



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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DATE: December 16, 2013

TO: ALL INTERESTED PERSONS

FROM: DIVISION OF RECYCLING
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

SUBJECT: EMERGENCY REGULATIONS
IMPORTED EMPTY BEVERAGE CONTAINER MATERIAL

The Department of Resources Recycling and Recovery (Department), Division of Recycling (Division), is responsible for administering the California Beverage Container Recycling and Litter Reduction Act (Act) (Pub. Res. Code, Division 12.1 (commencing with § 14500)) and protecting the integrity of the California Beverage Container Recycling Fund (Fund). The Division proposes adopting emergency regulations to implement the reporting and inspection provisions for imported empty beverage container material contained in Public Resources Code section 14596, as amended by AB 1933 in September 2012. (Stats. 2012, Ch. 540, Sect. 2 (AB 1933 (Gordon) 2011-2012 Sess.))

The Department proposes amendments to Title 14, Division 2, Chapter 5 of the California Code of Regulations (CCR) consisting of changes to sections in Subchapters 1, 2, & 6, and the addition of a new Subchapter 11.1. (14CCR §§ 2000, 2085, 2501 (amended) and 2830-2835 (new).) The proposed regulations require that specific information associated with the importation of empty beverage container materials be reported to the Department and that all vehicles importing empty beverage container material above certain weights will be inspected at a California Department of Food and Agriculture (CDFA) quarantine inspection station (border station). The information gathered will be used by the Department, CDFA, and other law enforcement agencies to investigate, and prosecute individuals and businesses that illegally redeem imported empty beverage container materials for refund value and other recycling program payments. The adoption of emergency regulations is expressly authorized by Public Resources Code Section 14599.

The proposed regulations apply to any person importing more than 25 pounds of aluminum, bimetal, or plastic empty beverage container material, or more than 250 pounds of glass empty beverage container material, in a motor vehicle and will require the following:

- Entering California only through an open and staffed CDFA border station and declaring empty beverage container material is being imported.



- Submitting to a vehicle inspection conducted by CDFA border station agents or other appropriate officials and securing a Proof of Inspection (POI) document.
- Completing an Imported Material Report (IMR) and presenting it to a CDFA border station agent upon seeking entry into California. The report requires a variety of information about the material, point of origin, destination, vehicle, driver, trucking company, and receiver. An online version of the IMR will be posted on the Department's web site and hardcopies will be available at all CDFA border stations.
- Providing a copy of a certified weigh master certificate, when the weight of the imported empty beverage container material is 100 pounds or more.
- Retaining possession of both the IMR and POI until the load is delivered to the destination indicated on the IMR.
- Prohibiting delivery of imported empty beverage container materials to a registered curbside program or a certified recycling center, dropoff or collection program, or community service program. Individuals will not be restricted from delivering imported materials to a certified processor, or to a junk dealer as defined in the Business and Professions Code beginning at Section 21600. Although imported material is ineligible for refund value and other program payments, certified recycling centers have been permitted to purchase the material for its scrap value. That will no longer be allowed under the proposed regulations.
- Requiring that aluminum beverage containers sold to junk dealers be handled as nonferrous material subject to the laws governing scrap metal and alloys in accordance with applicable sections of the Business and Professions Code beginning at Section 21600.
- Restricting any person from taking delivery in California of any empty beverage container material, the person knew, or should have known, was imported into CA, unless the material is accompanied by a POI, IMR, and certain other supporting documents.
- Maintaining designated records (i.e., POI, IMR, weight ticket) and making them available for review by the Department for a period of five years following their preparation.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Attached to this notice are the text of the Imported Empty Beverage Container Material Emergency Regulations and the Statement of Emergency.

This emergency rulemaking package will be filed with the Office of Administrative Law five working days from the date of this notice, in compliance with the Administrative Procedure Act.

This notice and other documents related to these regulations may be accessed via the Department's website at www.calrecycle.ca.gov/Laws/Rulemaking/.

Comments on the proposed emergency regulations must be submitted directly to the Office of Administrative Law (OAL) within five calendar days of when OAL posts the proposed emergency regulations on the OAL web site. You may submit comments on proposed emergency regulations to the OAL Reference Attorney by mail to 300 Capitol Mall, Suite 1250, Sacramento, California 95814, by fax to (916) 323-6826, or by e-mail to staff@oal.ca.gov. The comment must state that it is about an emergency regulation currently under OAL review and include the topic of the emergency.

When you submit a comment to OAL, you must also submit a copy of your comment to the Department by email to DORIMRegulations@calrecycle.ca.gov or to: Cheryl DuBose, Imported Empty Beverage Container Material Emergency Regulations, Department of Resources Recycling and Recovery, Division of Recycling, 801 "K" Street, MS 19-01, Sacramento, CA 95814. OAL will confirm that the Department has received the comment before considering it.

If you have any questions or need additional information, please contact Adam Tauber at (916) 327-0089, by fax to (916) 322-8768, or by email to DORIMRegulations@calrecycle.ca.gov.