

NOTICE OF PROPOSED ACTION

RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

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

NOTICE IS HEREBY GIVEN that the Department of Resources Recycling and Recovery (Department), proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 6, Chapter 5, Division 2, Title 14 of the CCR, the Department will propose permanent regulations, regarding the reduction of load limits for empty beverage containers and reporting of 250 pound aluminum transactions, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

SUBCHAPTER 6. RECYCLING CENTERS Article 3. Accounting and Reporting Requirements

§ 2530. REPORTING

Subsection 2530(i) is being eliminated because the proposed daily load limit for aluminum transactions proposed to be revised in 14CCR Section 2535 will be lower than the 250 pounds for aluminum beverage container transactions that currently are required to be reported to the Department.

Subsection 2530(j) is being changed to reflect the re-numbering resulting from the deletion of subsection 2530(i)

§ 2535. PAYMENTS TO CONSUMERS, CURBSIDE PROGRAMS, COMMUNITY SERVICE PROGRAMS AND DROPOFF OR COLLECTION PROGRAMS

Subsection 2535(f) is being proposed to be amended to change the daily limits for loads of empty beverage containers received from any person, operation or entity not certified by the Department for aluminum and plastic beverage containers from 500 to 100 pounds per person per day, and for glass beverage containers from 2,500 to 1,000 pounds per person per day.

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 is available upon request and at our website: www.calrecycle.ca.gov/Laws/Rulemaking/. The rulemaking file is available to the public for review during normal business hours at the Department, 801 "K" Street, 17th Floor, Sacramento, California. Please contact the agency contact person, Chris Reed, at (916) 327-7598. General or substantive questions regarding this file may also be directed to Chris Reed. The back-up agency contact person for this rulemaking file is John

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

Halligan, who may be contacted at (916) 324-5392. 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 June 17, 2013. 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: Chris Reed, Daily Load Limits Permanent Regulations, Department of Resources Recycling and Recovery, Division of Recycling, 801 "K" St., MS 17-01, Sacramento, CA 95814. During the 45-day comment period, written comments may also be Emailed to: DORRegulations@CalRecycle.ca.gov or faxed to (916) 552-4563.

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.

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

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 beverage container litter in the State. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

The goal of the Act is to achieve and maintain an 80% recycling rate for beverage containers included in the program. CalRecycle provides a number of services to help achieve this goal, including nonprofit grant management, public outreach and education, technical assistance, enforcement, auditing, economic analyses, and processing and paying program claims for California Refund Value (CRV).

The Act requires beverage distributors selling or distributing beverages included in the Act to make a redemption payment of five cents or ten cents per container for each covered beverage sold or distributed in California. This money is deposited into the Fund. Based upon valid requests for reimbursement, money is paid out of the Fund to reimburse processors for the CRV they paid to certified recyclers who redeemed CRV eligible containers from consumers who present empty CRV eligible containers to them for redemption.

Since the inception of the program there have been unscrupulous individuals and entities intent on defrauding the Fund by redeeming non-qualifying beverage containers for CRV (e.g., imported from out-of-State, out-of-country, or previously redeemed empty beverage containers). Although out-of-state (OOS) beverage containers may contain a CRV label, they do not qualify for CRV because they were not sold in California. As a result, the California Beverage Container Recycling Fund (CBCRF), and, more importantly, the people of California, loses five or ten cents for each OOS beverage container illegally redeemed for CRV in California.

The Department has both observations and anecdotal evidence that a significant number of individuals/entities frequently import large loads of used beverage containers (UBCs) from other states (e.g., Nevada, Arizona and New Mexico, etc.). To facilitate fraud, they break large loads into smaller load sizes that are compliant with the current regulations, thus avoiding detection, and then illegally redeeming them for California Refund Value (CRV) at certified recycling centers throughout California. Additionally, the Department's analysis of actual consumer transactions found that the typical consumer transaction was significantly smaller than the current daily load limits. Pursuant to Chapter 3.5 of the Government Code (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the Department is undertaking a rulemaking proceeding to amend the current daily load limits for empty beverage containers received by certified recycling centers from individuals/entities not certified by the Department (i.e., consumers). Additionally, the Department proposes to eliminate the current requirements for reporting loads of 250 pounds or more of aluminum empty beverage containers. The Department strongly believes that lowering the daily load limits for

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

consumers will help resolve issues associated with the individuals/entities importing out-of-state (OOS) UBCs into California and illegally redeeming them for CRV at certified recycling centers. Reductions in the daily load limits will also help to address issues associated with noncertified recyclers and illegal scavenging of curbside program materials. Additionally, the proposed reductions will facilitate certified recycling center operators' compliance with requirements for visually inspecting loads of beverage containers being presented for redemption by consumers to determine the proper payment basis of the loads and eligibility for CRV payment. Finally, if the daily load limits are reduced as proposed, the 250 pound aluminum reporting requirement will no longer be necessary. Eliminating this weekly reporting requirement will result in cost savings for all certified recycling centers California.

