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## Rulemaking Archives: Amending the Electronic Waste Recycling Program

### Description

The Office of Administrative Law (OAL) approved the Regulations Amending the Electronic Waste Recycling Program on September 17, 2018 and filed them with the California Secretary of State for publishing. The regulations will become effective on October 1, 2018 and there is no expiration date.

These regulations amend aspects of current regulations governing the Covered Electronic Waste (CEW) recycling payment program, and finalize related emergency rules adopted in 2015 and readopted in 2017.

The regulations serve to finalize two existing emergency regulation packages that address:

1. The assessing of civil liabilities pursuant to the authority granted under Public Resources Code (PRC) section 42474, and
2. The management of treatment residuals derived from the dismantling of covered electronic waste (CEW).

In addition to other general edits, the rules also amend and clarify aspects of definitions, applicability and limitations, documents and records, net cost reports, applications, prohibited activities, appeals, requirements for collectors and recyclers, claims, cancellation, and manufacturer payments.

### Affected Regulatory Code Sections

[California Code of Regulations, Title 14, Division 7, Chapter 8.2.](#)

## Contact

Interested stakeholders may email, call, fax or write to the CalRecycle staff listed below.

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If you would like to receive email notifications regarding this or future electronic waste rulemaking developments, please subscribe to the [E-Waste Listserv](#).

## Historical Information

### Rulemaking History

- On January 24, 2017, staff presented a [request for approval](#) at the [CalRecycle Monthly Public Meeting](#) to initiate the formal rulemaking process.
- On August 10, 2017, CalRecycle filed proposed regulations with OAL and initiated the prescribed public comment period, which ran from August 11, 2017 through October 10, 2017.
- On [October 11, 2017](#), CalRecycle held a Public Hearing in Sacramento at the CalEPA building at 1001 I Street.
- On [November 21, 2017](#), staff presented a request for approval at the CalRecycle Monthly Public Meeting to adopt Regulations Amending the Electronic Waste Recycling Program.
- On February 9, 2018, CalRecycle filed the proposed regulations with OAL for approval. OAL recommended changes to the rulemaking file documents and associated regulations that necessitated an additional comment period. As a result, CalRecycle staff withdrew the regulatory package and revised the proposed regulations.
- On June 21, 2018, CalRecycle initiated a 15-day comment period to receive comments to the new

revisions, which ended on July 6, 2018.

- On [July 17, 2018](#), staff presented a request for approval at the CalRecycle Monthly Public Meeting to adopt the updated proposed regulations.
- On August 3, 2018, CalRecycle resubmitted the proposed regulations to OAL for approval and publishing.

## Rulemaking Documents

- [OAL Notice of Approval](#)
- [Regulations Amending the Electronic Waste Recycling Program](#)
- [Form 400 \(OAL Filing\)](#)
- [Final Statement of Reasons](#)
- [\(FSOR\) Signed Request for Approval](#)
- [Notice of 15-Day Public Comment Period](#)
- [Revised Proposed Electronic Waste Recovery and Recycling Regulations](#)
- [Addendum to the Initial Statement of Reasons](#)
- [Notice of Proposed Rulemaking](#)
- [Proposed Electronic Waste Recovery and Recycling Regulations](#)
- [Form 400](#)
- [Form 399](#)
- [Signed Request for Approval](#)
- [Draft Initial Statement of Reasons \(ISOR\)](#)
- [ISOR Attachment 1: Previous Emergency Rulemaking-CRT Management](#)
- [ISOR Attachment 2: Previous Emergency Rulemaking- Administrative Civil Penalties](#)

**State of California  
Office of Administrative Law**

**In re:**  
Department of Resources Recycling and  
Recovery

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections:** 18660.44, 18660.45,  
18660.46

**Amend sections:** 18660.5, 18660.6, 18660.7,  
18660.8, 18660.9,  
18660.10, 18660.12,  
18660.13, 18660.15,  
18660.16, 18660.17,  
18660.18, 18660.19,  
18660.20, 18660.21,  
18660.22, 18660.24,  
18660.25, 18660.30,  
18660.31, 18660.32,  
18660.33, 18660.35,  
18660.36, 18660.37,  
18660.39, 18660.41

**Repeal sections:** 18660.23

**NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE**

**Government Code Sections 11349.1 and  
11349.6(d)**

**OAL Matter Number: 2018-0803-01**

**OAL Matter Type: Certificate of Compliance  
Resub (CR)**

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This certificate of compliance action submitted by the Department of Resources Recycling and Recovery (CalRecycle) makes permanent the prior emergency actions (OAL File Nos. 2015-0812-01E and 2017-0724-01EE) that amended six sections to revise criteria and conditions regarding the disposition of cathode ray tube (CRT) glass derived from the processing of certain covered electronic waste. This action also makes permanent the prior emergency actions (OAL File Nos. 2015-0925-02E and 2017-0817-01EE) that adopted three sections and amended one section to implement a process for CalRecycle to exercise its authority to impose civil liabilities for violations of the Electronic Waste Recycling Program. Additionally, this action amends twenty one sections to update existing electronic waste recovery and recycling requirements.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: September 17, 2018

  
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Lindsey S. McNeill  
Attorney

For: Debra M. Cornez  
Director

Original: Scott Smithline, Director  
Copy: Meagan Wilson

## Article 1. General

### § 18660.5. Definitions.

(a) For the purposes of this Chapter, the following shall apply:

- (1) “Act” or “the Act” means the Electronic Waste Recycling Act of 2003 (Senate Bill 20, Chapter 526, Statutes of 2003), as amended.
- (2) “Approved Collector” means an authorized collector as defined in Section 42463(b) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recovery payments from approved recyclers.
- (3) “Approved Dual Entity” means an entity that is both an “approved collector” and an “approved recycler” as defined in this Section.
- (4) “Approved Recycler” means a “covered electronic waste recycler” as defined in Section 42463(h) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recycling payments from CalRecycle.
- (5) “Bare CRT” means a Cathode Ray Tube with the vacuum relieved and the yoke removed that has been separated from the device housing and has had all circuit boards, wiring and other components detached from the tube.
- (6) “Bare Panel” means an LCD, gas plasma, or other non-CRT video display panel that has been separated from the device housing and has had all circuit boards, lamps, wiring and other components detached from the panel. Lamps may remain affixed to an otherwise bare panel only if they cannot be removed without breaking.
- (7) “Cancellation” means a processing or treatment method that qualifies CEWs for recycling payments, removes the CEWs from the payment system eliminating the possibility of double payments, dismantles or destroys the original CEW, and results in treatment residuals as specified in Section 18660.32 of this Chapter.
- (8) “Claim Activity Period” means the span of time during which an approved recycler received CEWs from approved collectors, processed and cancelled CEWs, and shipped treatment residuals, as required, that results in a recycling payment claim being submitted to CalRecycle.
- (9) “CRT” means a Cathode Ray Tube with the yoke still attached that has been separated from a CRT device.
- (10) “CRT device” means a whole covered electronic device containing a Cathode Ray Tube.
- (11) “California Source” means persons, as defined in Section 42463(n) of the Public Resources Code, located in California who generate CEWs after their own use of a CED. Persons who receive, accumulate, consolidate, store, or otherwise handle discarded, donated or collected CEWs are not the California sources of those CEWs.
- (12) “CalRecycle” means the Department of Resources Recycling and Recovery.
- (13) “Collection log” means a record maintained by an approved collector that records CEW collection activities as specified in Section 18660.20(j) of this Chapter.
- (14) “Collective Report” means a report submitted to CalRecycle through a trade association, a group of associations, or other organization that represents more than one manufacturer.
- (15) “Commingled” means mixed together and impossible to economically or practically separate.
- (16) “Covered Electronic Device” or “CED” has the same meaning, for the purposes of this Chapter, as a covered electronic device specified in Section 42463(e) of the Public Resources Code.
- (17) “Covered Electronic Waste” or “CEW” means a discarded device that DTSC has determined to be a covered electronic device, as specified by Section 42463(e) of the Public Resources Code.

- (18) “Designated Approved Collector” means an approved collector, as defined in subsection (a)(2) of this section, that has been designated by a California local government to provide CEW collection services for or on behalf of the local government in accordance with Article 7 of this Chapter.
- (19) “DTSC” means the Department of Toxic Substances Control.
- (20) ~~“End Use Destination” means the location where the treatment residuals from the approved recycler are sent after cancellation.~~
- ~~(21) “Further treat” means, for the purposes of this Chapter, activities such as crushing, size reduction, washing, cleaning, smelting, or similar steps taken to process the treatment residual rendering it more marketable and alter its physical form or characteristics. “Further treat” does not mean, for the purposes of this Chapter, receiving, storing, accumulating, consolidating, brokering, shipping, disposing or other similar activities that do not alter the physical form or characteristics of the treatment residual.~~
- ~~(22) “Handler”, for the purposes of this Chapter, has the same meaning as a universal waste handler or CRT material handler, as applicable, as defined in Section 66273.9 of Title 22 of the California Code of Regulations.~~
- ~~(23) “Illegal Disposal” means, for the purposes of this Chapter, the disposal or placement of CEWs on a property without the permission of the owner(s) of, or responsible party(ies) for, the property.~~
- (23) “Initial Destination” means, for the purposes of this Chapter, the location(s) to which treatment residuals are initially shipped by an approved recycler.
- (24) “Load” means a single transfer (a pick up or delivery) of CEWs, such as from a California source to a collector or from a collector to a recycler.
- (25) “Load Check Activities” means, for the purposes of this Chapter, the efforts made to identify, retrieve and divert from the disposed solid waste stream those CEWs that have been illegally discarded by generators. “Load Check Activities” do not include the rejection or acceptance of CEWs due to the lack of source documentation.
- (26) “Manufacturer Payment” or “Manufacturer Take Back Payment” means a payment made by CalRecycle to a registered manufacturer that takes back covered electronic wastes (CEWs) from a California source for the purposes of recycling the CEW pursuant to Section 42476(g) of the Public Resources Code.
- (27) “Manufacturer Payment Claim” means a registered manufacturer’s request submitted to CalRecycle with all required documentation for a manufacturer payment.
- (28) “Manufacturer Take Back” means a program administered by a registered manufacturer that accepts CEWs from California sources for the purposes of recycling.
- (29) “PBBs” mean Polybrominated Biphenyls.
- (30) “Processing log” means a record maintained by an approved recycler that records CEW activities associated with CEW cancellation, such as but not limited to ~~weighing, and dismantling, crushing, shredding, etc.,~~ as specified in Section 18660.21(b) of this Chapter.
- (31) “Product Category” means the types of covered electronic devices as defined in Section 42463(e) of the Public Resources Code. These categories include, but are not limited to, the following:
- (A) Cathode Ray Tubes (CRTs) devices used in televisions,
  - (B) CRTs devices used in monitors,
  - (C) Liquid Crystal Display (LCD) monitors,
  - (D) Laptop computers containing LCD screens,
  - (E) LCD televisions,
  - (F) ~~Gas p~~ Plasma display televisions, and
  - (G) Other video display devices as specified by the DTSC pursuant to Section 25214.10.1(b) of the Health and Safety Code.
- (32) “Proof of Approval” means the status of an approved collector or approved recycler, as portrayed on the CalRecycle website. The Proof of Approval is associated with the an unique identification number

~~and expiration date, issued by CalRecycle to identify a collector or recycler that identifies a collector or recycler as being approved pursuant to this Chapter.~~

(33) “Proof of Designation” means a document issued by a California Local Government to a Designated Approved Collector in accordance with Article 7 of this Chapter.

