

**INITIAL STATEMENT OF REASONS**

**2015**

**TITLE 14:  
DIVISION 7.**

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

**CHAPTER 8.**

**SPECIFIC PURPOSE AND NECESSITY OF REGULATIONS**

**Title 14**

**Division 7**

**Chapter 8. Used Oil Recycling Program**

**Global Changes in Proposed Regulation**

The following changes have been made globally throughout the regulation:

1. All references to the California Integrated Waste Management Board (Board) have been updated to the Department of Resources Recycling and Recovery (CalRecycle).
2. All references to electric utilities have been removed to conform to Senate Bill 546 (Lowenthal 2009-10 Legislative Session)
3. All question-and-answer formatting has been removed. This formatting was a source of confusion, and it was necessary to eliminate it in order to provide clarity to the proposed regulation.

**Article 1. General Provisions and Definitions**

**Section 18601. Definitions.**

All definitions related to the block grant program have been removed. This is necessary because SB 546 (Lowenthal 2009-10 Legislative Session) eliminated the block grant program. The definition of "used oil fee" has been updated, which was necessary to conform to SB 546 (Lowenthal 2009-10 Legislative Session).

A new definition for "lubricating oil seller" has been added in order to identify who is subject to new tracking requirements and it is necessary to identify these individuals throughout this Chapter.

A new definition for "rerefining incentive" has been added to describe the incentive program in Section 48651.5 of the Public Resources Code. This is necessary to identify this concept, which was created by SB 546 (Lowenthal 2009-10 Legislative Session), throughout this Chapter.

The definition for "curbside collection program" has been modified to include programs that provide collection opportunities monthly. This is necessary to ensure that smaller jurisdictions that may not have enough demand to perform a monthly collection of used oil are not penalized as long as the opportunities for monthly collection are provided.

**Article 3. Oil Manufacturers and Lubricating Oil Sellers**

**Section 18620. Applicability.**

This section includes lubricating oil sellers as regulated entities under this article to ensure that lubricating oil sellers are maintaining appropriate records and reporting practices for fee tracking purposes. This is necessary to ensure that these entities are specifically subject to the requirements described in this Article.

**Section 18621. ~~As an oil manufacturer, what records am I required to maintain?~~ Oil Manufacturer Recordkeeping Requirements**

This section adds separate recordkeeping and documentation requirements for rerefined oil, which is necessary to ensure that manufacturers are paying the appropriate fee for that oil as described in Section 48650(c) of the Public Resources Code.

**Section 18622. ~~As an oil manufacturer, what reports must I submit to the Board?~~ Oil Manufacturer Reports.**

References to reports submitted from 1992-1993 have been removed as they are no longer applicable.

This section has updated the reporting of oil volumes and fees due to CalRecycle to reflect the fee structure changes that were created by SB 546 (Lowenthal 2009-10 Legislative Session), as described in Public Resources Code Section 48650. This includes changing the fee from \$0.16/gallon to \$0.24/gallon for lubricating oil and also the inclusion of rerefined oil volumes, which are subject to a fee of \$0.12/gallon. This section also requires manufacturers paying a fee on finished lubricants containing 70% rerefined base to report what facility produced the rerefined base. This information is necessary to ensure that manufacturers are not over-reporting how much rerefined base was used, as CalRecycle can compare these numbers to rerefining facilities' known outputs, and therefore provide CalRecycle fiduciary protection against fee reports that may overstate the amount of oil that is subject to the reduced rerefined oil fee.

This section also clarifies that a minimum of 70% of the base oil portion of a finished lubricant must be rerefined oil in order to qualify for the \$0.12 per gallon fee, as described in changes instituted by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48650(c) of the Public Resources Code. This is necessary to establish the required composition of rerefined oil that qualifies for the reduced \$0.12 per gallon fee.

This section also clarifies the procedures for calculating the number of gallons of exempt oil. This is necessary to ensure that all exemptions are calculated in a consistent manner that meets the requirements as described in Section 48650 of the Public Resources Code.

**Section 18624. ~~How should payments be made to the Board and when are they due?~~ Payment of Manufacturers' Fees to CalRecycle.**

This section adds a 10 percent penalty to late fee payments. Charging a monetary penalty for the late payment of fees will motivate fee payers to pay their fees in a timely manner and provide a financial safeguard to the Used Oil Fund. CalRecycle has chosen the penalty to be consistent with the procedures of Section 55061(a) of the Revenue and Taxation Code since it has proven to be successful in deterring late payments.