As provided by Title 14 of the California Code of Regulations (14CCR), Section 2535(f), certified recycling centers are restricted from paying or claiming CRV for loads of aluminum and plastic beverage containers if the weight of the load exceeds 500 pounds per person per day. For glass beverage containers, the limit is 2,500 pounds per person per day. Additionally, in accordance with 14CCR, Section 2530(i), certified recycling centers must report to the Division any loads of aluminum empty beverage containers over 250 lbs. purchased from consumers. The Department proposes to reduce the daily load limits for consumer redemption of empty beverage containers to 100 pounds for aluminum and plastic, and to 1,000 pounds for glass. The Division also proposes to eliminate the current requirement for certified recycling centers to report to the Division all purchases of 250 pounds or more of aluminum empty beverage containers from a single consumer because that requirement will no longer be necessary. Eliminating this reporting requirement will reduce costs for certified recycling centers and will not significantly impact the Department's ability to combat program related fraud.

Section 14595 of the Act declares that the redemption of beverage container material imported from OOS presents a significant threat to the integrity of the California Beverage Container Recycling Program (CBCRP) and the Fund. Furthermore, Section 14595.5 (a)(1) of the Act states that no person shall pay, claim, or receive any refund value, processing payment, or handling fee, or administrative fee for beverage container material that the person knew, or should have known, was imported from OOS.

Although OOS UBCs often contain a CRV label, they are not eligible to be redeemed for CRV because they were not sold in California and beverage distributors do not pay CRV into the Fund for beverages sold outside California. For every OOS UBC illegally redeemed for CRV, the Fund, and more importantly the people of California, loses five or ten cents. Although it is illegal to redeem OOS UBCs for CRV, it is not illegal to import OOS UBCs into CA if individuals/entities only receive the applicable scrap value of the commodity. These factors complicate efforts by the Department and our enforcement partner, the California Department of Justice (DOJ), to deter and/or detect fraudulent activities. These factors also complicate certified recycling center operators' ability to effectively perform inspections for qualifying materials.

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

Based upon observations made, and evidence/data gathered by the Department's Investigators, DOJ Agents, and California Department of Food & Agriculture (CDFA) Plant Quarantine Inspection Station Agents, it is clear that a substantial number of vehicles/individuals are buying and/or collecting UBCs in other states and transporting them into California to redeem them for CRV.

During the period of June 15, 2011 through September 15, 2011, the Department and CDFA initiated a pilot program to survey vehicles importing used beverage containers into California through all 16 CDFA Plant Quarantine Inspection Station locations. During this time CDFA data documented 3,588 vehicles transporting OOS UBCs through the CDFA Plant Quarantine Inspection Stations (this included 518 rental trucks filled to capacity). While it is not illegal to import UBCs into California, it is illegal to redeem imported UBCs for CRV. A conservative projection based on this CDFA survey data results in an estimated minimum fraud exposure of \$7 million annually to the CBCRF for OOS UBCs transported in 'rental trucks' alone.

Furthermore, investigations conducted by the Department and DOJ have revealed that large loads (up to and greater than 5,000 pounds) of aluminum and plastic UBCs are being transported by individuals/entities into California on a daily basis, often using rental trucks. These large loads are subsequently broken down into smaller loads, typically less than 500 or 250 pounds to avoid the daily load limits and/or possible detection through required reporting. Multiple individuals then transport the smaller loads of UBCs in pick-up trucks, vans, and passenger cars to certified recycling centers and illegally redeem the UBCs for CRV. Because this type of activity constitutes fraud and is a felony crime, individuals/entities doing so have taken drastic measures to avoid being detected, such as performing counter-surveillance, entering into CA using auxiliary roads to avoid CDFA Plant Quarantine Inspection Stations, entering into CA late after midnight and before sunrise, trying to hide materials from view when transporting them, storing or breaking down large loads of UBC materials, etc. The actions of these individuals/entities, and the certified recycling centers who purchase from them knowing, or suspecting the UBCs are ineligible for CRV redemption, are draining the Fund of millions of dollars each year. Certified recycling center operators who facilitate or participate in illegal redemption pose a significant threat to the businesses of honest recycling center operators who know or suspect the UBC materials are ineligible and do the right thing by refusing to purchase the OOS UBCs.