(34) “Receiving log” means a record maintained by an approved recycler that documents CEW transfers from approved collectors to the approved recycler.

(35) “Recovery payment” means the payment made by an approved recycler to an approved collector in exchange for the transfer of CEWs pursuant to Section 42477 of the Public Resources Code.

(36) “Recovery payment request” means an approved collector's request for recovery payment made to an approved recycler accompanying the transfer of CEWs.

(37) “Recycling payment” means the payment made by CalRecycle to an approved recycler that includes a recovery component related to recycler payments to collectors pursuant to Section 42477 of the Public Resources Code and a recycling component for CEW cancellation pursuant to Section 42478 of the Public Resources Code.

(38) “Recycling payment claim” means an approved recycler's claim that includes all required documentation submitted to CalRecycle for recycling payments for cancelled CEWs.

(39) “Registered Manufacturer” means a manufacturer as defined in Section 42463(m) of the Public Resources Code who registers with CalRecycle pursuant to this Chapter and therefore may be eligible for manufacturer payments from CalRecycle.

(40) “Source-anonymous CEWs” means CEWs whose originating California source cannot be identified in collection log information required pursuant to Section 18660.20(j)(1)(B) of this Chapter.

(41) “Source documentation” means collection logs and other information developed, maintained and transferred pursuant to Section 18660.20(h) of this Chapter that demonstrates the eligibility, originating generator ~~and/or~~ intermediate handlers of collected CEWs as applicable.

(42) “Standard Statewide Recovery Payment Rate” means the amount paid to an approved collector per pound of CEWs transferred to an approved recycler to cover the cost of collection, consolidation and transportation of CEWs as established pursuant to Section 42477 of the Public Resources Code.

(43) “Standard Statewide Combined Recycling and Recovery Payment Rate” means the amount paid to an approved recycler per pound of CEWs cancelled and claimed to cover the cost of receiving, processing and recycling CEWs as established pursuant to Section 42478 of the Public Resources Code, and making recovery payments to approved collectors.

(44) “Transfer” or “Transferred” means physically changing possession of CEWs, such as a transfer from a California source to a collector or from a collector to a recycler.

(45) “Transfer documentation” means, for the purposes of this Chapter, records ~~and/or~~ receipts that record the transfer of CEWs from an approved collector to an approved recycler, which include the weight, number, and source of the transferred CEWs, and the date(s) of transfer.

(46) “Treatment ~~Residuals~~” means any material resulting from the dismantling or treatment of a CEW. Treatment residuals are not considered CEWs and are not eligible for recovery or recycling payment, however the costs or revenues associated with managing treatment residuals shall be factored into the net cost of recycling CEW. -Treatment residuals may be used to demonstrate the ~~prior~~ processing of CEWs, and documentation demonstrating the subsequent movement or ultimate disposition of the treatment residuals may be required as part of the claim for payment submitted by an approved recycler.

(47) “Ultimate disposition” means, for the purposes of this Chapter, the consumption of a treatment residual into a manufacturing process or the disposal of a treatment residual at a permitted disposal facility. Storage of a treatment residual at a site of generation or at an intermediate facility, or accumulation of a treatment residual at a location prior to consuming or disposing, is not ultimate disposition.

**Proposed Electronic Waste Regulations—Title 14 CCR Division 7 Chapter 8.2 Section 18660.5 et seq.  
Administration of the Electronic Waste Recycling Act of 2003; Public Resources Code 42460 et seq.**

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463, 42465.2, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

### **§ 18660.6. Applicability and Limitations.**

(a) Limitations on the types of CEWs eligible for payments:

- (1) An approved collector may request recovery payment only for the types of CEWs specified by DTSC that are transferred to an approved recycler by the collector.
- (2) An approved recycler may claim recycling payment only for the types of CEWs specified by DTSC that are received from an approved collector and are cancelled by the recycler.
- (3) A registered manufacturer may claim manufacturer payment only for the types of CEWs specified by DTSC that the manufacturer takes back for recycling.

(b) Limitations on the timeframes eligible for payments:

- (1) An approved collector, an approved recycler, or a registered manufacturer shall not receive payment for any CEWs transferred from a California source before January 1, 2005.
- (2) An approved collector shall not request recovery payments from recyclers for transfers that occur prior to the approval of the collector's application by CalRecycle.
- (3) An approved recycler shall not claim recycling payments from CalRecycle for CEWs cancelled prior to the approval of the recycler's application by CalRecycle.
- (4) A registered manufacturer shall not claim manufacturer payments from CalRecycle for recycling that occurs prior to the manufacturer's registration with CalRecycle.

(c) Limitations on the Sources of CEWs and CEWs eligible for payments:

- (1) Only CEWs resulting from a California source are eligible for recovery, recycling, or manufacturer payments.
- (2) CEWs owned by a person in California, but used entirely outside of California are not eligible for payments.
- (3) Source-anonymous CEWs, documented pursuant to Section 18660.20(j)(1)(E) of this Chapter, are eligible for recovery and recycling payments if:
  - (A) The source-anonymous CEWs result from load check activities as defined in Section 18660.5(a)(25) conducted at permitted solid waste facilities whose operator is an approved collector or, if not an approved collector, the source-anonymous CEWs are directly transferred from the permitted solid waste facility to an approved collector; or
  - (B) The source-anonymous CEWs result from illegal disposal clean-up activities conducted by an approved collector who is a local government or its designated approved collector; or
  - (C) The source-anonymous CEWs result from illegal disposal on property owned or managed by an approved collector.
- (4) CEWs are transferred to a designated approved collector are not eligible for payments unless the CEWs are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(d) Limitations on the ability of collectors and recyclers to charge a fee:

- (1) If the recovery payment from a recycler does not fully cover the net cost of CEW recovery, and the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector, then an approved collector may charge a fee for CEW recovery.
- (2) If the recovery payment from a recycler fully covers the net cost of CEW recovery, an approved collector shall provide CEW recovery at no charge to California sources or CalRecycle may revoke approval and direct recyclers to deny recovery payments to the collector.
- (3) If the recycling payment from CalRecycle does not fully cover the net cost of CEW recycling, an approved recycler may charge a fee for CEW recycling.

(4) If the recycling payment from CalRecycle fully covers the net cost of CEW recycling, an approved recycler shall provide CEW recycling at no charge to approved collectors or CalRecycle may revoke approval and deny recycling payments to the recycler.

(e) Limitations on recovery payments:

(1) An approved recycler shall make recovery payments at the rate specified in Section 18660.33 of this Chapter to approved collectors for all CEWs transferred to the recycler and that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(2) CalRecycle shall revoke a recycler's approval and deny recycling payments to a recycler that fails to make recovery payments to approved collectors as specified in this Chapter.

(3) An approved recycler shall not make the recovery payments as specified in this Chapter to collectors who are not approved pursuant to this Chapter.

(4) An approved recycler may make other types of payments, not provided for under this Chapter, to a collector regardless of the collector's approval status.

(5) An approved recycler shall not provide recovery payments to a collector other than the approved collector that transfers the CEWs to the recycler, but nothing limits the collectors involved in prior transfers from negotiating payments among themselves unrelated to the recovery payment provisions of this Chapter.

(6) An approved collector is eligible for recovery payments only if the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector.

(7) An approved collector is entitled for recovery payments only for CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(8) The approved collector shall repay the approved recycler the amount of recovery payment that was paid if an approved collector has received recovery payment from an approved recycler for which the approved collector was not entitled.

(f) Limitations on recycling payments:

(1) CalRecycle shall make recycling payments only to approved recyclers who:

(A) Cancel CEWs using cancellation methods as specified in Section 18660.32 of this Chapter.

(B) Document cancellation and meet the other requirements of this Chapter.

(2) CalRecycle shall not make recycling payments to a recycler other than the approved recycler that cancels the CEWs, but nothing limits the recyclers involved in subsequent transfers from negotiating payments among themselves unrelated to the recycling payment provisions of this Chapter.

(3) CalRecycle shall not make recycling payments for reuse of either a whole CEW or of a partially disassembled CEW, such as a CRT with an attached yoke.

(g) Limitations in relation to current business practices:

(1) CalRecycle shall not limit the ability of approved collectors and approved recyclers to transfer or not transfer CEWs to or from any party.

(2) CalRecycle shall not limit the ability of approved collectors and approved recyclers from entering into contracts with each other or other parties.

(3) CalRecycle shall not limit the ability of collectors to recover CEWs or recyclers to recycle CEWs without participating in the system described in this Chapter.

(4) If collectors wish to receive recovery payments or recyclers wish to receive recycling payments, then they must meet the requirements in this Chapter.

(h) Limitations on the disposition of treatment residuals:

(1) Approved recyclers are not eligible for CEW recycling payments if treatment residuals are managed in a manner noncompliant or nonconforming with applicable law.

(2) Treatment residuals shall be managed for recycling to the extent economically feasible.

(A) Economic feasibility shall be determined by an approved recycler based on current market conditions for legal management options.

(B) CalRecycle may demand demonstration of economic infeasibility in accordance with Public Resources Code section 42479.

(3) Approved recyclers that ship treatment residual CRTs or CRT glass ~~for the purposes of recycling~~ shall be capable of demonstrating to CalRecycle or its designee upon demand that the CRT or CRT glass material has reached an ultimate disposition within one year of the initial shipment, unless the approved recycler is exempt from such demonstration pursuant to Article 7 of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(4) If treatment residuals are disposed, an approved recycler shall ensure and be able to demonstrate that the disposal ~~is compliant~~ complies with all applicable laws and conforms to any conditions of authorization or approval under which the approved recycler managed the CEW from which the treatment residuals were derived.

(5) CalRecycle may ~~demand~~ require approved recyclers to produce documentation maintained pursuant to this Chapter to demonstrate ~~demonstration of~~ compliance or conformance with all applicable laws associated with treatment residual shipment, initial destination, or ultimate disposition.

(i) Limitations on the manufacturer payment system:

(1) CalRecycle shall not register any entity other than a manufacturer as defined in Section 42463~~(am)~~ of the Public Resources Code to be a registered manufacturer.

(2) CalRecycle shall not make manufacturer payments to any entity other than a registered manufacturer.

(3) A registered manufacturer shall only claim payment for, and CalRecycle shall only make manufacturer payments for, CEWs received from California sources that are processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(4) A registered manufacturer shall not claim payment for, and CalRecycle shall not make manufacturer payments for, CEWs that are reused, repaired, refurbished or otherwise returned to use.

(j) Limitations on recycling payments on exported CEWs:

(1) CalRecycle shall not approve recyclers located outside the ~~s~~State of California.

(2) CEWs sent to and cancelled by unapproved recyclers are not eligible for recycling payments pursuant to this Chapter regardless of the location of the unapproved recycler.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42472(b), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.7. Document Submittals.**

(a) A collector, a recycler, or a manufacturer shall prepare and submit applications, registrations, claims ~~and/or~~ reports required pursuant to this Chapter in the manner designated by CalRecycle.