**Section 18625. ~~How do I notify those who purchase lubricating oil from me that the fee has been paid?~~ Lubricating Oil Seller Requirements.**

**Section 18625(b)**

This section requires that for all sales of 100 gallons or greater in volume, lubricating oil sellers must inform their customers what entity paid the lubricating oil fee (described in Section 48650 of the Public Resources Code) to CalRecycle for the volume of oil being sold (sellers must also include the year and quarter in which the initial fee was paid to CalRecycle). This is necessary to ensure that if an entity files for a refund claim, it is able to show who initially paid the fee to CalRecycle, which subsequently provides more financial safeguards to ensure that CalRecycle is only paying a refund on oil on which a fee was paid.

### **Article 3.1. Exemptions**

#### **Section 18626 (d)(2)**

The incorporated form is being removed as it is not necessary to use that specific form.

#### **Section 18627. Refund of Lubricating Oil Payment.**

This section clarifies procedures for submitting a refund claim under section 48650.5 of the Public Resources Code. Persons submitting a refund claim must include in their claim: the volume of oil that the refund is being requested for; the total dollar amount of the refund being requested; proof that the oil is fee exempt and that the fee was not applied to subsequent sales, if applicable; and the name of the individual(s) who paid the initial fee to CalRecycle, and which quarter and year that the fee was paid. This information is necessary to ensure that CalRecycle staff has the information needed to process a claim and to ensure a refund is only given for oil volumes on which a fee was paid.

This section also clarifies the schedule for CalRecycle's processing of refund claims, which is necessary to ensure that claims are processed efficiently and in a timely manner.

This section also includes an appeals process for claimants who wish to appeal CalRecycle's determinations on a claim, including a timeframe for the submittal of an appeal and what information is required for an appeal. These new procedures provide clarity and are necessary to ensure that CalRecycle has the information necessary to process an appeal and that claimants are provided due process.

### **Article 4. Used Oil Haulers**

#### **Section 18632. ~~What specific information am I required to include on each modified mManifest rReceipt~~ Requirements.?**

This section reduces the reporting requirements for used oil haulers. Instead of reporting an estimate of lubricating and industrial oil volumes on all manifest receipts, used oil haulers would only be required to provide these estimates on manifest receipts for pick-ups that include lubricating oil. Manifest receipts that do not specify any breakdown of specific volumes will be assumed to describe a load of only industrial oil. Since the oil incentives described in Sections 48651 and 48651.5 of the Public Resources Code only apply to volumes of lubricating oil, this information on manifest receipts is needed to ensure that CalRecycle is only paying incentives on qualifying oil.

**Section 18633. Information To Be Provided To Recipients Of Used Oil Deliveries. Am I required to provide any specific information to the recipients of the used oil I deliver?**

This section clarifies that haulers must provide an estimate of the volume of lubricating oil and industrial oil to the recipients of their used oil if that load contains any volume of lubricating oil. Since the oil incentives described in Sections 48651 and 48651.5 of the Public Resources Code only apply to volumes of lubricating oil, this information is necessary to ensure that CalRecycle is only paying incentives on qualifying oil.

**Section 18634. As a used oil hauler, what reports must I submit to the Board? Used Oil Hauler Reports.**

This section adds a requirement for used oil haulers to identify the volumes of lubricating and industrial oil that they transported to each destination. This information is necessary for CalRecycle to assess the volumes of each type of oil collected and recycled and to evaluate the success of the Used Oil Recycling Program.

## **Article 5. Used Oil Recycling Facilities**

**Section 18643.0. Who may become a certified used oil recycling facility? Registration and Certification of Used Oil Recycling Facilities and Rerefining Facilities.**

This section adds a process for registering used oil recycling facilities located outside of California and for certifying rerefining facilities. It is necessary to ensure that out-of-state facilities meet the requirements as described in Section 48662(b) of the Public Resources Code and rerefining facilities meet the requirements as described in Section 48662(c) of the Public Resources Code. Additionally, the person signing applications for registration or certification must have the authority to bind their facility to ensure that the information provided is correct. These changes are necessary to conform to requirements created by SB 546 (Lowenthal 2009-10 Legislative Session).

This section also includes an appeals process in the event that CalRecycle denies the certification or registration of a facility, including a timeframe for the submittal of an appeal and what information is required for an appeal. These procedures provide clarity and are necessary to ensure that CalRecycle has the information needed to process an appeal and that the facility is provided due process.

**Section 18643.1**

This section has been removed as it is already described in Section 48651 of the Public Resources Code.