By reducing the daily consumer load limit from 500 pounds to 100 pounds for aluminum and plastic, and 1,000 pounds for glass, the Department will be able to reduce the risk of large scale fraudulent activity and monitor it more effectively. Doing so will also make it much more difficult, complex and costly for the importers to sell the larger loads of OOS UBCs by pretending to be consumers. For example, an OOS importer only needs to divide a 5,000 lb. load of OOS UBCs into 10 transactions to stay under the current daily load limit for aluminum, (i.e., $5,000/500 = 10$). Under the proposed reduced daily load limit for aluminum the OOS importers would have to divide the same load 50 times (i.e., $5,000/100 = 50$). In turn, complicit recycling center operators actively engaged in splitting loads to avoid exceeding the daily load limit will be forced to produce additional

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

fraudulent transactions in order support their illegal purchases/claims for reimbursement. In doing so, they create a larger 'footprint' for the Department and DOJ investigators to detect, investigate, and use as evidence for administrative action and/or criminal prosecution. Finally, reduced load limits will greatly facilitate a recycling center's ability to properly inspect loads of beverage containers because the maximum size of the load of aluminum and plastic beverage containers to be inspected will be 100 pounds, which equates to approximately 2,970 beverage containers equivalent to 495 six-packs (using the most recent (2013) containers per pound rate posted by the Department) or 1,700 PET plastic beverage containers equivalent to 283 six-packs. As proposed, the maximum size of a load of glass beverage containers will be 1,000 pounds, which equates to approximately 1,920 beverage containers, which is equivalent to 320 six-packs.

The Department's Division of Recycling, Recycling Enforcement Branch, Risk Assessment & Data Analysis Section conducted an analysis of approximately 95K consumer transactions, accounting for more than 2.4 million pounds of material, collected from 158 certified recycling centers which produced the following results:

ALUMINUM:

- Average (mean) weight = **8.7 pounds**
- Median weight = **4.3 pounds**
- **99.6%** of all transactions surveyed are =< **100 pounds**

PLASTIC:

- Average weight = **11.6 pounds**
- Median weight = **6 pounds**
- **99.2%** of all transactions surveyed are =< **100 pounds**

GLASS:

- Average weight = **77.4 pounds**
- Median weight = **27 pounds**
- **99.1%** of all transactions surveyed are =< **1,000 pounds or less**

This analysis demonstrates that the proposed reductions in the daily load limits will not adversely impact the average consumer attempting to redeem their CRV beverage containers. The results of the analysis also clearly indicate that current daily load limits of 500 pounds for aluminum and plastic and 2,500 pounds for glass are much too high and are not indicative of typical consumer transactions. The Department believes that individuals/entities who frequently redeem large loads of empty beverage containers are OOS importers, non-certified recycling centers, and/or are engaged in illegal scavenging from curbside programs.

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

In August 2011, the Department held a public workshop for all interested parties and presented the results of our analysis of consumer transaction activity and, based upon the results, expressed our intentions to pursue regulatory change to reduce the daily load limits for consumer transactions. Interested parties were provided with the option of attending the workshop in person or via webinar. The Department requested and received feedback from individuals who attended/participated in the workshop. Several attendees expressed concerns that, dependent on the level of the reduced load limits, opportunities for recycling by non-profit groups (e.g., Boy Scout, Girl Scouts, church groups, schools, etc.) could be adversely impacted by reduced daily load limits. Attendees also expressed concerns that some of their 'large volume' clients would also be adversely impacted. The Department documented their responses and committed to review the feedback provided and attempt to mitigate the issues/concerns expressed. The Department committed to providing details at a subsequent workshop to be held at a later date.