(b) CalRecycle shall only accept collector, recycler or dual entity applications, bearing the signatures of all persons with signatory authority designated pursuant to Section 18660.11. CalRecycle shall accept claims and reports bearing a signature by any person with signatory authority designated pursuant to Section 18660.11 ~~claims and reports containing all the required information and bearing an original signature of the primary applicant, or a person with signature authority as designated by the primary applicant pursuant to Section 18660.11 of this Chapter.~~

(c) CalRecycle shall only accept manufacturer registrations, claims and reports containing all the required information and bearing an original signature of the primary registrant, or a person with signature authority as designated by the primary registrant pursuant to Section 18660.35 of this Chapter.

(d) CalRecycle shall provide forms upon request that may be used to meet the requirements for the applications, registrations, and payment claims specified in this Chapter.

(e) A collector, a recycler, or manufacturer shall ensure that applications, registrations, claims, reports and all applicable supporting documentation are accurate, complete, and typed or legibly handwritten in English using permanent ink. A collector or a recycler may void errors only by using a single line through the error. A collector or a recycler shall not use correction fluid, correction tape or erasures for correcting errors on any document required by or submitted to CalRecycle.

(f) Any person, including but not limited to a handler, ~~who provides documentation or information to an approved collector or an approved recycler that may be used by the approved collector or approved recycler pursuant to this Chapter~~ shall not make a false statement or representation in any document filed, submitted, maintained, or used for purposes of compliance with this Chapter ~~the information or documentation provided.~~

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(d), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.8. Records.**

(a) An approved collector, an approved recycler, or a registered manufacturer shall send written notice to CalRecycle regarding any change in location, or intent to establish a new location, of records required by this Chapter no less than 10 days prior to the change. In the written notice, an approved collector or an approved recycler shall include its name, ~~and the unique~~ identification number from the proof of approval, ~~and the complete present and potential future address of the location of the records, if applicable, and the names and telephone numbers of the individuals responsible for such records.~~

(b) All records maintained pursuant to this Chapter must include the books of account that are ordinarily maintained by a prudent business person engaged in the same activity, together with all bills, receipts, invoices, manifests, cash register tapes, or other documents of original entry supporting the entries in the books of account.

(c) An electronic data processing system must have built into its program a method of producing visible and legible records that will provide the necessary information to determine compliance with the requirements of this Chapter.

(d) An approved collector, an approved recycler, or a registered manufacturer shall maintain records for at least three years.

(e) An approved collector, an approved recycler, or a registered manufacturer shall maintain records that are originals, and typed or legibly handwritten in English.

(f) An approved collector, an approved recycler, or a registered manufacturer shall not store records in an unprotected area, in an outside location, in a motor vehicle or in a location where the records are likely to become contaminated, damaged or stolen.

(g) An approved collector, an approved recycler, or a registered manufacturer shall maintain records suitable for examination prepared and retained in accordance with generally accepted accounting principles and good business practice.

(h) If CalRecycle determines that records do not meet the conditions in this Section, CalRecycle may revoke approval ~~and/or~~ deny payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.9. Audits.**

- (a) CalRecycle, or persons authorized by CalRecycle, may conduct audits of approved collectors, approved recyclers, and registered manufacturers to determine compliance with the requirements of this Chapter.
- (b) As part of an audit, CalRecycle may do any one or all of the following in relation to CEW recovery or recycling:
- (1) Review, examine or investigate any books, records, accounts, and/or documentation.
  - (2) Observe, review, examine or investigate any on-site activities, operations, processes, CEWs, treatment residuals or other materials.
  - (3) Observe and inspect transactions.
  - (4) Verify measurements, counts, weights, and calculations.
  - (5) Examine and verify revenue, cost and net cost information and calculations.
  - (6) Use other examination procedures to investigate recovery payments, recycling payments, manufacturer payments, transfers of CEWs or treatment residuals, costs, revenue, net costs, or other activities related to determining compliance with this Chapter.
- (c) An approved collector, an approved recycler, or a registered manufacturer shall provide CalRecycle staff, or persons authorized by CalRecycle, access to location(s) and/or records for the purpose of audits related to the requirements of this Chapter, and for any or all of the following purposes in relation to CEW recovery or recycling:
- (1) To determine compliance with CalRecycle's regulations and with the provisions of the Act.
  - (2) To determine the accuracy of the information provided in the application for approval or registration.
  - (3) To determine the accuracy of the information, calculations, weights, counts, and other data upon which claims for payments or payments are based.
  - (4) For the investigation of complaints related to recovery payments to collectors.
  - (5) For the investigation of complaints related to the geographic origin of CEWs.
  - (6) To obtain cost data, revenue data and net cost calculations required for CalRecycle to set and adjust the Standard Statewide recovery payment rate, recycler payment rate and consumer fees.
  - (7) To obtain sample data to calculate component weight to device weight conversion factors.
  - (8) To inspect any records required by this Chapter or the Act.
- (d) If an approved collector, an approved recycler, or a registered manufacturer fails to provide reasonable access for audits pursuant to this Section, CalRecycle shall do one or more of the following:
- (1) Deny approval or registration if a renewal is pending.
  - (2) Revoke an existing approval or registration.
  - (3) Recoup monies previously paid by CalRecycle, which were the subject of the audit, accumulated interest, and any associated penalties.
  - (4) Deny current and future claims for payments.
- (e) An approved collector, an approved recycler or a registered manufacturer that must repay monies to CalRecycle based on the results of a CalRecycle audit shall pay the entire amount, including the original amount, accumulated interest, and any associated penalties.
- (f) An approved collector, an approved recycler or a registered manufacturer shall make any payments, repayments or recoupments in U.S. dollars by check, draft, money order or cashier's check payable to the State of California, Department of Resources Recycling and Recovery, or to a designee selected by CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.10. Net Cost Report.**

(a) To adjust the Standard Statewide Recovery Payment Rate and the Standard Statewide Combined Recovery and Recycling Payment Rates, establish future payment schedules and adjust the consumer fees, CalRecycle shall periodically update information concerning the net costs of CEW recovery and CEW recycling.

(b) An approved collector or an approved recycler shall maintain records and provide information for use by CalRecycle in the update on their actual net costs to operate.

(c) An approved collector or an approved recycler shall use the following allowable revenues and costs for use in the calculation of net costs:

(1) Revenues in relation to CEW recovery or recycling, other than the payments required pursuant to this Chapter, including but not limited to:

(A) Up-front revenues received, such as from fees charged.

(B) ~~End-use~~ Treatment residual revenues, such as from commodity values.

(2) Costs in relation to CEW recovery or recycling including, but not limited to:

(A) The actual costs of receiving, handling, processing, storing, transferring and transporting CEWs.

(B) The actual costs of canceling CEWs.

(C) Labor.

(D) Property taxes.

(E) Depreciation.

(F) Utilities.

(G) Supplies.

(H) Fuel.

(I) Insurance.

(J) Interest.

(K) General overhead.

(L) Facilities and equipment rent or lease.

(M) Maintenance.

(N) Transportation.

(O) Handling costs.

(P) Disposition costs.

(Q) A reasonable rate of profit or return on investment.

(R) Marketing, promotion and public education.

(d) An approved collector and approved recycler shall submit to CalRecycle a report on the net costs of recovering CEW ~~and/or~~ separately recycling CRT CEW and non-CRT CEW for the prior calendar year. The report shall include:

(1) An annualized summary of the revenues, costs, and net cost (costs minus revenues) of CEW recovery ~~and/or~~ CEW recycling based on the records maintained pursuant to Sections 18660.20(j)(3) and 18660.21(l)(5) of this Chapter.

(2) Name, identification number and mailing address.

(3) The name and phone number of a contact person for purposes of the report.

(4) The reporting year and date of preparation of the report.

(5) The total annualized revenues excluding recovery and recycling payments received from CalRecycle, plus a list of the types of revenues included in the revenue calculation.

(6) The total annualized costs, plus a list of the types of costs included in the cost calculation.

(7) The total annualized net costs (annualized costs minus annualized revenues).

(8) The net cost per pound of CEW recovery and the net cost per pound of CEW recycling.

(9) Provide a description of the types of targeted consumers, and the methods of collection used to obtain CEWs from the California sources, including but not limited to:

- (A) Drop-off at permanent location,
- (B) Temporary event drop off,
- (C) Pick up at source,
- (D) Pick up at handler location,
- (E) Curbside collection,
- (F) Landfill drop off ~~and~~ or load check.

(10) The signature and title of a person with signature authority for net cost reports as designated pursuant to Section 18660.11 of this Chapter.

(11) The signature block shall state and certify the following statement: "I hereby declare under penalty of perjury that this net cost report, including any and all figures, calculations and accompanying documents has been examined by me and is true, correct and complete."

(12) The date and place of the signing of the report.

(e) An approved collector or an approved recycler shall convert any data captured on a per unit basis to a per pound basis for the purposes of determining revenues, costs and net costs.

(f) CalRecycle may revoke approval ~~and~~/or deny recycling payments for failure to submit a net cost report, or for the submission of a fraudulent report.

(g) The net cost report shall be submitted to CalRecycle on or before March 1, 2006, and each year thereafter.

(1) The requirement to submit a net cost report subsequent to March 1, 2007, shall be determined by CalRecycle at a public hearing.

(2) Notice of the requirement to submit a net cost report subsequent to March 1, 2007, shall be issued by CalRecycle on or before December 31 of the year proceeding the year in which the report is next due.

(h) In addition to the net cost report described by this Section, an approved collector or an approved recycler may submit test results, studies or other information for CalRecycle to consider when the Standard Statewide Recovery Payment Rate ~~and~~/or the Standard Statewide Combined Recovery and Recycling Payment Rate is reviewed and, if necessary, adjusted pursuant to Sections 18660.33 and 18660.34 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42464, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.1. Electronic Waste Payment System – Applications for Approval**

### **§ 18660.12. Additional Application Requirements for Collectors.**

(a) In addition to the general application information required in Section 18660.11 of this Chapter, a collector shall also include the following information:

(1) The date and the name under which the collector notified DTSC as a CRT ~~and~~/or universal waste handler.

(2) A description of the existing or proposed collection operation, including but not limited to:

- (A) The types of California sources from which the collector may recover CEWs, including but not limited to households, businesses, ~~and~~/or other collectors.
- (B) The type(s) of CEWs that may be recovered by the collector.
- (C) Whether the collector may recover CEWs from outside of the State of California.
- (D) The cost-free opportunity(ies) established by the collector for a California source to transfer CEWs to the collector as required by Section 42476(f)(~~23~~) of the Public Resources Code.

(3) Certification statements by the collector as follows:

(A) “The undersigned collector agrees under penalty of immediate revocation of approval and denial of recovery payments that as an approved collector:”

1. “I shall make reasonable efforts to ensure that any CEWs for which payment is claimed originate from a California source.”
2. “I shall provide free CEW collection to California sources if the payments I receive from recyclers fully covers the net cost of collection, transportation and charges paid to the recycler.”
3. “I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions.”
4. “I shall establish a cost-free CEW collection opportunity for California sources.”
5. “I have read and understand the requirements set forth in the statutes and regulations governing this program.”

(B) “The undersigned collector certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct.”

(4) The name and signature of the primary applicant who has the authority to sign and bind the collector to this application.

(5) The date and location of application.

(b) A collector shall maintain a physical location within the sState of California at which:

(1) CEWs can be handled.

(2) All records required by this Chapter shall be maintained.