**Section 18643.2. As an operator of a used oil recycling facility, must I apply for certification/recertification of the facility? Recertification of Used Oil Rerefining Facilities.**

This section describes the process by which certified rerefining facilities are to annually obtain re-certification and is necessary to ensure that the facilities meet the requirements as described in Sections 48662(c) and (d) of the Public Resources Code. These requirements were created by SB 546 (Lowenthal 2009-10 Legislative Session).

This section also includes an appeals process in the event that CalRecycle denies the re-certification of a facility, including a timeframe for the submittal of an appeal and what information is required for an appeal. These procedures provide clarity and are necessary to ensure that CalRecycle has the information needed to process an appeal and that the facility is provided due process.

**Section 18643.3. How does the Board certify or recertify a used oil recycling facility? Certification and Registration Status of Used Oil Recycling Facilities.**

This section clarifies the process by which CalRecycle approves the re-certification or re-registration of used oil facilities, to ensure that applications are reviewed in a timely manner. This section also includes an appeals process in the event that CalRecycle denies the re-certification or re-registration of a facility, including a timeframe for the submittal of an appeal and what information is required for an appeal. These procedures provide clarity and are necessary to ensure that CalRecycle has the information needed to process an appeal and that a facility is provided due process.

**Section 18643.5. How long is a certificate valid? Certificate Validity.**

This section has been modified to include references to Section 18643.2 (Recertification of used oil rerefining facilities), which was added to the regulations in order to accommodate changes created by SB 546 (Lowenthal 2009-10 Legislative Session). This is necessary to ensure that this section appropriately references all facility types that receive certifications.

The processes for re-certification have been moved to Sections 18643.2 and 18643.3 of this Article for clarity.

**Section 18643.7. Is there a list of certified used oil recycling facilities available? List of Certified Used Oil Recycling Facilities.**

This section has been revised to require that the current list of certified used oil recycling facilities, registered out-of-state used oil recycling facilities, and certified used oil rerefining facilities be posted online instead of only being provided to the public upon request. This is necessary to ensure that the information is more readily available to the public.

**Article 6.0. Used Oil Collection Center Certification and Operation Standards**

**Section 18650.3. What information am I required to provide in the application for certification? Certification Application Requirements.**

This section has been updated to include a requirement for contact information to be included in an application, which is necessary to ensure that CalRecycle has the appropriate information to contact an applicant.

This section has also removed the requirements for applicants to provide business days and hours as this information is not necessary to establish whether or not a site meets the requirements described in Section 48660 of the Public Resources Code.

This section has also removed the requirement for applicants to submit descriptions of advertising. In lieu of this requirement, applicants are to instead sign a statement affirming that the collection center has been meeting and will continue to meet the advertising requirements described in Section 48660(b) of the Public

Resources Code. This change is necessary to allow applicants to show that they are meeting advertising requirement without requiring them to supply unnecessary additional paperwork.

**~~Section 18650.4. How does the Board process an application for certification of a used oil collection center?~~ Certification Process.**

This section simplifies the number of days in which CalRecycle must process applications. This is necessary to provide clarity to the process. Identifying one maximum timeframe for processing applications is easier to understand than the previous timeframes described.

This section also includes an appeals process in the event that CalRecycle denies the certification of applicant, including a timeframe for the submittal of an appeal and what information is required for an appeal. These procedures provide clarity and are necessary to ensure that CalRecycle has the information needed to process an appeal and that an applicant is provided due process.

**~~18650.8 When does my certificate expire?~~ Expiration of Certificates.**

This section has been updated to clarify that certificates are valid for four years from the last day of the month in which the site is approved by CalRecycle. This change is necessary to comply with changes instituted by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48660(a) of the Public Resources Code.

**~~Section 18651.0. What must I do with a certification sign once I have received it?~~ Certification Signs.**

This section has been updated to remove the requirements for the inclusion of language regarding contaminated oil and certified used oil collection center operating hours on used oil collection center signs. This is necessary to ensure that the signage remains clear and readable. Additionally, most centers already have their operating hours posted elsewhere, therefore requiring a center to include operating hours on the certified collection center sign is redundant and not necessary.

**~~Section 18651.2. What are the required operational procedures for certified used oil collection centers?~~ Operational Procedures for Certified Used Oil Collection Centers.**

This section clarifies that vouchers or coupons given to an individual bringing used oil to a certified used oil collection center pursuant to Section 48660(b)(2) of the Public Resources Code may not have any other limits placed upon their use. This is necessary to ensure that all certified used oil collection centers that use a voucher or coupon do not include any disallowed limits on their usage, as described in Section 48660(b)(2).