In October 2011, the Department held a second public workshop for all interested parties to present several alternative reduced daily load limits for discussion and proposed actions to mitigate the issues/concerns regarding potential adverse impacts on opportunities/abilities to redeem empty beverage containers that were expressed at the August 2011 workshop. Interested parties were provided with the option of attending the workshop in person or via webinar. None of the individuals that attended/participated in this workshop expressed any significant concerns/issues about the proposed mitigating activities or the proposed level of the daily load limit reductions. As a result, the Department committed to finalizing details associated with the mitigating activities, the proposed level of the daily load limit reductions, and to conduct a final public workshop at a later date prior to proceeding with a formal rulemaking process.

In January 2012, The Department held the third and final workshop for all interested parties to discuss the proposed daily load limits of 50 pounds for aluminum and 250 pounds for glass and the proposed actions to mitigate issues/concerns regarding potential adverse impacts on opportunities/abilities to redeem empty beverage containers. Interested parties were provided with the option of attending the workshop in person or via webinar. Attendance at this workshop was significantly greater than at the prior two workshops, even though all the same interested parties were notified for all three workshops. While several workshop attendees voiced support for the proposed daily load limits, a larger number of attendees expressed concern that the proposed daily load limits of 50 pounds of aluminum and plastic, and 250 pounds of glass would have adverse impacts/create hardships for some of their customers. For example, representatives from recycling centers located in rural regions of the State claimed that consumers in rural areas aggregate their CRV materials over a longer period of time and redeem them for CRV infrequently (e.g., 'every couple of months', 'once or twice per year, etc.). They claim these individuals would potentially exceed the proposed daily load limit(s) and be denied CRV redemption and be paid only scrap for their materials. Recycling center operators in attendance also stated that some of their customers are bars and restaurants that bring in beverage container materials that they collect at their respective establishments. They claimed that these 'consumers' would

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

routinely exceed the proposed 250 pound daily load limit for glass and as a result would be denied CRV redemption for their CRV eligible loads of materials. The Department captured all information and feedback provided by workshop attendees, as well as feedback provided in writing by other interested parties who were not able to attend the workshop. At the conclusion of this workshop, the Department reiterated our commitment to review all the feedback provided and would consider additional revisions before finalizing the rulemaking package and submitting it to OAL. Based upon the comments & feedback received at the workshops, and in particular to respond to the issues/concerns expressed by attendees at the January 2012 workshop, the Department increased the proposed daily load limits from 50 pounds to 100 pounds for aluminum and plastic and from 250 pounds to 1,000 pounds for glass.

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, 14520, 14526.6, 14538, 14552, 14572, 14572.5 and 14585.

CONSISTENCY EVALUATION

The proposed regulation changes consist of revisions to existing regulations currently found in 14CCR. Certified recycling centers are currently subject to daily load limits associated with the purchase of empty beverage containers from consumers and to the reporting requirements associated with purchases of aluminum empty beverage containers of 250 pounds or more.

The Department has conducted a review of any related regulations in this area and have determined that these are the only regulations concerning recycling center daily load limits for beverage containers. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations.

FISCAL IMPACT STATEMENT

Impact on Local Government

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in any additional costs/expenditures be incurred by cities, counties, special districts, local agencies or school districts due to the implementation of the proposed regulations to reduce the daily load limits.

The proposed regulations to reduce the daily load limits do not mandate a new program or higher level of service on any local government. Therefore the state does not need to provide a subvention of funds to reimburse local government. The state has complete financial responsibility for the CBCRP and the proposed regulations to reduce the daily load limits will not transfer any responsibility from the state to cities, counties, cities and counties, or special districts.

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

The Department determined implementation of the proposed regulations to reduce the daily load limits do not imposes a mandate on local agencies or school districts. The proposed regulations to reduce the daily load limits do not require local entities to undertake a new program or to provide an increased level of service in an existing program.

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in any non-reimbursable local costs.

The Department determined implementation of proposed regulations to reduce the daily load limits do not:

- a) Implement a federal mandate.
- b) Implement a court mandate.
- c) Implement a mandate in a ballot measure approved by the voters.
- d) Result from a documented request from the only local governments affected.
- e) Provide (or fall within the purview of existing) revenue sources or other financing mechanisms.
- f) Result in savings that are equal to or exceed any costs.
- g) Create, eliminate, or change the penalty for a new crime or infraction.

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in local governments being relieved from doing something they were previously required to do.

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in any revenue changes at the local level as the result of a state executive regulation.

