

DRAFT INFORMAL REGULATORY CONCEPTS

USED OIL RECYCLING PROGRAM

**TITLE 14:
DIVISION 7.

CHAPTER 8.**

**NATURAL RESOURCES
DEPARTMENT OF RESOURCES
RECYCLING AND RECOVERY
USED OIL RECYCLING PROGRAM**

The Department of Resources Recycling and Recovery (CalRecycle) is proposing to revise the regulations governing the used oil recycling program, which were last revised in 1999. The passage of SB 546 in 2009 created many changes to the program, including re-structuring fees and incentives, creating an incentive for rerefined oil, changing the local jurisdiction block grant program into a payment program, and creating new certification requirements for rerefining facilities. CalRecycle is seeking to update the regulations to reflect the changes instituted by SB 546 and to reflect other changes that have impacted the program since the last revision of the regulations in 1999.

This document represents CalRecycle's draft proposed conceptual changes to existing regulations, and is not a formal regulatory proposal. It is intended to be presented at the May 27, 2014 informal used oil regulatory workshop, and will be used to solicit stakeholder input. Staff requests that input be provided in writing, either in person at the workshop or by e-mail to UsedOilHHW@CalRecycle.ca.gov.

Global Changes

1. Update all references to the fee to reflect fee changes instituted by SB 546 (per PRC §48650)

Article 1 – Definitions

1. Add the definition for rerefined oil (per PRC 48620.2)

Article 3 – Oil Manufacturers

18622 As an oil manufacturer, what reports must I submit to the Board?

1. Clarify PRC 48650(c) – “finished lubricant containing at least 70 percent rerefined base lubricant” means that at least 70% of the base lubricant portion of the final product contains rerefined oil.
2. Require manufacturers paying the reduced fee for rerefined lubricants to:
 - a. Maintain documentation demonstrating that the oil sold meets the 70% requirement
 - b. Report who they purchased their rerefined base oil from.
 - o Identifying the supplier of the rerefined base lube provides verification that oil came from a facility known to rerefine oil.
3. Require manufacturers to maintain documentation to support their reports of lubricating and industrial oil sales volumes

18624 How should payments be made to the Board and when are they due?

1. Include a 10% penalty on late fee payments

18626 Exemption Certificates

2. Remove the incorporated form CIWMB 36 from the regulations

18627 Refund of Lubricating Oil Payment

1. Clarify the refund process by specifying what information needs to be supplied to process a refund:
 - a. Proof that a fee was paid on oil by the individual requesting the refund;
 - b. Show who paid the initial fee to CalRecycle, and on what date (see new Article on oil sellers below);
 - c. Proof that the oil is exempt and that the fee was not applied to subsequent sales, if applicable;
 - d. Volume of oil;
 - e. Total dollar amount of refund requested
2. Add an appeal process for refund claims that are denied

New Article – Lubricating Oil Sellers

1. Require all sellers of lubricating oil to provide to their customers the name of the individual that paid the initial oil fee to CalRecycle on the oil that is being sold, and in what quarter the fee was paid to CalRecycle (e.g., John Smith paid the fee on this oil to CalRecycle in the first quarter of 2014)
 - o This requirement would only apply to sales of 100 gallons or more
 - o This requirement would allow for better tracking of the oil fee for auditing purposes. It is especially relevant to refund requests, to ensure that CalRecycle is only paying a refund for oil on which a fee was paid.

Article 4 – Used Oil Haulers

18632 What specific information am I required to include on each modified manifest receipt?

1. Current regulations require all haulers to estimate the amount of lubricating and industrial oil collected from each generator on the modified manifest receipt. Staff proposes to change the requirements to apply only to shipments that contain some portion of lubricating oil.
 - o Maintaining documentation on lubricating and industrial oil will assist with the processing of both used oil incentive claims and rerefined base oil incentive claims, both of which can only be paid on lubricating oil.

18633 Am I required to provide any specific information to the recipients of the used oil I deliver?

1. Current regulations require all haulers to estimate the amount of lubricating and industrial oil collected from each generator on the modified manifest receipt. Staff proposes to change the requirements to apply only to shipments that contain some portion of lubricating oil.
 - o Maintaining documentation on lubricating and industrial oil will assist with the processing of both used oil incentive claims and rerefined base oil incentive claims, both of which can only be paid on lubricating oil.

18634 As a used oil hauler, what reports must I submit to the Board?

1. Include a requirement that haulers provide an estimate of the volumes of lubricating and industrial oil transported to each destination facility.