(c) CalRecycle shall not approve a collector located outside the United States, unless required to by treaty. If CalRecycle must approve a collector outside the United States, the collector must comply with the requirements of Section 42476.5 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42476.5, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.13. Additional Application Requirements for Recyclers.**

(a) In addition to the general information required in Section 18660.11 of this Chapter, a recycler shall also include the following information:

(1) Documentation that the recycler has fulfilled DTSC notification and authorization requirements regarding the handling and processing of CEWs.

(2) A description of the recycling operation, including:

(A) The method(s) of cancellation used by the recycler.

(B) The types of CEWs cancelled by the recycler, pursuant to Section 18660.32 of this Chapter.

(C) Estimated percentages of cancelled CEWs expected to originate from inside of and from outside of the State of California annually.

(3) An explanation and documentation showing how the demonstrations in Public Resources Code Section 42479(b) have been satisfied, including but not limited to the following:

(A) The recycler is in compliance with DTSC’s minimum standards for managing hazardous and universal waste set forth in applicable requirements of Chapter 23 of Chapters 12, 14, 15, 16, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(B) The recycler demonstrates to CalRecycle that the recycler's facility meets all of the following standards:

1. The facility has been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A). If a DTSC inspection has been requested but not yet completed,

then CalRecycle will review the remainder of the application but withhold approval until the DTSC inspection is completed and the facility found to be in conformance.

2. The facility is accessible during normal business hours for unannounced inspections by state or local agencies.

3. The facility has health and safety, employee training, and environmental compliance plans and certifies compliance with the plans.

4. The facility meets or exceeds the standards specified in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2, Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300), of the Labor Code or, if all or part of the work is to be performed in another state, the equivalent requirements of that state.

(4) Unless the recycler is applying as a dual entity, the name, address, contact person's name and telephone number of at least one (1) collector from which the recycler has accepted, has contracted to accept or intends to contract to accept CEWs for cancellation with a letter from the collector certifying under penalty of perjury that California CEWs from that collector will be transferred to the recycler for recycling.

(5) A completed "Payee Data Record" STD. 204 form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.

(6) Certification statements by the recycler as follows:

(A) "The undersigned recycler agrees under penalty of perjury and of immediate revocation of approval and denial of recycling payments that as an approved recycler:"

1. "I shall fully reimburse an approved collector for all CEWs ~~and/or CEWs~~ transferred at the rate specified in this Chapter within 90 days"

2. "Notwithstanding the allowances contained in Section 18660.6(d) of this Chapter, I shall not adjust fees, charges or other contract provisions upward for the purpose of negating the recovery payment to approved collectors."

3. "I shall provide free CEW recycling by accepting without charge CEWs from approved collectors if the payment from CalRecycle fully covers the net cost of CEW recycling."

4. "I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions."

5. "I have read and understand the requirements set forth in the statutes and regulations governing this program."

(B) "The undersigned certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct."

(7) The name and signature of the primary applicant who has the authority to sign and bind the recycler to this application.

(8) The date and location of application.

(b) CalRecycle shall not approve a recycler located outside California.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.15. CalRecycle Review of Applications.**

(a) Upon receipt of the application, CalRecycle will notify the applicant within 30 calendar days if the application is complete or incomplete.

(b) If CalRecycle determines the application is incomplete, with exception of a pending inspection by DTSC, CalRecycle notification will list the missing information, and the applicant will have 30 calendar days from the notification to provide the missing information or CalRecycle will deny the application.

(c) After CalRecycle determines that an application is complete, CalRecycle will notify the applicant within 30 calendar days whether the application has been:

(1) Approved, and if so, issue a proof of approval ~~bearing a unique approval identification number will be provided~~ stating the type of approval granted:

(A) Approved collector, ~~and/or~~

(B) Approved recycler.

(2) Denied, and if so, the cause(s) for denial will be listed. After denial, an application to become approved may be resubmitted at any time after the causes for denial have been corrected.

(d) CalRecycle shall not charge collector or recyclers to process an application.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.16. Approval Term and Applications for Renewal.**

(a) An approved collector's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the collector continues to meet and fulfill the requirements of this Chapter, and the collector continues to operate in conformance with DTSC requirements.

(b) An approved recycler's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the recycler continues to meet and fulfill the requirements of this Chapter, and the recycler continues to operate in conformance with DTSC requirements and submit to inspections by DTSC.

(c) To renew approval, a collector or recycler shall ~~re-apply~~ reapply to CalRecycle on a biennial basis at least 90 calendar days prior to the expiration date of approval.

(d) If a collector or recycler fails to ~~renew~~ reapply for approval, after the expiration date all of the following conditions apply:

(1) The approval is expired and invalid.

(2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.

(3) The collector or recycler shall immediately cease using the issued unique identification number. ~~return any issued proof of approval to CalRecycle.~~

(e) An approved collector or an approved recycler may withdraw their approved application at any time via written notice to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.17. Prohibited Activities.**

(a) CalRecycle may deny a ~~renewal~~ an application or revoke or suspend the approval of a collector or recycler for any of the following prohibited activities:

(1) Failure by a collector or recycler to operate in conformance with DTSC requirements.

(2) Failure by a recycler to submit to a DTSC inspection within any 12-month period.

(3) Failure by a recycler to provide recovery payments to approved collectors as specified in this Chapter.

- (4) Failure to submit to CalRecycle audits as specified by this Chapter.
- (5) Failure to submit a net cost report as specified in Section 18660.10.
- (6) Transferring an approval or proof of approval to any other person.
- (7) ~~Altering the proof of~~ Misrepresenting an approval status.
- (8) A material breach of any of the certification statements contained in the approved application.
- (9) Fraudulently requesting a recovery payment.
- (10) Fraudulently claiming a recycling payment.
- (11) Submitting a fraudulent net cost report.
- (12) Failure to secure, maintain, ~~and/or~~ transfer documentation as specified by this Chapter.
- (13) Failure to notify CalRecycle of changes to information contained in the approved application.
- (14) Making a false statement or representation in a document filed, submitted, maintained or used for purposes of compliance with this chapter or Division 30, Part 3, Chapter 8.5 of the Public Resources Code.

(b) If CalRecycle denies an application renewal or revokes an approval for prohibited activities, all of the following conditions apply:

- (1) The approval is immediately invalid.
- (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.
- (3) The collector or recycler shall immediately cease using the issued unique identification number.  
~~return any issued proof of approval to CalRecycle.~~

(c) A collector or recycler may not reapply for approval until 180 calendar days after denial or revocation for prohibited activities.

(d) If CalRecycle suspends an approval for prohibited activities, all the following conditions apply until CalRecycle determines that the cause for suspension has been remedied:

- (1) The approval is temporarily invalid.
- (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter for recovery ~~and/or~~ recycling activities conducted during the suspension of approval.

(e) An application for approval or renewal from a collector or recycler or an individual identified in the application who has a history of demonstrating a pattern of operation in conflict with the requirements of this chapter and Division 30, Part 3, Chapter 8.5 of the Public Resources Code may be denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.18. Changes to Information Contained in an Approved Application.**

(a) An approved collector or an approved recycler shall ~~reapply notify to~~ notify to CalRecycle ~~for approval in writing of~~ changes to information contained in an approved application at least ~~90~~ 30 calendar days prior to the effective date of any proposed changes. ~~change taking effect, if one of the following changes may occur:~~

- (1) ~~A change in recovery, recycling or business practices that will prevent the approved collector or approved recycler from meeting the requirements of this Chapter.~~
- (2) ~~A change in recovery, recycling or business practices that will result in the breach of a certified statement on the application or in a prohibited activity as specified in Section 18660.17 of this Chapter.~~

(b) If an unforeseen change occurs, an approved collector or an approved recycler shall notify CalRecycle in writing of the change within ten calendar days after the unforeseen change. ~~In cases of notification after a change specified in subsections (1) or (2) in part (a) of this Section, CalRecycle may revoke the approval immediately or may require the collector or recycler to reapply for approval.~~

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.19. Appeal of Denial, Suspension or Revocation of Approval.**

- (a) If CalRecycle denies an application for approval or suspends or revokes an approval, the collector or recycler shall appeal that decision and request a hearing within 30 calendar days after the date of the denial, suspension or revocation. Any appeal received by CalRecycle after 30 calendar days from the date of the denial, suspension or revocation shall be denied without a hearing or consideration of the appeal.
- (b) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.
- (c) The collector or recycler requesting a hearing must submit the appeal in writing and ensure that it is received by CalRecycle's main business office, to the attention of the Legal Office. The collector or recycler shall clearly mark the outside of the package containing the appeal with: "~~e-Waste~~ Covered Electronic Waste Application Appeal Enclosed".
- (d) In an appeal, a collector or recycler shall include, at a minimum, all of the following:
- (1) The collector's or recycler's name, mailing address, contact name and daytime telephone number.
  - (2) The type of approval: collector, recycler or both.
  - (3) The location and street address.
  - (4) The date on the notification from CalRecycle and the stated reasons for denial, suspension or revocation.
  - (5) A statement of the basis for objecting to the denial, suspension or revocation.
- (e) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.
- (f) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the application, the reasons for denial, suspension or revocation, and any additional relevant information presented by the applicant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.
- (g) CalRecycle will notify the collector or recycler of the determination in writing within 20 calendar days from the date of the decision.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463(b), 42474(e)(3) and 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

## **Article 2.2. Electronic Waste Payment System – Business Requirements**

### **§ 18660.20. Requirements for an Approved Collector.**

- (a) Upon CalRecycle approval of its application, an approved collector may begin requesting recovery payments for CEWs documented and transferred to approved recyclers pursuant to the requirements of this Chapter after the approval.
- (b) An approved collector shall comply with the requirements of this Chapter, including:

- (1) Begin collection activities from California sources within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to begin collection activities within 180 days.
  - (2) Transfer at least one (1) load of CEWs to an approved recycler within 180 calendar days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to transfer at least one load of CEWs within 180 calendar days of approval.
- (c) An approved collector shall make reasonable efforts to determine if CEWs it collects are from California sources or from non-California sources and shall keep track of those materials separately. Reasonable efforts may include any of the following, but are not limited to:
- (1) Posting signs and asking California sources.
  - (2) Conducting spot checks ~~and~~/or surveys.
  - (3) Checking for a valid California identification of a person, a California license plate on a vehicle, ~~and~~/or a bill of lading showing a California origin.
  - (4) Requiring additional documentation from California sources or collectors delivering large numbers of CEWs.
  - (5) Instituting measures to prevent CEWs from being dropped-off anonymously or illegally disposed at the approved collector's facilities or operations.
- (d) An approved collector shall not request recovery payment for non-California CEWs.
- (e) An approved collector shall determine if CEWs they transfer to recyclers have already been cancelled, and shall keep track of those materials separately.
- (f) An approved collector shall not request recovery payment for previously cancelled CEWs.
- (g) An approved collector shall provide the CalRecycle-issued proof of approval identification number when transferring CEWs to or requesting recovery payments from an approved recycler. If an approved collector, or its agent, fails to provide the unique identification number from the proof of approval, the approved recycler may deny recovery payment.
- (h) An approved collector shall provide to any approved collector or approved recycler to whom it transfers CEWs information on the origin (California or non-California) and cancellation status of CEWs transferred, including but not limited to the following:
- (1) Signed statement listing the sources(s) of the transferred CEWs as recorded pursuant to subsection (j) of this section.
  - (2) A copy(ies) of the applicable portions of the collection log specified in subsection (j) of this section that describe the collection activities that resulted in the transferred CEWs.
  - (3) Written description of any activity, such as storage, repair, refurbishment, resale, reuse, transfer, packaging ~~and~~/or consolidation, that explains any discrepancy between the CEWs transferred and the CEWs collected as recorded in a log specified in subsection (j) of this section.
  - (4) A copy of any applicable Proof of Designation, issued pursuant to and used in accordance with Article 7 of this Chapter, associated with CEWs collected while acting as a designated approved collector for a local government.
- (i) An approved collector shall operate in accordance with all Federal, State and local laws and regulations.
- (j) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved collector shall maintain the following records:
- (1) A collection log containing:
    - (A) For each collection activity or event that results in CEWs transferred to the approved collector, a brief written description of the collection activity or event, including the type of California sources targeted for collection, the date and location the activity or event occurred, the number of CRT CEWs or non-CRT CEWs collected, and an estimate of the weight of CEWs collected.