The Department determined implementation of proposed regulations to reduce the daily load limits will not result in local revenue losses that are reimbursable.

The Department determined implementation of proposed regulations to reduce the daily load limits are technical and do not result in additional cost or savings to local government.

The Department determined implementation of proposed regulations to reduce the daily load limits do not affect any local entity or program.

The Department determined implementation of proposed regulations to reduce the daily load limits do not affect any other known element of a local entity or program.

Impact on State Government

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

The Department determined implementation of proposed regulations to reduce the daily load limits are technical and do not result in additional cost, savings, revenue changes or any other impacts, due to reasonable compliance, administration, implementation, and/or enforcement by the issuing state agency and/or any other state agency.

The Department determined implementation of proposed regulations to reduce the daily load limits made by the issuing state agency regarding the applicability of the California Constitution do no result in additional costs and/or the need to provide additional funding of any state costs.

The Department determined implementation of proposed regulations to reduce the daily load limits will produce an immaterial amount of savings due to the elimination of current reporting requirements.

The Department determined implementation of proposed regulations to reduce the daily load limits will not produce savings for itself that will have corresponding costs to another state agency, e.g., a transfer of responsibility.

Effect on Federal Funding of State Programs

The Department determined implementation of proposed regulations to reduce the daily load limits is not acting to exercise authority granted by the federal government.

The Department determined implementation of proposed regulations to reduce the daily load limits does not implement a federal mandate or are issued under authority granted by the federal government.

The Department determined implementation of proposed regulations to reduce the daily load limits does not result in reductions (savings) in Federal Funds.

The Department determined implementation of proposed regulations to reduce the daily load limits is technical and does not result in additional cost, savings, revenue changes or any other impacts, due to reasonable compliance, administration, implementation, and/or enforcement by the issuing state agency and/or any other state agency.

The Department determined implementation of proposed regulations to reduce the daily load limits will produce an immaterial amount of savings due to the elimination of current reporting requirements. See Economic and Fiscal Impact Statement Narrative section I.C.3 for details.

The Department determined implementation of proposed regulations to reduce the daily load limits will not produce savings for itself that will have corresponding costs to another state agency, e.g., a transfer of responsibility, receiving federal funding.

The Department determined implementation of proposed regulations to reduce the daily load limits will not affect any other known state agency receiving federal funding.

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

COST IMPACT ASSESSMENT

The Department has prepared an Economic Impact Analysis / Assessment, which is hereby incorporated by reference and is included as a stand-alone document in the rulemaking package.

SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has prepared an Economic Impact Analysis / Assessment, which is hereby incorporated by reference and is included as a stand-alone document in the rulemaking package.

REPORTING REQUIREMENT

The proposed regulations to reduce the daily load limits, if implemented, will remove a reporting requirement mandated by the current regulations. Currently regulations require that all aluminum transactions over 250 pounds be documented and the data be transmitted to the Department on a weekly basis at a minimum (14CCR Section 2530(i)). The Department received 24,500 individual 250 pound reports from certified recycling center operators in calendar year 2011. The Department expects program participants to reduce their administrative costs with the removal of this reporting requirement. There is no additional programming, record keeping, reporting or other paperwork cost to California businesses impacted by the adoption of the regulation changes.

SMALL BUSINESS

The selected alternative eliminates 14CCR Section 2530(i) which would result in a direct cost saving to small business because certified recycling centers would no longer be required to collect and report all purchases greater than 250 pounds of aluminum to the Department on a weekly basis. Elimination of this reporting requirement would eliminate all costs associated with this reporting requirement.

COMPARABLE FEDERAL REGULATION OR STATUTE

The Department has determined that the selected alternative does not have any existing comparable federal regulation or statutes. The proposed regulation changes are specifically associated with CA Public Resources Code sections 14520, 14526.6, 14538, 14552, 14572, 14572.5 and 14585. The CBCRP is a state mandated program and does not have any operating and or compliance elements that fall under Federal

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

statute and or guidelines. Empty beverage containers redeemed in California for CRV is a process that is unique to California.

HOUSING COSTS

There are no known impacts to housing cost in the State of California that are directly linked to the proposed regulation changes. The proposed regulation changes could have a positive impact on the cost to registered curbside collection program operators by limiting the volume of empty beverage containers scavenged from curbside bins and then redeemed via illegal consumer transactions. This loss of potential revenue for registered curbside collection program operators (primarily private sector companies contracting with local agencies) is likely to impact the cost of curbside collection and could be passed on to California homeowners by their local agency.