This section also revises the daily acceptable limit from twenty gallons to fifty-five gallons. This is necessary to make the limit consistent with the maximum volume of used oil that is allowed for generators to self-transport without a hazardous waste manifest pursuant to Section 25250.11 of the Health and Safety Code. Making the daily acceptable limit consistent with the transportation limit ensures that individuals who are managing and transporting self-generated oil have locations where they can take their oil to be properly managed.

This section also allows operators to set a maximum limit for the size of the containers used to transport lubricating oil to certified used oil collection centers. This is necessary to ensure that the public is not bringing in oil in volumes that a certified used oil collection center is not able to handle.

**Section 18651.3 (b)**

This section removes the requirement for a certified used oil collection center to have a graduated container. This requirement is not necessary since the containers in which the used oil is brought are sufficient to estimate volumes of oil.

**Section 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?~~ Advertising Requirements for Certified Collection Centers.**

This section clarifies that advertisement on online websites or on social media platforms will meet the advertising requirement as described in Section 48660(b)(4). This is necessary to ensure that these relatively new forms of advertisement are deemed acceptable.

**Section 18651.8. ~~How do I apply for reimbursement of additional disposal costs pursuant to Public Resources Code Section 48660.5?~~ Application for Reimbursement of Contaminated Oil Costs.**

This section clarifies that applications for reimbursement of contaminated oil costs must be submitted to CalRecycle within one (1) year of the contaminated oil incident. This is necessary to ensure that such applications are received in a timely manner.

**Section 18651.8 (c)**

This section clarifies that halogen-contaminated used oil shall not be reimbursed for more than five thousand dollars (\$5,000), while polychlorinated biphenyl contaminated oil is not subject to the same limit. This is necessary to ensure that the regulations are consistent with the changes instituted by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48660.5(c) of the Public Resources Code.

**Section 18651.10 Cancellation of Certification of a Certified Collection Center**

This section establishes a process for the cancellation of the certification of a certified used oil collection center. This is necessary to ensure that certified centers who are no longer in compliance with the operator requirements as described in Section 18651.2 of this Article are removed from the program as sites that do not meet certified collection center requirements should not be eligible for the associated incentives.

This section also includes an appeals process in the event that CalRecycle cancels the certification of a collection center, including a timeframe for the submittal of an appeal and what information is required for an appeal. These procedures provide clarity and are necessary to ensure that CalRecycle has the information needed to process an appeal and that a center is provided due process.

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

**Section 18653.3. ~~What information am I required to provide in the application for registration?~~ Information Required for a Registration Application.**

This section has been updated to include a requirement for contact information to be included in an application, which is necessary to ensure that CalRecycle has the appropriate information needed to contact the applicant.

**Section 18653.4. ~~What will the Board do with the application for registration once it is submitted for review?~~ Review of Registration Applications.**

This section simplifies the number of days in which CalRecycle must process applications, which is necessary to provide clarity to the process. Identifying one maximum timeframe for processing applications makes the schedule easier to understand than the previous timeframes described.

This section also includes an appeals process in the event that CalRecycle denies the registration of an applicant, including a timeframe for the submittal of an appeal and what information is required for an appeal. These procedures provide clarity and are necessary to ensure that CalRecycle has the information needed to process an appeal and that an applicant is provided due process.

**Article 7. Recycling Incentive and Rerefining Incentive Payments**

**Section 18655.1. ~~Who can receive recycling incentive payments?~~ Entities Eligible for Incentive Payments.**

This section has been updated to clarify that used oil rerefining facilities certified pursuant to Article 5 of this Chapter are eligible to receive rerefining incentive payments. This is necessary to ensure compliance with changes instituted by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5 of the Public Resources Code.

**18655.2. ~~On what used oil can a recycling incentive be paid?~~ Used Oil Eligible for the Recycling Incentive.**

This section updates the amount of the used oil recycling incentive that may be claimed by certified used oil collection centers, industrial generators, and curbside collection programs pursuant to Section 46850 of the Public Resources Code. This is necessary to accommodate the changes that were instituted by SB 546 (Lowenthal 2009-10 Legislative Session).

This section clarifies that industrial generators may only claim the recycling incentive for used lubricating oil generated from vehicles that they own or lease for their own use, and that they may not claim the incentive for used oil generated by an entity other than the industrial generator. This is necessary to ensure compliance with the recycling incentive payments as described in Section 48651 of the Public Resources Code, and to be consistent with the definition of industrial generator in Section 48614 of the Public Resources Code.

This section also clarifies that curbside collection programs may only claim the recycling incentive for used oil collected from households. This is necessary to ensure compliance with the recycling incentive payments as described in Section 48651 of the Public Resources Code.