(B) Approved collectors that are not California local governments, nor entities acting as the Designated Approved Collector for a California local government, shall maintain a list of all California sources who discarded the CEWs transferred to the approved collector, including the name and address of the California source and the number and type(s) of CEWs discarded by the California source.

(C) When receiving five (5) or more CEWs units discarded from a non-residential California source, an approved collector shall record the name of the non-residential organization, an address, a contact person and a telephone number.

(D) A list of other handlers and approved collectors who transferred CEWs to the approved collector in any month, including the name and address of the other handler and approved collector and the number of CEWs transferred and the sources of those CEWs as recorded pursuant to parts (A) and (B) of this Section.

(E) When collecting source-anonymous CEWs, all approved collectors shall:

1. Log the source-anonymous CEW collection activity separately.
2. Provide a brief written description of the activity or incident that resulted in the source-anonymous CEWs.
3. Record the date and location of the activity or incident, the number and an estimate of the weight of source-anonymous CEWs collected from the location of the activity or incident.
4. Record the name, organizational affiliation, address and phone number of a person responsible for the site of the activity or incident.

(2) Records of transfers by load to, and recovery payments from, approved recyclers, including:

(A) Inventory records that document the relationship between the CEWs received from all sources and the CEWs transferred to the approved recycler or to other handlers.

(B) Signed and dated receipts showing the number and weight of CEWs transferred. The approved collector shall identify and record each approved recycler using the name and identification number from the recycler's "proof of approval."

(3) Records on the costs, revenues and net costs associated with the collection, transportation and disposition of all CEWs handled as specified in Section 18660.10 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.21. Requirements for an Approved Recycler.**

(a) Upon CalRecycle approval of its application, an approved recycler may begin claiming recycling payments for CEWs received from an approved collector and cancelled after the approval.

(b) An approved recycler shall comply with the requirements of this Chapter, including:

(1) Begin CEW cancellation activities within 180 calendar days of approval. CalRecycle may revoke approval if a recycler fails to begin CEW cancellation within 180 days.

(2) Accept transfer of and cancel at least one (1) load of CEWs from an approved collector within 180 days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 days of approval. CalRecycle may revoke approval if a recycler fails to cancel at least one load within 180 days of approval.

(3) Record each approved collector's proof of approval identification number and provide a receipt showing the weight and number of CEWs transferred and the amount of the corresponding recovery payment due to the collector.

- (4) Make recovery payments to approved collectors, or their agents, for all CEWs transferred, in accordance with this Chapter, at the time of transfer of CEWs, or at a later time specified in a written contract between the approved collector and approved recycler, but not more than 90 days from the date of transfer.
- (5) Cancel CEWs by one or more of the manners prescribed in Section 18660.32 of this Chapter.
- (A) An approved recycler shall maintain a processing log that records the date, method of cancellation, and quantity in pounds of CEWs cancelled.
- (B) An approved recycler shall maintain inventory records that document the relationship between CEWs received from approved collectors, CEWs processed and cancelled by the approved recycler, and treatment residuals shipped to ~~end-use~~ initial destinations or ultimate dispositions, as applicable.
- (6) Submit recycling payment claims to CalRecycle as specified in Sections 18660.22 through 18660.31 of this Chapter.
- (7) Submit to and obtain a DTSC inspection, within any 12-month period.
- (c) Based on information supplied by approved collectors, an approved recycler shall, at a minimum, keep track of the weight of CEWs from both California and non-California sources transferred from approved collectors and ensure that recycling payments are not claimed for non-California source materials.
- (d) An approved recycler shall not provide recovery payment to approved collectors for CEWs from non-California sources, or to approved collectors that fail to provide complete and applicable source documentation on CEW origin pursuant to Section 18660.20(h) of this Chapter.
- (e) An approved recycler shall not claim recycling payments for non-California CEWs.
- (f) Approved recyclers shall determine if CEWs they accept from collectors have already been cancelled and shall keep track of the weight of those materials and ensure that recycling payments are not claimed for these materials.
- (g) An approved recycler shall not provide recovery payment to approved collectors for previously cancelled material.
- (h) An approved recycler shall not claim recycling payments for previously cancelled material.
- (i) An approved recycler may deny recovery payments for commingled loads in which CEWs cannot be distinguished from other materials.
- (j) An approved recycler shall operate in accordance with all Federal, State and local laws and regulations.
- (k) An approved recycler shall:
- (1) Be equipped with scales and be a weighmaster in accordance with Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.
- (2) Measure, record and report weights in pounds and issue certified weights.
- (3) Weigh CEWs and ~~or~~ treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 (commencing with Section 12500) of the Business and Professions Code.
- (l) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved recycler shall maintain the following records:
- (1) A receiving log containing a brief written description of CEW transfers by load from approved collectors, the certified number of units and the certified weight of CEWs transferred, and the dates the transfers from collectors occurred.
- (2) Records of CEW transfers, including all documentation received from an approved collector as specified in Section 18660.20(h), and recovery payments made and ~~or~~ owed to approved collectors, including signed and dated receipts showing the certified number of units and the certified weight of CEWs transferred.
- (A) The approved recycler shall identify and record each approved collector using the name and identification number from the collector's "proof of approval."

- (B) The approved recycler shall record separately the number of units and sum of estimated weights of source-anonymous CEWs reported by and transferred from an approved collector.
- (3) A processing log showing the definitive cancellation of CEWs by weight, date and cancellation method, as specified in Section 18660.32 of this Chapter, upon which a payment claim is based.
- (4) Applicable records for all shipments of treatment residuals, including but not limited to weight certificates, packing lists, bills of lading, manifests, destination receipts, invoices, and payments. Applicable records shall be maintained pursuant to Section 18660.8 of this Chapter and ~~be capable of demonstrating~~ demonstrate the following information:
- (A) Date of shipment.
  - (B) Quantity and material type in shipment.
  - (C) The full name and address of shipping service.
  - (D) The full name and address of the buyer or other transferee, and destination name and address if different.
  - (E) Identification and description of the initial destinations or ultimate disposition of the treatment residuals, as applicable.
- (5) Records on the net costs associated with the management of all CRT CEW and non-CRT CEW handled, and any additional administrative costs of providing recovery payments to approved collectors.
- (6) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **Article 2.3. Electronic Waste Payment System – Recycling Payment Claims**

#### **§ 18660.22. General Requirements for Recycling Payment Claims.**

- (a) An approved recycler shall submit all of the following general information in a claim for recycling payments from CalRecycle:
- (1) The full name, mailing address, and federal tax identification number of the recycler preparing the report.
  - (2) The name and phone number of a contact person for purposes of the report.
  - (3) The reporting month (calendar month and year) and date of preparation of the report.
  - (4) The claim activity period, listing the start and end dates.
  - (5) The total weight of CEW claimed, as calculated in Sections ~~18660.23~~, 18660.24, and 18660.25 of this Chapter.
  - (6) The total monetary amount being claimed.
  - (7) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.11 of this Chapter. The signature block shall include the following certification statements:
    - (A) “I hereby declare under penalty of perjury that:”
      - 1. “The approved recycler whom I represent is currently in compliance with all Federal, State and local requirements, including compliance with the requirements of the Act and this Chapter.”
      - 2. “All claimed CEWs have been cancelled as specified in Section 18660.32 and are unable to re-enter the payment system, and all treatment residuals specified in Section

18660.22(c) derived from the claimed CEWs have been shipped off-site to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of those treatment residuals.”

3. “I have certified the weights and verified the calculations, including the adjustments for CEWs from non-California sources and for prior cancellation.”

4. “This payment claim, including any and all accompanying documents has been examined by me and is true and correct.”

5. “I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment”

6. “I further understand that fraud could result in revocation of the recycler's approval.”

(8) The date and place of the signing of the claim.

(b) For each cancellation method used, an approved recycler shall submit no more than one recycling payment claim per calendar month and may only include one reporting month, as specified by Sections ~~18660.23~~, 18660.24 and 18660.25 of this Chapter, in a single recycling payment claim. An approved recycler shall prepare payment claims for different cancellation methods separately, but may submit a package containing all the claims for a reporting month.

(c) Prior to submitting a payment claim for cancelled CEWs, an approved recycler shall:

(1) Ship off-site all the following treatment residuals derived from the cancelled and claimed CEWs to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of the treatment residual:

~~(A) CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through crushing or shredding.~~

~~(B) (A) Bare CRTs or CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~

(B) CRT glass cullet.

1. CRT glass, CRT funnel glass, and CRT panel glass, as defined in Section 66273.9 of Chapter 23 of Title 22 of the California Code of Regulations, shall be accounted for separately, as applicable.

2. The shipped CRT glass cullet shall account for the amount derived from the cancelled and claimed CEW.

~~(C) Gas plasma display glass cullet if conducting non-CRT-containing CEW cancellation through crushing or shredding.~~

~~(D) Bare gas plasma display panels if conducting non-CRT-containing CEW cancellation through dismantling to a bare panel.~~

(2) For each claimed ~~cancelled~~ non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and weight of each device prior to cancellation.

(A) If the non-CRT-containing CEWs contain a plasma display, records relating to quantity of the bare panel(s) and ultimate disposition shall be maintained pursuant to Section 18660.8 of this Chapter.

(B) If the non-CRT-containing CEWs contain cold cathode fluorescent lamps, records relating to quantity of the lamps and ultimate disposition shall be maintained pursuant to Section 18660.8 of this Chapter.

(C) Records maintained pursuant to (A) and (B) above shall be made available upon request by CalRecycle or its designee.

(3) Only those CEWs that have been processed and documented pursuant to the applicable requirements of subsections (c)(1) and (c)(2) of this section shall be claimed for payment.

(d) An approved recycler shall attach all of the following to the payment claim:

(1) For all CEWs received from collectors during the claim activity period that are cancelled and included in the current claim, a report that includes:

(A) A list of approved collectors from which the transfers of CEWs were accepted with the name and proof of approval identification number of each.

(B) The total weight of CEWs in all loads transferred from each approved collector. Note that this weight may not equal the weight claimed for recycling payment because recovery payments are made on the weight of all CEWs transferred while recycling payments are made on the weight of only those CEWs cancelled.

(C) Signed and dated receipts documenting all CEW transfers from approved collectors.

(D) A copy(ies) of the applicable records specified in Section 18660.21(l)(1)-(4) pertaining to the collection, transfer, and processing activities involving the CEWs cancelled and being claimed for payment.

1. Source documentation not associated with the claimed CEWs shall not be included in the report.

2. Transfer documentation not associated with the claimed CEWs shall not be included in the report.

(E) A sum of the estimated weight of source-anonymous CEWs as reported by and transferred from approved collectors.