OTHER MATTERS

The Department has determined there are no other matters that must be addressed in the notice as specified in Government Code Section 11346.5(a)(4).

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The disclosures listed herein are based upon the Department's analysis of typical consumer transactions (referenced above), a series of three public workshops on this topic the Department conducted in August 2011, October 2011 and January 2012, and the Fiscal and Economic Impact Analysis / Assessment completed by the Department and included for reference in the regulatory package.

Mandate on local agencies and school districts:

The Department has determined that adoption of these proposed regulations do not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency:

The Department's cost savings would be realized through the elimination of workload associated with aggregating, analyzing and developing reports of aluminum transactions in excess of 250 pounds of aluminum and referring this information to the Department of Justice for potential investigation. Other than these savings, no other savings or additional expenses to state agencies are identified.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§17500 through 17630:

The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary costs or savings imposed upon local agencies:

No other non-discretionary costs or savings to local agencies have been identified. Costs or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:

The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements.

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

Potential cost impact on private persons or directly affected businesses:

Elimination of 14CCR Section 2530(i) would result in cost saving to certified recycling centers. Certified recycling centers would be relieved of all costs by eliminating the current requirement that certified recycling centers report all transactions of 250 pounds or more to the Department on a weekly basis. These proposed regulations could potentially have an adverse impact on consumers of CRV beverages that attempt to redeem loads of empty beverage containers in excess to the proposed daily load limits. However, based upon the data analysis performed by the Department (see above), transactions in excess of 100 pounds of aluminum comprised less than 0.4% of all the transactions surveyed. Transactions in excess of 100 pounds of PET plastic comprised less than 0.9 percent of all transactions surveyed. Finally, transactions in excess of 1,000 pounds of glass comprised less than 0.8% of all transactions surveyed. As such, only an insignificant number of legitimate consumer transactions would be impacted by the proposed revisions to the daily load limits. Thus, it is possible that adoption of these changes might cause a very small number of private persons to visit recycling centers more frequently resulting in marginally increased costs for them.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Creation or elimination of jobs in 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.

Benefits of the regulation on the health and welfare of California residents, worker safety, and the state's environment:

The proposed regulations intends to protect the public interest of California residents by reducing the illegal redemption of out of state used beverage containers. Reducing the daily load limits for the redemption of empty beverage containers protects the fiscal stability of the California Beverage Container Recycling Fund; minimizes negative impacts on legitimate consumers' redemption of CRV materials; and minimizes negative impacts on certified recycling center operators ability to maintain legitimate volumes of CRV empty beverage containers. Eliminating the need for a weekly reporting requirement that will result in cost savings for all certified recycling centers in California.

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

Significant effect on housing costs:

The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses:

Elimination of 14CCR Section 2530(i) would result in cost saving to certified recycling centers. Certified recycling centers would be relieved of all costs by eliminating the current requirement that certified recycling centers report all transactions of 250 pounds or more to the Department on a weekly basis.

CONSIDERATION OF ALTERNATIVES

The Department has determined that no reasonable alternative that it has considered or otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department believes we have demonstrated that the current daily load limits for consumers redeeming empty beverage containers for CRV are much too high. The Department is unable to identify a legitimate need for consumers requiring the current daily load limits or how consumers will be unduly denied redemption opportunities due to lower daily load limits.

Any alternatives the Department would consider as alternatives to lowering the current daily load limits for consumers redeeming empty beverage containers for CRV will leave the current excessively high load limits in place continuing to provide an irresistible incentive for abuse and fraud.

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 AT THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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 Resources Recycling and Recovery website at: www.calrecycle.ca.gov/Laws/Rulemaking/.

The rulemaking file is available to the public for review during normal business hours at CalRecycle, 801 "K" Street, 17th Floor, Sacramento, California. Please contact the

NOTICE OF PROPOSED ACTION
RECYCLING CENTER DAILY LOAD LIMITS PROPOSED PERMANENT REGULATIONS

agency contact person, Chris Reed, at (916) 327-7598. General or substance questions regarding this file may also be directed to Chris Reed. The back-up agency contact person for this rulemaking file is John Halligan, who may be contacted at (916) 324-5392. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.