**Section 18655.3. ~~When can an incentive claim be submitted?~~ When to Submit a Recycling Incentive Claim.**

This section has been updated to change the due date for recycling incentive claims from the last day of the month following a quarter to forty five (45) days following a quarter. This is necessary to meet the requirement of Section 48670(b) of the Public Resources Code.

**~~18655.4. How long after used oil is hauled away, or used to generate electricity by an electric utility must an incentive claim be submitted?~~**

This section was removed because it was incorporated into Section 18655.3 of this Article and is no longer necessary to be a separate section.

**~~Section 18655.51. If I operate more than one certified used oil collection center, may I submit a single recycling incentive claim?~~ Operation of More Than One Certified Used Oil Collection Center, Industrial Generator, or Curbside Program.**

This section of the regulations clarifies that a person may operate multiple collection entities under a single operator ID and subsequently submit a single claim form for all those entities under this operator ID. This is necessary to ensure that operators of multiple entities can file incentive claims more efficiently.

**~~Section 18655.6. What must be submitted with an incentive claim?~~ Information to be Submitted with a Recycling Incentive Claim.**

SB 546 (Lowenthal 2009-10 Legislative Session) created a new two-tier incentive system for certified used oil collection centers. This section adds new requirements for certified used oil collection centers that submit incentive claims for both used oil collected from the public and used oil generated on-site. These requirements are necessary to ensure that there is appropriate documentation for the volumes of oil since the two types of oil qualify for two different incentive amounts pursuant to changes created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48652 of the Public Resources Code. Providing the logs described in this section is necessary to ensure that CalRecycle is paying the appropriate incentive for each volume of oil claimed on an incentive claim.

**~~Section 18655.7. Where are incentive claims submitted?~~ Where to Submit an Incentive Claim.**

This section adds a label for used oil rerefining incentive claim submittals, which is necessary to ensure that CalRecycle can process claims more efficiently.

**~~Section 18655.8. What records must I keep to support an incentive claim?~~ Records to be Kept as Support for a Recycling Incentive Claim.**

This section has updated the value of the recycling incentive, which is necessary to ensure that the regulations are consistent with the changes instituted by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48650 of the Public Resources Code.

This section also reiterates that manifest receipts that do not indicate specific volumes of lubricating oil and industrial oil per Section 18632(b) of this Chapter will be assumed to contain only industrial oil and the volumes of oil on those manifest receipts will be ineligible for recycling incentive claim payments. This is necessary to ensure that incentive payments are only made on eligible oil.

**~~Section 18655.9. What happens if my incentive claim is rejected?~~**

This section has been struck from the proposed regulations because it has been incorporated into Section 18656.0 of this Chapter and is no longer necessary as a standalone section.

**~~Section 18656.0. How long will it take for the Board to process my claim?~~ Recycling Incentive Claim Processing.**

This section clarifies the schedule for CalRecycle's processing of incentive claims to ensure that claims are processed efficiently. Due to the size of incentive claims and the number of documents involved in the processing of the claims, it is necessary to increase the amount of time allowed for CalRecycle to process incentive claims.

This section also includes an appeals process for claimants who wish to appeal CalRecycle's determinations on a claim. This includes a timeframe for the submittal of an appeal and what information is required for an appeal. These new procedures provide clarity and are necessary to ensure that CalRecycle has the information needed to process an appeal and that claimants are provided due process.

### **Section 18657.0 Rerefined Oil Incentive.**

This section describes the requirements and procedures for filing and processing rerefined oil incentive claims. This is necessary to ensure that rerefining incentives are paid in a way that meets the requirements created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5 of the Public Resources Code.

#### **Section 18657.0 (a)**

This section ensures that all entities who file a rerefining incentive claim are certified with CalRecycle per Section 18643.0(c) of this Article. This is necessary to ensure that requirement created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5(a)(1) of the Public Resources Code has been met.

#### **Section 18657.0 (b)**

This section limits the number of rerefined incentive claims that may be filed per quarter. This is necessary to ensure that CalRecycle can process claims efficiently, and is not overwhelmed with multiple individual claims from a single entity.

This section also establishes that all claims for a quarter must be submitted on or before the last day of the second month following that quarter. This is necessary to ensure that claims are submitted in a timely manner.

#### **Section 18657.0 (c)**

This section establishes that CalRecycle will pay an incentive for all used lubricating oil, excluding any water content, generated in California that is processed into rerefined oil that meets the specifications as defined in Section 48620.2 of the Public Resources Code. This is necessary to ensure that CalRecycle is not paying the rerefining incentive on water content in used lubricating oil and also to ensure that the oil meets the requirements created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5(a)(1) of the Public Resources Code.