Article 5 – Used Oil Recycling Facilities

New Section - Out-of-state Facility registration (per PRC §48662(b))

1. Add requirements and process for out-of-state facility registration
 - a. Name, address, and EPA ID of Facility
 - b. Name and address of Company, if different from Facility
 - c. Full name, phone number, and e-mail of contact person for Facility
 - d. Name of enforcement agency responsible for enforcing Part 279 of Title 40 of the Code of Federal Regulations
 - e. Full name, phone number, and e-mail address of contact person for enforcement agency
 - f. Declaration that the following conditions are met
 - i. The Facility is operating within substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations (Part 279). “Substantial compliance” means that the Facility meets the essential requirements of Part 279.
 - ii. The Facility will provide the California Department of Toxic Substance Control and/or CalRecycle, upon request, with a copy of any inspection report and/or any related documents issued for the Facility by the Enforcement Agency identified above.
 - iii. If approved for Registration, the Facility will issue to CalRecycle quarterly Reports identifying the amount of California used oil received and the resultant amount of recycled oil produced.
 - iv. The laws of the State of California shall govern all proceedings concerning the validity and operation of this Registration Form and the performance of the obligations imposed hereunder. All proceedings concerning the validity and operation of this Registration Form shall be held in Sacramento County, California. The parties hereby waive any right to any other venue.
 - v. In the event any of the above conditions are no longer true/correct, the Facility will immediately notify CalRecycle.
 - vi. The individual signing this Registration Form has the authority to make this declaration and to contractually bind the Facility.
 - g. The registration form shall be signed by an individual who has the authority to make the declarations, under penalty of perjury.
2. Allow for an appeal process if a registration is denied.

New Section - Rerefiner Certification (per PRC §48662(c))

1. Add the requirements and process for certifying and/or re-certifying rerefining facilities
 - a. Name, address, and EPA ID of Facility
 - b. Name and address of Company, if different from Facility
 - c. Full name, phone number, and e-mail of contact person for Facility
 - d. Name of enforcement agency responsible for enforcing Part 279 of Title 40 of the Code of Federal Regulations

- e. Full name, phone number, and e-mail address of contact person for enforcement agency
 - f. Declaration that the following conditions are met
 - i. The Facility is operating within substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations (Part 279). “Substantial compliance” means that the Facility meets the essential requirements of Part 279.
 - ii. The Facility produces rerefined base lubricant meeting the specifications of PRC section 48620.2(a)
 - iii. If approved for Certification, the Facility will issue to CalRecycle quarterly Reports identifying the amount of California used oil received and the resultant amount of recycled oil produced.
 - iv. If the Facility is located outside of California, the following conditions must also be met:
 - The Facility is operating within substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations (Part 279) per PRC section 48662(b).
 - The Facility will annually certify in writing to CalRecycle, under penalty of perjury, that it substantially meets the requirements in PRC section 48662(c)(2).
 - The Facility has entered into an agreement with the California Department of Toxic Substances Control (DTSC) pursuant to PRC section 48662(f).
 - The Facility will provide the California Department of Toxic Substance Control and/or CalRecycle, upon request, with a copy of any inspection report and/or any related documents issued for the Facility by the Enforcement Agency per PRC section 48662(b).
 - Name of enforcement agency responsible for enforcing Part 279 of Title 40 of the Code of Federal Regulations
 - Full name, phone number, and e-mail address of contact person for enforcement agency
 - v. The laws of the State of California shall govern all proceedings concerning the validity and operation of this Registration Form and the performance of the obligations imposed hereunder. All proceedings concerning the validity and operation of this Registration Form shall be held in Sacramento County, California. The parties hereby waive any right to any other venue.
 - vi. In the event any of the above conditions are no longer true/correct, the Facility will immediately notify CalRecycle.
 - vii. The individual signing this Registration Form has the authority to make this declaration and to contractually bind the Facility.
 - g. The registration form shall be signed by an individual who has the authority to make the declarations, under penalty of perjury.
2. Allow for an appeal process if a certification is denied.

Article 6.0 – Used Oil Collection Center Certification and Operation Standards

18650.3 What information am I required to provide in the application for certification?

1. Add requirement for full name, phone number, and e-mail address of a contact person for the site and, if different, for the operator
2. Remove requirements (8) and (9) for collection center to list the days and hours it is open for business and accepting used oil from the public.
3. Remove requirements (13) and (14) for descriptions and samples of advertising that have been or will be used to comply with PRC Section 48660(b)(4) and replace with a statement affirming that a collection center will meet (for new applicants) or has been meeting (for renewals) the advertising requirements described in PRC 48660(b)