(2) For all CEWs cancelled during the claim activity period and that are included in the current claim, a description of cancellation activities that includes:

(A) The type(s) of cancellation method used.

(B) The date(s) when cancellation occurred.

(C) The amount of CEWs processed by dismantling, ~~crushing or shredding~~ by date in pounds.

(D) The dates and destinations of all treatment residual shipments required prior to submitting a claim as specified in subsection (c) of this section.

(3) For all CEWs received from collectors during the claim activity period that are not included in a prior claim and that are not cancelled, a description and quantification of those activities including but not limited to storage, repair, refurbishment, resale, reuse, transfer ~~and/or~~ export.

(e) An approved recycler shall deliver recycling payment claims to CalRecycle's main business office, to the attention of the Accounting Section. An approved recycler shall mark the outside of the package containing the claims clearly with "~~e-Waste~~ Covered Electronic Waste Claim Enclosed."

(f) An approved recycler shall submit timely recycling payment claims so that CalRecycle receives each claim within 45 days of the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle may return without payment any claim received more than 45 days after the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.

(g) CalRecycle may reject a claim if it fails to comply with the general requirements of this Section, or the additional requirements in the applicable provisions regarding cancellation methods in Sections ~~18660.23~~, 18660.24 ~~and/or~~ 18660.25 of this Chapter.

(h) CalRecycle's rejection of a recycling payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

~~§ 18660.23. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT Containing CEWs through Crushing or Shredding.~~

- (a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT-containing CEWs through crushing or shredding as specified in Section 18660.32 of this Chapter.
- (b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of CRT glass cullet were sent to an end use destination.
- (d) The reporting month for a recycling payment claim pursuant to this Section is the month in which shipment(s) of CRT glass cullet were made.
- (e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through crushing or shredding as follows:
  - (1) The total weight of CRT-containing CEWs cancelled for the reporting month from which all treatment residuals specified in Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end use destination authorized to receive and further treat or legally dispose of those treatment residuals.
  - (2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.
  - (3) If the amount in subsection (e)(1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.
- (f) An example calculation for canceling CRT-containing CEWs through crushing or shredding is included for illustration purposes as follows:

*The weight of CRT-containing CEWs cancelled:* \_\_\_\_\_ *1000 pounds*  
*Times the per pound Standard Statewide combined*  
*—recovery and recycling payment rate:* \_\_\_\_\_ *X \$0.49*  
*Equals the payment claim for the reporting period:* \_\_\_\_\_ *= \$490.00 Total Claim*

- (g) An approved recycler shall attach to the payment claim the following documentation from all shipments of CRT glass cullet made during the reporting period of a calendar month:
  - (1) Shipping reports to end-use destinations, including the names of the shipping recycler and the receiving end-use destination.
  - (2) The date of the shipment and the weight of the CRT glass cullet.
  - (3) Weight tickets of individual shipments of CRT glass cullet.
  - (4) Verification of post cancellation disposition, including:
    - (A) For shipments by sea, the proof of disposition to an end-use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.
    - (B) For other shipments, the proof of disposition to an end-use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.
    - (C) For all shipments of CRT glass cullet, information pertaining to the ultimate disposition of the material shipped demonstrating that the disposition is compliant with applicable law and conformant with the approved recycler's conditions of authorization.
      - 1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.
      - 2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.

~~(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and quantification of the disposition of other treatment residuals derived from cancellation of the CRT containing CEWs, including but not limited to metals, plastics, fibers and wood.~~

~~Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.~~

~~Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.~~

**§ 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs Through Dismantling to a Bare CRT After Relieving the Vacuum.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar reporting month in which one or more shipments of bare CRTs or CRT glass cullet were sent to an end-use destination.

(d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first makes shipment(s) to an initial destination of bare CRTs or CRT glass cullet derived from the claimed CEWs were made.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through dismantling to a bare CRT as follows:

(1) The total weight of CRT-containing CEWs cancelled from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use initial destination authorized to receive and further treat or legally dispose of those treatment residuals.

(2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(f) An example calculation for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum is included for illustration purposes as follows:

<i>The weight of CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined</i>	
<i>recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

(g) An approved recycler shall attach the following documentation for all shipments of bare CRTs or CRT glass cullet made during the reporting claim activity period of a calendar month:

(1) Shipping reports to end-use initial destinations, including the names of the shipping recycler and the receiving end-use initial destination.

(2) The date of the shipment and the weight of the bare CRTs or CRT glass cullet.

(3) Certified Wweights tickets of individual shipments of bare CRTs or CRT glass cullet.

(4) Verification of post cancellation disposition, including:

(A) For shipments by sea, the proof of ~~disposition transfer~~ to an ~~end-use~~ initial destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.

(B) For other shipments, the proof of ~~disposition transfer~~ to an ~~end-use~~ initial destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading or manifest.

(C) For all shipments of bare CRTs or CRT glass cullet, information pertaining to the ~~ultimate initial destination or the ultimate disposition of the material shipped; demonstrating that the disposition is compliant with applicable law and conformant with the approved recycler's conditions of authorization.~~

1. All documentation necessary to demonstrate compliance ~~et with~~ material disposition handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22 and 23 of Division 4.5 of Title 22 of the California Code of Regulations shall be included in the discussion claim.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine compliance with the legality of material disposition handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 2 of the California Code of Regulations.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.25. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of Non-CRT-Containing CEWs.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of the cancelled non-CRT-containing CEWs.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar reporting month in which it cancels non-CRT-containing CEWs.

(d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first cancels any of the non-CRT CEW being claimed cancellation occurs.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as follows:

(1) The total weight of cancelled non-CRT-containing CEWs for the reporting month for which records specified in Section 18660.22(c)(2) of this Chapter have been established and maintained pursuant to Section 18660.8 of this Chapter from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped to an end-use destination authorized to receive and further treat those treatment residuals. Note that non-CRT-containing CEWs commingled with other material are ineligible for recycling payment.

(2) The total payment claimed, calculated by multiplying the weight of non-CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(4) For each claimed ~~cancelled~~ non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and the weight of each device prior to cancellation.

(f) An example calculation for canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ is included for illustration purposes as follows:

<i>The weight of non-CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.60</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$600.00 Total Claim</i>

(g) An approved recycler shall attach the following documentation for all ~~shipments of circuit boards, bare plasma panels and lamps derived from non-CRT-containing CEWs made during the reporting claim activity~~ period of a calendar month:

(1) Shipping reports to ~~end-use~~ initial destinations, including the names of the shipping recycler and the receiving ~~end-use~~ initial destination.

(2) The accumulation start date(s) of the bare plasma panels or lamps shipped or stored shipment and the weight of the circuit boards.

(3) ~~W~~ Certified weights tickets of individual shipments of the circuit boards.

(4) Verification of post cancellation disposition, including:

(A) For shipments by sea, the proof of disposition transfer to an end-use initial destination shall be the on-board bill of lading or manifest, as applicable.

(B) For other shipments, the proof of disposition transfer to an end-use initial destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading or manifest.

(C) For all shipments of bare plasma panels and lamps derived from non-CRT-containing CEWs circuit boards, a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is not disposal to land, water or air compliant with applicable law and conforms with the approved recycler's conditions of authorization.

1. All documentation necessary to demonstrate compliance with material handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations shall be included in the claim.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine compliance with material handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(5) The quantities of treatment residuals recorded pursuant to section 18660.22(c)(2)(A) and (B) shall be included in the claim.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals derived from cancellation of the non-CRT-containing CEWs, including but not limited to circuit boards, other video display panels, metals, plastics, and fibers.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.30. CalRecycle Review of Recycling Payment Claims.**

(a) CalRecycle shall review a recycling payment claim and determine if a recycling payment is due pursuant to this Chapter. If CalRecycle has cause to investigate any aspect of a claim, the review may be extended until resolution of all issues aspects under investigation.

(b) CalRecycle may deny or adjust payment for any of the following reasons:

(1) CalRecycle determines that:

(A) The signature on the claim is not that of a person with signature authority for recycling payment claims as designated pursuant to Section 18660.11 of this Chapter.

(B) The recycler did not have current approval for the reporting period and/or the cancellation period in the claim.

(C) The approved recycler failed to meet the requirements in this Chapter or committed an activity prohibited in this Chapter.

(D) The payment claim contains a numerical discrepancy between values or calculations reported on the claim and CalRecycle verified values and calculations.

(E) The facility has not been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A) of the Public Resources Code.

(F) The recycler is ineligible for payment pursuant to Section 42479(b)(1) of the Public Resources Code.

(G) The payment claim is deficient with regard to any of the following:

1. CEW source documentation

2. CEW transfer documentation

3. CEW processing documentation

4. Treatment residual disposition documentation

5. Any other documentation required as part of a payment claim as specified in Sections 18660.22 through 18660.25 of this Chapter.

(2) CalRecycle has prevailed against the claimant in a civil or administrative action and money is owed to CalRecycle as a result of the action.

(3) CalRecycle discovers, as part of an application review, claim review or an audit, significant inconsistencies or fraud.

(c) If CalRecycle adjusts or denies a payment claim based on deficiencies in documentation specified in subsection (b)(1)(G) of this section, an approved recycler shall not resubmit as part of a future claim that same documentation, or any revised form of that documentation, seeking payment for those CEWs for which payment had been denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.31. Appeal of Denied or Adjusted Recycling Payment Claims.**

(a) An approved recycler shall submit an appeal in writing to the CalRecycle main business office, to the attention of the Legal Office, file a formal appeal by writing to CalRecycle within 30 calendar days of the date of the notice denying or adjusting the claim. The recycler shall clearly mark the outside of the package containing the appeal with: "Covered Electronic Waste Claim Appeal Enclosed".

(b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice letter from CalRecycle ~~on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.

(c) An approved recycler shall include all of the following information in a written appeal:

- (1) The recycler's name and identification number from its proof of approval.
- (2) The month(s) and year(s) in question.
- (3) A copy of the recycling payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
- (4) An explanation of why the adjustment or denial was in error.
- (5) Any other documentation that supports the appeal.

(d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(f) CalRecycle will notify the recycler of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e)(3) and 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

## **Article 2.4. Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

### **§ 18660.32. Cancellation Methods.**

(a) CalRecycle shall not pay recycling payment claims unless the cancellation method used meets the requirements of this Section.

(b) An approved recycler shall not use or propose cancellation methods that are inconsistent with any DTSC requirements for handling or otherwise processing CEWs.

(c) An approved recycler may use the following standard CEW cancellation methods that qualify for recycling payments as specified in the requirements of this Chapter:

- ~~(1) CRT or CRT-containing CEW cancellation through crushing or shredding.~~
- ~~(2) CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~
- ~~(3) Cancellation of non-CRT-containing CEWs through crushing/shredding of the entire CEW.~~
- (4) (2) Cancellation of non-CRT-containing CEWs through dismantling to a bare panel.

(d) An approved recycler may submit proposals for alternative cancellation methods to CalRecycle for review on a case-by-case basis. CalRecycle, in consultation with DTSC, shall act within ~~180~~ 90 calendar days to disapprove

an alternative method, approve an alternative method for use only by the requesting recycler, or approve an alternative method for use by all recyclers.

(e) An approved recycler shall not claim, and CalRecycle shall not pay, recycling payments for CEWs “cancelled” with an alternative method unless CalRecycle has previously approved the alternative method. CalRecycle shall deny payment on any CEWs “cancelled” with an alternative method prior to CalRecycle approval.