#### **Section 18657.0 (d)**

This section establishes what information must be submitted with a rerefining incentive claim in order for it to be processed. This is necessary to ensure that CalRecycle has all the appropriate information needed to establish that the oil meets the requirements created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5 of the Public Resources Code.

#### **Section 18657.0 (d) (1)**

This section includes a requirement for contact information, which is necessary to ensure that CalRecycle has the appropriate information to contact the claimant in case questions arise on a claim.

**Section 18657.0 (d) (2)**

This section includes a requirement for contact information, which is necessary to ensure that CalRecycle has the appropriate information to contact the claimant in case questions arise on a claim.

**Section 18657.0 (d) (3)**

This section requires claimants to include their certification number, which is necessary to ensure that the claimant is a certified rerefiner as described in Section 18643.0 of this Chapter, pursuant to requirements created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5(a)(1) of the Public Resources Code.

**Section 18657.0 (d) (4)**

The volume of California used lubricating oil received by the facility is necessary for CalRecycle to calculate the maximum possible volume of rerefining oil produced by the rerefining facility, and subsequently the amount of rerefining incentive that a facility is eligible for pursuant to Section 48651.5 of the Public Resources Code.

**Section 18657.0 (d) (5)**

Copies of manifests, manifest receipts, or other documentation are necessary to show that the oil received is all lubricating oil generated and collected in California; only rerefining oil produced from California generated used lubricating oil is eligible for the rerefining incentive, subject to the requirements created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5(a)(2) of the Public Resources Code. Therefore, these documents are needed for CalRecycle to properly assess the amount of a rerefining oil incentive payment.

**Section 18657.0 (d) (7)**

This section requires a declaration that the used oil received meets the specifications created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5(a)(2) of the Public Resources Code, which is necessary to ensure that those requirements are met.

**Section 18657.0 (d) (8)**

This section requires the claimant to list the water content of the California generated used lubricating oil that is processed into rerefining oil. This is necessary for CalRecycle to calculate the maximum possible volume of rerefining oil produced by the rerefining facility and subsequently the amount of rerefining incentive that a facility is eligible for pursuant to Section 48651.5 of the Public Resources Code.

**Section 18657.0 (d) (9)**

This section requires out-of-state facilities to include a declaration that they have a current agreement with DTSC per Section 48662(f) of the Public Resources Code. This is necessary to ensure that an out-of-state facility meets the requirement as created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5(a)(1) of the Public Resources Code.

**Section 18657.0 (d) (10)**

This section requires a rerefining incentive claim to include a declaration that rerefined oil meets the standard defined in Section 48620.2(a) of the Public Resources Code. This is necessary to ensure that the oil meets the requirements as created by SB 546 (Lowenthal 2009-10 Legislative Session) in Section 48651.5(a)(1) of the Public Resources Code.

**Section 18657.0 (d) (11)**

This section requires a claimant to list the total monetary amount being claimed on a rerefining incentive claim. This is necessary to ensure that CalRecycle knows how much money is being claimed and must therefore be verified by accompanying documentation.

**Section 18657.1 Processing of Rerefining Incentive Claims.**

This section clarifies the schedule for CalRecycle's processing of rerefining incentive claims, which is necessary to ensure that claims are processed efficiently.

This section also includes an appeals process for claimants who wish to appeal CalRecycle's determinations on a claim. This includes a timeframe for the submittal of an appeal and what information is required for an appeal. These new procedures provide clarity and are necessary to ensure that CalRecycle has the information needed to process an appeal and that claimants are provided due process.

**~~Article 8. General Provisions for Used Oil Recycling Grants~~**

Article 8 has been removed, which is necessary because SB 546 (Lowenthal 2009-10 Legislative Session) removed Block Grants from California's Used Oil Recycling Program.

**~~Article 8.1. Local Government Block Grants~~**

Article 8.1 has been removed, which is necessary because SB 546 (Lowenthal 2009-10 Legislative Session) removed Block Grants from California's Used Oil Recycling Program.

