

Subsection 2425 (a) (1): This subsection has been amended to allow the processor 30 days after the last day of the reporting period to submit reports instead of no later than the 10th day.

Subsection 2425 (a) (3): This subsection has been amended to allow multiple amended processor invoices instead of no more than two amended processor invoices. The amended processor invoices are required to be submitted no later than 30 days after the due date of the processor invoice being submitted, instead of 90 days after the due date of the processor invoice being submitted because it is anticipated that the need to amend processor invoices will be significantly reduced because the auto-calculation and summation functionality of DORIIS will significantly reduce, if not eliminate, the types of errors that typically result in the need to amend original processor invoices.

Subsection 2425 (a) (4): This subsection has been amended to delete the phrase “which will result in money being owed to the State of California”. This phrase has been deleted because the Division will accept amended processor invoices whether or not money is owed to the State of California.

Subsections 2425 (c) (3) and (4): These subsections have been deleted because the processor invoice requires the processing payment and the administrative fee to be reported in Subsection 2425 (c) (2). There is no need in DORIIS for this information to be repeated. Processors not using DORIIS will not be affected by this change.

Subsection 2425 (c) (3): This subsection has been renumbered from subsection 2425 (c) (5) due to the deletion of subsections 2425 (c) (3) and (4). The word “paid” has been added to this section after “refund value” and “administrative fees” and “processing payments” to clarify that refund value, administrative fees and processing payments being requested from the Division have been paid by the processor. The word “and” has been removed because there is no subsection following.

Subsection 2425 (c) (6): This subsection has been deleted because these “for recycling” and “not for recycling” fields are seldom, if ever, used and these amounts would be negligible and serve no purpose.

Subsection 2425 (e) (1): The name and telephone number of a contact person have been deleted, as well as the address of the company shipping the material to the processor. The contact person submitting the report and company addresses are populated by DORIIS based upon the master data associated with the certification number that is entered. The contact name and phone number was required to provide the Division’s payment and report processing contractor and/or for a Division reference to contact, if necessary. This information was not provided for the benefit of the processors.

Subsection 2425 (e) (5): The word “redemption” has been removed and the word “total” added and the phrase “of empty beverage containers purchased by basis for the refund value payment (e.g. segregated and weighed; commingled and weighed, segregated and counted)” was also added; because this section applies to recyclers and not processors, and indicates the required information on the shipping report received by the processor from the recyclers. It allows recyclers to enter their purchases by basis which is how most recyclers keep their daily records and the redemption weight and refund value is automatically calculated for them. Recyclers will still be allowed to complete and submit paper copies of shipping reports, if they choose not to use DORIIS.

Subsection 2425 (e) (9): The word “printed” and the word “title” have been removed from this section. The word “printed” and the word “title” are not necessary for the processor to complete this report.

Subsection 2425 (e) (10): The phrase “and weight ticket number” has been added to this section to require the processor to list the weight ticket number on the shipping report prepared by the processor. This requirement will enable the processor to match the weight ticket date to the weight ticket number.

Subsection 2425 (e) (12): The word “printed” and the word “title” have been removed from this section. The word “printed” and the word “title” are not necessary for the processor to complete on this report.

SUBCHAPTER 6. RECYCLING CENTERS

Article 3. Accounting and Reporting Requirements

§ 2525 RECORDKEEPING

Subsection 2525 (i): The phrase “or the weight by basis for the refund value payment (e.g., segregated and counted, segregated and weighed, commingled, or, if no refund value is paid, indicated scrap only)” has been added to this

subsection. The current requirement requires that the recycler must provide the total weight and corresponding refund value on their daily summary. This change gives the recycler the option of continuing to use the total weight or the total refund value. In the DORIIS system, the recycler will use a web-based interface to prepare their required shipping reports. The DORIIS system will allow the recycler to enter the segregated, commingled, and purchases by count as recorded on their receipts and logs and Daily Purchase Summaries in the appropriate fields in the web-based shipping report interface. The redemption weight and refund values will be automatically calculated. If they choose not to use this method, the recycler may continue to enter the total refund value, as calculated from their daily summary and the redemption weight will automatically be calculated.

§ 2530 REPORTING

New Subsection 2530 (e) (4) (A): This subsection has been added to the text. This section will allow recyclers to enter the applicable weight purchased by basis taken from their Daily Purchase Summaries directly into the DORIIS shipping report interface. It will no longer be necessary for the recycler to perform the series of additional calculations currently necessary to obtain the redemption weight and refund value information for inclusion on the shipping reports. The system auto calculation of the total refund value using these values will result in a significant reduction in the number and frequency of errors currently made by recyclers. This revision will not change the current process for recyclers not using DORIIS because they will still be able to calculate and enter the total redemption weight based upon the calculated total refund value from their daily summaries.

Subsection 2530 (e) (4) (B): This subsection has been renumbered from subsection 2530 (e) (4) (A) due to the addition of new subsection 2530 (e) (4) (A).