(f) Reuse of either an intact CEW or of a partially disassembled CEW, such as a CRT with an attached yoke, is not cancellation and is not eligible for recycling payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.33. Standard Statewide Recovery Payment Rate.**

(a) An approved recycler shall pay an approved collector the Standard Statewide ~~Combined~~ Recovery Payment Rate for all CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter regardless of the real or anticipated disposition of the CEWs.

(b) Beginning July 1, 2016, the Standard Statewide Recovery Payment Rate is \$0.19 per pound.

(c) CalRecycle shall review the Standard Statewide Recovery Payment Rate at a public meeting ~~of the Board~~ and establish the rate pursuant to Section 42477 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.5. Electronic Waste Payment System – Manufacturer Payments**

### **§ 18660.35. Manufacturer Registration.**

(a) A manufacturer may apply to become registered, to renew an existing registration, or to revise an existing registration at any time by submitting a complete application.

(b) In an application for registration, manufacturers shall provide the following general information:

(1) Name of manufacturer.

(2) Mailing address and physical address.

(3) Name of the employee or officer of the manufacturer who is the contact person.

(4) Telephone number(s) of the contact person.

(5) An e-mail address of the contact person.

(6) Name of the employee or officer of the manufacturer who is the primary applicant authorized to sign:

(A) Payment claims.

(B) Reports.

(C) Other payment-related documentation ~~and/or~~ correspondence required by CalRecycle.

(7) Name of the employee or officer of the manufacturer (if any), in addition to the primary applicant, who is authorized to sign:

(A) Payment claims.

(B) Reports.

(C) Other-payment related documentation ~~and/or~~ correspondence required by CalRecycle.

(8) An indication of whether the manufacturer wishes to be included in an on-line registry.

- (9) The location in which the records required by this Chapter will be maintained.
- (c) In an application for registration, a manufacturer shall also include the following information about its take back program or activities, including but not limited to:
- (1) The types of California sources from which the manufacturer may take back CEWs, including but not limited to households, businesses, ~~and~~ or other collectors.
  - (2) The type(s) of CEWs that the manufacturer may take back for recycling.
  - (3) The mechanism(s) by which the manufacturer will accept CEWs into the take back program, such as mail-in, drop-off, trade-in, or pick-up.
  - (4) Any conditions the manufacturer may place on accepting CEWs.
  - (5) Whether the manufacturer may recover for the purposes of recycling discarded electronic devices similar to CEWs from outside of the State of California.
- (d) In an application for registration, a manufacturer shall also include the following information regarding the recycling of the CEWs received into its take back program:
- (1) The name and address of the recycling facility(ies) used by the manufacturer.
  - (2) A description of the recycling operation used by the manufacturer, including the recycling process that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (e) In an application for registration, a manufacturer shall make the following certification statements:
- (1) “The undersigned manufacturer agrees under penalty of immediate revocation of registration and denial of manufacturer payments that as an registered manufacturer:”
    - (A) “I shall ensure that any CEWs for which payment is claimed originate from a California source.”
    - (B) “I shall only claim payment for those CEWs that I take back and process for recycling.”
    - (C) “I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions.”
  - (2) “The undersigned manufacturer certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct.”
    - (A) The name and signature of the primary applicant who has the authority to sign and bind the manufacturer to this application.
    - (B) The date and location of application execution.
- (f) In an application for registration, a manufacturer shall submit a completed “Payee Data Record” STD. 204 Form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.
- (g) Within 30 calendar days upon receipt of the application for registration, CalRecycle will notify the manufacturer if the applicant is a registered manufacturer and provide a registration number to be used in all correspondence and claims.
- (h) A registered manufacturer's registration remains valid for 2 years following the date of registration provided that the information in the original application remains unchanged and the manufacturer continues to meet and fulfill the requirements of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a) and 42476, Public Resources Code.

### **§ 18660.36. Requirements for a Registered Manufacturer.**

- (a) Upon registration with CalRecycle, a registered manufacturer may claim manufacturer payments for those CEWs received by the manufacturer's take back program after the effective date of registration and processed for recycling as specified in Section 18660.6(i)(3) of this Chapter.

- (b) A registered manufacturer shall determine if CEWs received by the manufacturer's take back program and processed for recycling are from California sources or from non-California sources and shall keep track of those materials separately.
- (c) A registered manufacturer shall not request payment for non-California CEWs.
- (d) A registered manufacturer shall not request payment for previously cancelled CEWs.
- (e) A registered manufacturer shall ensure that any CEW on which the manufacturer has claimed manufacturer payment does not enter the recovery and recycling payment system.
- (f) The recycling operation used by a registered manufacturer shall operate in accordance with all Federal, State and local laws and regulations.
- (g) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, a registered manufacturer shall obtain and maintain the following records:
- (1) A written description of the take back program, including the type of consumers from whom CEWs are accepted for take back.
  - (2) A record of the number of CEWs collected by the product categories defined in Section 18660.5(a)(31) of this Chapter.
  - (3) Records of transfers by load to the recycling operation used by the registered manufacturer, including signed and dated receipts showing the weight and number of CEWs transferred.
  - (4) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the recycling operation used by the manufacturer.
  - (5) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
  - (6) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
  - (7) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
  - (8) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.
- (h) A registered manufacturer shall measure, record and report weights in pounds. A registered manufacturer shall weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 of the Business and Professions Code (Weights and Measures) or in accordance with comparable standards of the state in which the registered manufacturer is located.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

### **§ 18660.37. Manufacturer Payment Claims.**

- (a) A registered manufacturer shall base a manufacturer payment claim on the number of CEWs processed for recycling by screen size(s) as listed in Section 42464(a) of the Public Resources Code.
- (b) A registered manufacturer shall submit all of the following general information in a claim for manufacturer payments from CalRecycle:
- (1) The full name, mailing address, registration number, and federal tax identification number of the registered manufacturer preparing the claim.
  - (2) The name and phone number of a contact person for purposes of the claim.
  - (3) The period of time covered by the claim and date of preparation of the claim.
  - (4) The number of CEW devices claimed:

(A) In each product category as defined in Section 18660.5(a)(31).

(B) By screen size as listed in Section 42464(a) of the Public Resources Code.

(5) The total monetary amount being claimed, as calculated in subsection (f) of this Section.

(6) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.35(b)(6) or (7) of this Article. The signature block shall include the following certification statements:

(A) "I hereby declare under penalty of perjury that:"

1. "All claimed CEWs were received from California sources through the manufacture take back program described in the manufacturer registration."

2. "All claimed CEWs have been processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result."

3. "No claimed CEWs were transferred into the recovery and recycling payment system."

4. "I have certified the number of devices and verified the calculations."

5. "This payment claim, including any and all accompanying documents, has been examined by me and is true, correct and complete."

6. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"

7. "I further understand that fraud could result in revocation of the manufacturer registration."

(7) The date and place the claim was signed.

(c) A registered manufacturer shall submit no more than one payment claim per calendar month.

(d) The claim period for a manufacturer payment claim pursuant to this Section is the time period within which processing occurs and may not exceed three (3) months.

(e) A registered manufacturer shall attach all of the following to the payment claim:

(1) A written description of take back program that collected the CEWs for which payment is being claimed, including the type of consumers from whom CEWs were accepted, and a record of the number of CEWs collected by the product categories as defined in Section 18660.5(a)(31) of this Chapter.

(2) Records of transfers by load to the registered manufacturer's recycling operation, including signed and dated receipts showing the weight and number of CEWs transferred.

(3) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the manufacturer's recycling operation.

(4) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.

(5) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.

(6) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(f) A registered manufacturer shall calculate the payment and include the calculation in a manufacturer payment claim as follows:

(1) The total number of CEWs, by screen size as specified in Section 42464(a) of the Public Resources Code, that are processed for recycling during the claim period.

(2) The total payment claimed, calculated by:

(A) Multiplying the number of CEWs in each screen size category by the value of the covered electronic waste recycling fee that applies to that category.

(B) Adding the calculations in (A) above for each screen size category calculation together.

(g) An example calculation for a manufacturer claim is included for illustration purposes as follows:

*The number CEWs processed for recycling by screen size:*

<i>100 devices with less than 15 inch screen size</i>	<i>100 devices</i>
<i>Times the covered electronic waste recycling fee for category</i>	<i>X <del>\$6.00</del> <u>\$5.00</u></i>
	<i><del>\$600.00</del> <u>\$500.00</u></i>

<i>200 devices greater than or equal to 15 inch screen size but less than 35 inch screen size</i>	<i>200 devices</i>
<i>Times the covered electronic waste recycling fee for category</i>	<i>X <del>\$8.00</del> <u>\$6.00</u></i>
	<i><del>\$1600.00</del> <u>\$1200.00</u></i>

*Equals the payment claim for the claim period: (~~\$6500.00~~+~~\$161200.00~~) = \$221700.00 Total Claim*

(h) A registered manufacturer shall deliver manufacturer payment claims to CalRecycle’s main business office, to the attention of the Accounting Section. A registered manufacturer shall mark the outside of the package containing the claims clearly with “Electronic Manufacturer e-Waste Claim Enclosed.”

(i) A registered manufacturer shall submit timely manufacturer payment claims so that CalRecycle receives each claim within 45 days of the end of the claim period. CalRecycle may return without payment any claim received more than 45 days after the end of the claim period. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.

(j) CalRecycle may reject a claim if it fails to comply with the requirements of this Section.

(k) CalRecycle’s rejection of a manufacturer payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

### **§ 18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims.**

(a) A registered manufacturer ~~may~~ shall submit an appeal in writing to the CalRecycle main business office, to the attention of the Legal Office, ~~file a formal appeal by writing to CalRecycle~~ within 30 calendar days of the date of the notice denying or adjusting the claim. The registered manufacturer shall clearly mark the outside of the package containing the appeal with: “Electronic Manufacturer Claim Appeal Enclosed”.

(b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice letter from CalRecycle ~~on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.

(c) A registered manufacturer shall include all of the following information in a written appeal:

- (1) The registered manufacturer's name and registration.
- (2) The month(s) and year(s) in question.
- (3) A copy of the manufacturer payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
- (4) An explanation of why the adjustment or denial was in error.
- (5) Any other documentation that supports the appeal.

(d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(f) CalRecycle will notify the registered manufacturer of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474 and 42476, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

### **Article 3. Manufacturer Reporting**

#### **§ 18660.41. Reporting Requirements.**

Each manufacturer as defined by Section 42463(m) of the Public Resources Code shall submit an annual report to CalRecycle on or before July 1, 2005, and annually thereafter, for the period of the previous calendar year. Each manufacturer shall report information by brand name of covered electronic devices sold in the state.

(a) The report shall include the following:

(1) Name and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer.

(2) The information elements, as described in Section 42465.2 of the Public Resources Code and specified in Sections 18660.41(b) through (f), below.

(b) The sales reporting shall include:

(1) Data on the number of covered electronic devices sold in the state by product category.

(2) An explanation of the methodology used to estimate data.

(c) The materials reporting shall include:

(1) An estimated average amount in milligrams for mercury, cadmium, lead, hexavalent chromium, including their alloys and compounds, and PBBs used in covered electronic devices, and all their component parts by product category.

(2) Estimates may be based on either physical testing or maximum tolerance levels of the material in product design specifications.