18650.8 When does my certificate expire?

1. Update certification expiration date to four (4) years from date certification is approved, per PRC §48660(a).

18651.0 What must I do with a Certificate Sign once I have received it?

1. Repeal requirement (a)(3) for the sign to contain space for operator to insert operating hours

18651.2 What are the required operational procedures for certified used oil collection centers?

1. Remove the requirement that a CCC must “verbally offer to pay” the incentive in item (b), replacing with a requirement that the incentive must be paid to the public if the individual requests it, per PRC §48660(b)(2)
2. Prohibit certain restrictions placed on the use of coupons given to customers in lieu of cash, per PRC §48660(b)(2)
3. Add requirement that a collection center maintain logs if it is both accepting DIY oil from the public and generating used oil on-site. This is to ensure that CalRecycle is able to determine what volumes of oil are eligible for the recycling incentive described in PRC §48952(a) and what volumes of oil are eligible for the recycling incentive described in PRC §48952(d)
 - a. DIY log requirements:
 - Name and address of each individual the center received used oil from (with an allowance for abandoned oil to be marked as an “anonymous donation”)
 - The date that the center received oil from each individual
 - The quantity of used oil that was received from each individual
 - b. On-site log requirements:
 - The date that used oil was generated
 - The volume of used oil generated on all dates listed
 - How the used oil was generated

18651.4 As the operator of a certified used oil collection center, how do I comply with the Act’s requirement for periodic advertising in local media?

1. Include online advertisement, social media, and other forms of internet postings as advertising mechanisms that can constitute compliance with PRC §48660(b)(4)

New section (per PRC §48660(a)) – Cancelling the certification of a center

1. If a center is found to be out of compliance with operator requirements as outlined in 18651.2, CalRecycle will send written notice that the center’s certification will be cancelled in 30 days unless they comply with operator requirements
2. Allow for an appeal process

Article 6.1 – Registration Requirements for Industrial Generators, Operators of Curbside Collection Programs, and Electric Utilities

Section 18653.3 What information am I required to provide in the application for registration?

1. Add requirement for full name, phone number, and e-mail address of a contact person for the site and, if different, for the operator

Article 7 – Recycling Incentive Payments

18655.2 On what used oil can a recycling incentive be paid?

1. Update last sentence in section (a) to reflect that out-of-state facilities should be registered with CalRecycle, per PRC §48662(b)
2. Clarify that industrial generators can only be paid for oil generated by their vehicles, and therefore are not allowed to file claims for oil collected from the public
3. Clarify that curbside collection programs can only be paid for oil collected through a curbside program, and therefore are not allowed to file claims for oil generated on-site

18655.51 If I operate more than one certified used oil collection center, may I submit a single recycling incentive claim?

1. Repeal requirement for written approval by the Board for operators to submit a single recycling claim for multiple sites
2. Clarify that the ability to submit a single recycling incentive claim for multiple sites applies to operators of certified collection centers, industrial generators and curbside collection programs. Current regulations only specifically include certified collection centers.

18655.6 What must be submitted with an incentive claim?

1. Add e-mail address to requirements in (2)
2. Update (7) to reflect that out-of-state facilities should be registered with CalRecycle, per PRC §48662(b)
3. Add requirement for manifest receipts to indicate how much lubricating vs industrial oil was contained in each shipment, as described in Sections 18632 and 18633

18655.8 What records must I keep to support an incentive claim?

1. Add requirement that centers retain a copy of DIY or on-site oil logs if they are both generating oil on-site and receiving oil from the public
 - o Maintaining a log will provide CalRecycle with documentation to show how much oil qualifies for the \$0.10/quart incentive versus the \$0.04/quart incentive

18655.9 What happens if my incentive claim is rejected?

1. Repeal 30 day requirement for rejection notice
2. Modify the appeal process so that a Board hearing is not a necessary component

18656.0 How long will it take for the Board to process my claim?

1. Add a provision to allow 90 days for payment on claims to entities that have more than 50 sites registered with CalRecycle
 - o Larger claims require more time to process due to the size of the claim – operators with hundreds of sites regularly submit claims with multiple bankers' boxes worth of documentation

New Section – Rerefined oil incentive (per PRC §48651.5)

1. Define what oil qualifies for the rerefined oil incentive (see PRC §48651.5)
2. Define what facilities qualify to apply for the rerefined oil incentive (see PRC §48662(c))
3. Define what information must be submitted with incentive claim (see PRC §48651.5)
 - a. Full name, address, and telephone number of the certified entity preparing the incentive claim
 - b. Full name, telephone number, and e-mail address of a contact person for the purposes of the report
 - c. Rerefining facility Certification number
 - d. Volume of California used lubricating oil received by the facility
 - e. Copies of manifests, manifest receipts, or other documentation that show the oil received is lubricating oil generated and collected in California
 - f. Volume of rerefined oil produced from California used lubricating oil
 - g. Declaration that oil received meets the specifications in PRC 48651.5(a)(2)
 - h. Water content of used oil feedstock
 - i. Out-of-state facilities - Declaration that they have a current agreement with DTSC per PRC 48662(f)
 - j. Declaration that rerefined oil meets the standard defined in PRC 48620.2(a)
 - k. Total monetary amount being claimed
4. Define a maximum yield rate for rerefined oil that CalRecycle will pay incentive claim for