**ECONOMIC IMPACT ASSESSMENT PER GOVERNMENT CODE §11346.3 (b)**

**Title 14, Division 7, Chapter 8, Article 1**

**Used Oil Recycling Program**

**Summary of Proposed Regulations**

The proposed regulations will update the current Used Oil Recycling Program to conform to Senate Bill 546 (Chapter 353, Statutes of 2009), clarify procedures and processes, and allow for better fiduciary oversight of the Used Oil Recycling Fund. Substantive changes will impact the following areas of the Used Oil Recycling Program:

- **Lubricating oil sellers:** Sellers of lubricating oil in volumes of 100 gallons or greater must tell their customers what entity paid the lubricating oil fee (described in Section 48650 of the Public Resources Code) to CalRecycle for the volume of oil being sold (sellers must also include the year and quarter in which the initial fee was paid to CalRecycle). This is to ensure that all purchasers of lubricating oil know who paid the initial fee on their oil should they decide to file a refund claim.
- **Refunds:** Persons requesting an oil fee refund must tell CalRecycle who paid the initial fee to CalRecycle, and in what quarter of what year that fee was paid to CalRecycle. This is to ensure that

CalRecycle staff has the information needed to process a claim and to ensure a refund is only given for oil volumes on which a fee was paid.

- **Manifest Receipts:** Haulers must identify how much lubricating and industrial oil they are hauling on their manifest receipts only if there is any volume of lubricating oil in the load they are transporting. Current regulations require haulers to report this information on all shipments of oil.
- **Used Oil Rerefining Facilities:** A process for the certification of used oil rerefining facilities is created, including an appeals process.
- **Out-of-state Used Oil Recycling Facilities:** A process for the registration of out-of-state used oil recycling facilities is created, including an appeals process.
- **Certified Collection Centers:**
  - Advertising requirements are modified to allow online ads
  - Language requirements on signage provided by CalRecycle are reduced
  - An appeals process for sites denied certification is added
  - A process for de-certifying centers that are not meeting operator requirements is added
- **Used Oil Incentive Claims:**
  - A requirement for Certified Collection Centers to maintain logs for “Do-It-Yourself” or on-site oil collection is added to allow CalRecycle to appropriately identify how much oil qualifies for each incentive rate (\$0.40/gal for Do-It-Yourself, \$0.16/gal for on-site)
  - Operators of multiple sites may submit a single claim for multiple sites without petitioning CalRecycle for permission
  - An appeals process for claims is added
- **Contaminated Oil Reimbursement Applications:** The application deadline is limited to one (1) year from the time of a contaminated oil incident
- **Rerefined Oil Incentive Claims:**
  - A process for filing and processing rerefined oil incentive claims is created, including an appeals process.
- **Block Grants:** All references to Used Oil Block Grants, which no longer exist, are removed.
- **Electric Utilities:** All references to electric utilities are removed to conform with Senate Bill 546

### **Creation or Elimination of Jobs Within the State of California**

The proposed regulations are designed to conform to requirements created by Senate Bill 546, and to clarify existing processes and procedures. Most of the processes and procedures described in the regulations describe administrative procedures that will not create or eliminate jobs within the State of California.

Only one requirement described in the proposed regulations is identified as possibly having a direct economic impact on business in California: the requirement that sellers of lubricating oil must tell their customers what entity paid the lubricating oil fee to CalRecycle for the volume of oil being sold, and the quarter and year in which the initial fee was paid to CalRecycle.

CalRecycle assumes that a business will need an inventory tracking system to meet this requirement and that, based on experience with many large fee payers, large businesses already have inventory systems that allow them to track the information described above. Smaller businesses may or may not have systems in place for this, and therefore some small businesses may need to purchase such a system.

Based on NAICS database information, CalRecycle estimates that approximately 230 businesses will be impacted by this requirement. Of these businesses, 84 are considered large businesses (sales of over \$100 million annually and/or over 100 employees), and 146 are considered small businesses. CalRecycle determined that such programs on average cost \$3,200, based on a panel of top-reviewed inventory tracking software programs. This cost will not result in the creation or elimination of any jobs within the State of California.

#### **Creation of New or Elimination of Existing Businesses Within the State of California**

The proposed regulations are designed to conform to requirements created by Senate Bill 546, and to clarify existing processes and procedures. Most of the processes and procedures described in the regulations apply only to voluntary programs that businesses are not required to participate in.

Only one requirement described in the proposed regulations will affect businesses in a manner that applies to their normal operations: the requirement that sellers of lubricating oil must tell their customers who paid the initial fee on that oil to CalRecycle, and the quarter and year in which that payment to CalRecycle was made.

As noted above, CalRecycle assumes that a business will need an inventory tracking system to meet this requirement, and that large businesses already have inventory systems that allow them to track the information described above. Smaller businesses may or may not have systems in place for this, and therefore some small businesses may need to purchase such a system.

CalRecycle determined that such programs on average cost \$3,200, based on a panel of top-reviewed inventory tracking software programs. This cost will not result in the creation of a new business or eliminate an existing business within the State of California.