Subsection 2530 (e) (4) (C): This subsection has been renumbered from subsection 2530 (e) (4) (B) due to the addition of new subsection 2530 (e) (4) (A).

Subsection 2530 (f) (1): The word “address” has been deleted from this subsection. The company address is populated by DORIIS based upon the master data associated with the certification number that is entered.

Subsection 2530 (f) (6): The word “printed” and the word “title” have been deleted from this subsection. The word “printed” and the word “title” are not necessary for the recycling center to complete this report.

Subsection 2530 (f) (7): The word “printed” and the word “title” have been deleted from this subsection. The word “printed” and the word “title” are not necessary for the recycling center to complete this report.

Subsection 2530 (f) (8): The phrase “weight ticket date and” has been added to this section to require the processor to list the weight ticket date on the shipping report prepared by the recycling center. This requirement will enable the processor to match the weight ticket date to the weight ticket number.

Section 2530: Section 14571.9 has been deleted from the reference section because it is not a section currently in the California Beverage Container Recycling and Litter Reduction Act (Act).

INFORMATION IS AVAILABLE UPON REQUEST. Copies of the text, the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request from our agency contact person and at our website: www.conservation.ca.gov . The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 “K” Street, 19th Floor, Sacramento, California. Please contact the agency contact person, Karen Denz, at (916) 322-1899. General or substance questions regarding this file may also be directed to Karen Denz. The backup agency contact person for this rulemaking file is Sharon Siozon, who may be contacted at (916) 322-1760. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS. The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on September 28, 2009. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Karen Denz, Division of Recycling Integrated Information System Processor and Recycler Reporting Permanent Regulations, Department of Conservation, Division of Recycling, 801 “K” St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: DORRegulations@consrv.ca.gov, or faxed to (916) 327-8668.

PUBLIC HEARING. A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF MODIFIED TEXT. Following the written comment period, and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with the

changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of littered beverage containers along the State's highways. Under this Act, the Department, through the Division of Recycling (Division), is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

In June 2007, the Department of Conservation, Division of Recycling initiated the Division of Recycling Integrated Information System (DORIIS) project. This project will improve the management processes for the Division's workflow, document tracking, financial reporting, participant tracking, audits and investigations, education and outreach and allow the Division to provide better customer service. DORIIS is a free, Internet-based tool for the recycling community. DORIIS will improve business processes, eliminate duplicative data entry, provide program participants with timely and accurate information and improved data analysis and reporting. This online system will also reduce paper use. DORIIS is a Web-based tool that can be accessed from any computer with an Internet browser.

As a result of DORIIS, the Division has identified several changes that will facilitate the recordkeeping and reporting for recycling centers and processors but will require changes in the regulations. The Division is proposing to change the allowable frequency and timing for submitting processor claims. These proposed changes actually increase the frequency of allowable submissions. The Division is also proposing changes associated with the daily purchase information which is currently required to be captured by all recycling centers on a daily basis, but not currently required to be reported in the same format on the applicable shipping report.

DORIIS will allow, but not require, participants to report electronically and receive or make payments electronically. The Division will continue to allow program participants to submit paper copies of all required documents and to send payments or receive payments by mail.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections 14530.5 (b) and 14536.

REFERENCE

Public Resources Code Sections 14504, 14511.7, 14515.5, 14518.5, 14519.5, 14526.6, 14537, 14538, 14539, 14541, 14549.1, 14550, 14551, 14552, 14552.51, 14553, 14575, 14585, and 18015.

DISCLOSURES REGARDING THE PROPOSED ACTION

PLAIN ENGLISH REQUIREMENT

The Department staff prepared the proposed regulation changes pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2 (a)(1). The proposed regulations are considered non-technical and are written to be easily understood by the parties that will use them.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

MANDATE ON STATE AGENCIES, LOCAL AGENCIES OR SCHOOL DISTRICTS

Department staff has determined that the proposed regulations do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630; 4) other nondiscretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

FINDINGS ON NECESSITY OF REPORTS

Department staff has found that the requirements for specific reports are necessary to allow program participants to report electronically or to submit paper copies of all required documents.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the

proposed action. These proposed regulations will serve to clarify and make specific existing statutory requirements.

EFFECT ON HOUSING COSTS

The Department has determined that the proposed regulations will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

Department staff have made an initial determination that the proposed regulation changes would not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with other states.

EFFECTS ON SMALL BUSINESSES

The Department has determined that the adoption of these proposed regulations may affect small businesses. The Department has determined that these regulations will have no significant impact on small businesses because small businesses are not required to submit documents to the Department electronically. These proposed regulations do not mandate actions upon private persons or businesses.

EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA

The Department has determined that the adoption of these regulations will not:

Create or eliminate jobs within California;

Create new nor eliminate existing businesses within California;

Expand businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at:
www.conservation.ca.gov.