#### **Expansion of Businesses Within the State of California**

The proposed regulations are designed to conform to requirements created by Senate Bill 546, and to clarify existing processes and procedures. Most of the processes and procedures described in the regulations apply only to voluntary programs that businesses are not required to participate in.

Only one requirement described in the proposed regulations will affect businesses in a manner that applies to their normal operations: the requirement that sellers of lubricating oil must inform their customers what entity paid the lubricating oil fee to CalRecycle for the volume of oil being sold, and the year and quarter in which the initial fee was paid to CalRecycle. CalRecycle assumes that a business will need an inventory tracking system to meet this requirement, and that large businesses already have inventory systems that allow them to track the information described above. Smaller businesses may or may not have inventory tracking systems, and therefore some of them may need to purchase such a system.

As noted above, based on NAICS database information, CalRecycle estimates that approximately 230 businesses will be impacted by this requirement. Of these businesses, 84 are considered large businesses (sales of over \$100 million annually and/or over 100 employees), and 146 are considered small businesses. CalRecycle determined that such programs on average cost \$3,200 to purchase initially, with annual maintenance costs of \$2,700 per year, based on a panel of top-reviewed inventory tracking software programs. CalRecycle assumes these annual maintenance costs will persist for five years. CalRecycle does not have reliable data to estimate these costs or likely industry practice beyond five years. At least 60 percent of small fee payers (defined as those whose fee payments are below the

median CalRecycle oil fee payments annually) already have inventory control systems. Persons who conduct regular site visits of sellers of lubricating oil have also indicated to CalRecycle that most of these small businesses already own some sort of inventory control software. Based on these experiences, CalRecycle estimates that less than 40 percent of small businesses may need to purchase this software.

**Estimate of small business impact Statewide**

Number of small businesses affected	146
Number of small business to purchase software (40%)	58
Average initial cost (covers all first year costs)	\$3,200
Total Statewide initial cost	\$185,600
Average annual cost of maintenance per business	\$2,700
4-year cost impact per business	\$10,800
Total Statewide ongoing 4-year cost	\$626,400
Total cost impact of regulation over 5 years	\$812,000

This five year cost will not result in the expansion of businesses within the State of California.

**Consideration of Alternatives**

Alternatives to the proposed regulations have been considered, including a “no-action alternative.” CalRecycle has determined that: 1) no other alternative would be as effective and less burdensome to private persons, while at the same time protecting public health, safety, and the environment; and 2) no other alternative would lessen adverse economic impact on small businesses while protecting public health, safety, and the environment. CalRecycle has attempted to use reasonable performance standards rather than prescriptive standards and to minimize the impact on small businesses while still collecting the information required by statute. However, not all of the statutory requirements created by SB 546 (such as the creation of a rerefined oil incentive) can be properly addressed using performance standards alone, thus necessitating the promulgation of new regulations.

CalRecycle has not identified any alternatives to the proposed regulations that would allow for a similar streamlining of processes and procedures while providing similar conformity with SB 546 and fiscal protection of the Used Oil Fund.

**Cost Impact to State and Local Government**

Fiscal Effect on Local Government: As this regulation will largely impact administrative procedures, CalRecycle has determined that there will be no fiscal impact on local government.

Fiscal Effect on State Government: This regulation puts into place new measures that provide for enhanced fiscal oversight over the used oil fund to ensure that proper documentation is provided for incentive payment requests, refund requests, and rerefined incentive claims.

The new documentation requirement of providing a Do-It-Yourself or on-site log for collection centers that file a claim for both on-site and Do-It-Yourself oil will require time for staff to review. CalRecycle estimates that it will take 5 minutes to review each log, and that approximately 650 claims are filed

annually that include both types of oil. Assuming a personnel cost per hour of \$60.67, this would cost CalRecycle \$3,286 annually to process the logs.

**CalRecycle Hours Estimate**

Time spent processing logs	5	min
Number of claims annually that will submit logs	650	
Total Hours	54.2	hrs
Personnel Cost/Hour	\$60.67	
Total Cost	\$3,286	

Assumptions:

Hours per Personnel Year (PY)	1780
Cost per PY	\$108,000

**Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment**

The proposed regulation intends to provide for the protection of public health, safety, and the environment through the prevention of used oil releases into the environment. Incentives for collection sites of used oil as described in the regulations provide the public with safe locations to dispose of that oil. Proper data tracking and management of used oil will benefit the health and welfare of California residents, worker safety, and the state's environment. Additionally, the administrative procedures associated with fee collection and incentive payment provide the fiscal oversight of funds associated with the Used Oil Recycling Program. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.