(3) An explanation of the methodology used to estimate data.

(d) Recyclable content reporting shall include:

(1) Estimates on the amount in tons of recyclable content materials (e.g., plastics, glass, and metals) contained in covered electronic devices;

(2) The increase from the previous year in the use of recyclable content materials; and

(3) An explanation of the methodology used to estimate recyclable content.

- (e) Design for recycling reporting shall include:
- (1) Information on current activities and future plans related to the design of covered electronic devices, including but not limited to, the following:
    - (A) Ease of disassembly of covered electronic devices;
    - (B) Identification of resin types; and
    - (C) Improved materials efficiency through reduction in hazardous materials use or other approaches.
- (f) List of retailers noticed pursuant to Section 42465.2(a)(1)(E) of the Public Resources Code shall include:
- (1) The contact information used by the manufacturer to perform the notice, such as the name, address, contact person, phone number and ~~for~~ email address of the retailer to which the notice was made.
  - (2) The list of covered products contained in the notice.
- (g) Manufacturers shall individually submit to CalRecycle samples of the consumer information and description of all methods used to comply with Section 18660.42 of this Chapter. Manufacturers shall submit this information at the same time they comply with Section 18660.41(a) through (e), above.
- (h) Each manufacturer shall maintain the report and all supporting documentation for three years after the report is submitted. If CalRecycle or DTSC requests a copy of the supporting documentation, the manufacturer shall submit the supporting documentation within 10 days of the request.
- (i) Each manufacturer shall provide a certification under penalty of perjury that the information is true and correct.
- (j) Collective reporting - Compliance with the reporting required in Sections 18660.41(b) through (f), above, is the individual responsibility of each manufacturer. A manufacturer may comply with the reporting requirements in subsections (b) and (c), above, by submitting a collective report for the subsections containing sales and materials information, if the following conditions are met:
- (1) A collective report must contain all of the information required in Sections 18660.41(b) and (c), above, but may combine the information for those manufacturers submitting information for the collective report;
  - (2) The collective report shall contain a list of all manufacturers whose reports are included in the collective report. This list shall include the name of the manufacturer and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer;
  - (3) Each manufacturer shall provide a certification under penalty of perjury that the information provided for the collective report is true and correct; and
  - (4) Notwithstanding Section 18660.41(j)(1) through (3), above, CalRecycle may request, on a case-by-case basis, a manufacturer to submit an individual report with the information required in Sections 18660.41(b) and (c), above, and all supporting documentation of the information contained in the report. In response to CalRecycle's request, the manufacturer shall submit an individual report and supporting documentation within ten days of receiving CalRecycle's request.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Section 42465.2, Public Resources Code.

## **Article 6. Administrative Civil Penalties**

### **§ 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

- (a) Administrative civil penalties authorized by Public Resources Code Section 42474(d) shall be assessed in accordance with the procedures set forth in this Section.

(b) The penalties shall be assessed as follows:

(1) A “Minor” violation means first-time violations where the gravity of the violation is severe. The penalties for this type of violation ~~would~~shall be no less than five hundred dollars (\$500) and no more than four thousand dollars (\$4,000).

(2) A “Moderate” violation means subsequent or multiple violations occurring at one time. The penalties for this type of violation ~~would~~shall be no less than four thousand dollars (\$4,000) and no more than fifteen thousand dollars (\$15,000).

(3) A “Major” violation means violations that indicate a pattern and practice of noncompliance, or intentional violations. The penalties for this type of violation ~~would~~shall be no less than fifteen thousand dollars (\$15,000) and no more than twenty-five thousand dollars (\$25,000).

(c) CalRecycle ~~may~~shall consider any or all of the following when imposing an administrative civil penalty:

(1) The nature, circumstances, extent, and ~~or~~ gravity of the violation;

(2) The value of the actual or potential economic benefit to the violator associated with the violation;

(3) The amount of actual or potential harm to CalRecycle, ~~financial or otherwise~~;

(4) Any prior history of noncompliance with this Chapter, including but not limited to any prior violations of a similar nature;

(5) Truthful and forthright cooperation during any relevant investigation, including but not limited to any measures taken by the violator to remedy the current violation or prevent future violations;

(6) The violator’s ability to pay the proposed penalty;

(7) The deterrent effect that the imposition of the proposed penalty would have on the community as a whole and the violator; and

(8) Any other matters that justice may require.

(d) In any case in which it is determined that more than one person or entity is responsible and liable for a violation, each such person may be held jointly and severally liable for an administrative civil penalty.

(e) Prior to the issuance of an accusation, CalRecycle may issue a ~~prior~~ written notice of violation (NOV). ~~alleging with specificity~~. A NOV shall not be issued in the event of a violation that indicates a pattern and practice of noncompliance, or an intentional violation.

(1) The NOV shall allege with specificity the following:

~~(A1)~~ A description of the violation or violations;

~~(B2)~~ The ~~proposed potential~~ penalty amount, ~~if any~~;

~~(C3)~~ The facts considered in determining the type of violation and potential penalty amount;

~~(D4)~~ A list of The corrective action(s) to be taken by the violator; and

~~(E5)~~ An acknowledgement of receipt and review to be executed by the violator.

(2) The NOV and all accompanying documents shall be served by certified mail or personal service.

(f) CalRecycle shall issue an accusation, as defined in Government Code Section 11503, seeking an administrative penalty or penalties pursuant to this Section. The accusation and all accompanying documents ~~may~~shall be served by personal service or registered mail.

(g) Within fifteen (15) days after service upon the respondent of the accusation seeking any administrative civil penalty, respondent may request a hearing by filing a Notice of Defense pursuant to Government Code Sections 11505 and 11506. The request for hearing may be made by delivering or mailing the Notice of Defense to CalRecycle. Failure to file a Notice of Defense within fifteen (15) days of service of the accusation shall constitute a waiver of the respondent’s right to a hearing and CalRecycle may proceed upon the accusation without a hearing.

(h) CalRecycle shall provide a hearing before the director or his or her designee, who shall act as hearing officer. At any time during the proceeding, before a decision is issued, CalRecycle and the respondent(s) may engage in settlement of the matter.

(i) The hearing officer shall consider the ~~notice of violation~~ NOV (if applicable), the accusation, the Notice of Defense, and all other relevant evidence presented by CalRecycle and the respondent. The hearing officer shall

specify relevant procedures to be conducted during the proceeding, which include but are not limited to, informing the parties as to whether the hearing officer will consider witness testimony, and whether there shall be written ~~and~~/or oral arguments. The hearing officer shall issue a written decision stating the factual and legal basis for the decision within thirty (30) days of the hearing. If the hearing officer determines that any penalties are owed, the hearing officer shall include in the written decision the date payment of the assessed penalties shall be due and paid.

(j) The respondent's failure to comply with the hearing officer's written decision may be grounds for suspension or revocation of their status as an approved collector ~~and~~/or approved recycler.

(k) Except as otherwise specified herein, the hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. The hearing shall take place in Sacramento, California unless a location is otherwise specified by the hearing officer. If respondent wishes to request an alternate location, the respondent must make that request in the Notice of Defense and provide a justification of undue burden.

(l) Penalties assessed in a hearing officer's decision may be in addition to any adjustments made pursuant to Section 18660.30 and may be offset by CalRecycle against any other amounts that are otherwise due to the respondent(s) for payment claims. In the event of settlement, the parties may agree to offset provisions in the settlement agreement.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

(a) The administrative procedure set forth in Section 18660.44(c)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(a).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.**

(a) The administrative procedure set forth in Section 18660.44(b)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(c).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

# RESUBMITTAL

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2017-0801-05</b>	REGULATORY ACTION NUMBER <b>2018-0803-01</b>	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2018 AUG -3 A 11:26  
 OFFICE OF ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY Department of Resources Recycling and Recovery (CalRecycle)	AGENCY FILE NUMBER (if any)
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### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Electronic Waste Recovery and Recycling	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) See attachment A
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ACTION
	ADOPT See attachment B
	AMEND See attachment B
TITLE(S) 14	REPEAL See attachment B

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs, title 1, §44 and Gov. Code §11347.1)  
 6/21/2018-7/6/2018

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) <b>10/1/2018</b>

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Meagan Wilson	TELEPHONE NUMBER (916) 341-6077	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Meagan.Wilson@calrecycle.ca.gov
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3. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Elliot W. Block</i>	DATE 8/3/18
TYPED NAME AND TITLE OF SIGNATORY Elliot Block, Chief Counsel	

**FINAL STATEMENT OF REASONS (July 2018)**

<b>TITLE 14:</b>	<b>NATURAL RESOURCES</b>
<b>DIVISION 7.</b>	<b>DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY</b>
<b>CHAPTER 8.2</b>	<b>ELECTRONIC WASTE RECOVERY AND RECYCLING</b>
<b>Articles/Sections:</b>	<b>Article 1.0, § 18660.5; Article 2.0, §§ 18660.6, 18660.7, 18660.8, 18660.9, 18660.10; Article 2.1, §§ 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19; Article 2.2, §§ 18660.20, 18660.21; Article 2.3, §§ 18660.22, 18660.23, 18660.24, 18660.25, 18660.30, 18660.31; Article 2.4, §§ 18660.32, 18660.33; Article 2.5, §§ 18660.35, 18660.36, 18660.37, 18660.39; Article 3.0, § 18660.41; Article 6, §§ 18660.44, 18660.45, 18660.46</b>

**PROBLEM STATEMENT**

The emergency regulations that the Department of Resources Recycling and Recovery (CalRecycle) previously adopted, as well as those proposed in this rulemaking, address the problems of implementing, administering, and evolving a payment system that disburses public funds to an industry engaged in the management of regulated wastes in order to achieve the intent of the Electronic Waste Recycling Act of 2003 (“the Act”).<sup>1</sup> . Problems include eligibility, documentation, compliance, and accountability.

The core purpose of the Covered Electronic Waste (CEW) recovery and recycling program is to facilitate and ensure the environmentally sound and legally compliant management and disposition of CEW and derived residual materials. Among other challenges, participating recyclers must be able to demonstrate that derived regulated materials were properly handled before the recycler may file a claim for payment. Changing material markets, evolving technologies, and hazardous waste regulation have altered or eliminated traditional options for residual material disposition, requiring changes in regulatory requirements and allowances, while safeguarding the environment and maintaining the integrity of the program. Emergency rules approved August 21, 2015 (2015-0812-01E) and re-adopted August 1, 2017 (2017-0724-01EE), began the work to remedy this problem. CalRecycle now seeks to make those rules, in addition to associated similar adjustments in the proposed text, permanent.

CalRecycle has detected inaccuracies as well as false statements or representations in payment claims and associated documentation used for the purpose of compliance with the Act and the CEW program regulations, which represents another challenge to the integrity of the program. Over the past few years, CalRecycle has concentrated on claim adjustments and payment disallowances as one of the tools to ensure compliance with the program’s rules and regulations. In order to safeguard the integrity of the program, CalRecycle proposed to implement procedures

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<sup>1</sup> Established through SB 20, Sher, Chapter 526 (Public Resources Code Section 42460, *et seq.*)

for imposing civil penalties, which offers CalRecycle an additional tool to deter non-compliant behavior. CalRecycle has statutory authority to impose civil penalties in 2012, as codified in Public Resources Code (PRC) Section 42474. Emergency rules approved October 5, 2015 (2015-0925-02E) and re-adopted August 28, 2017 (2017-0817-01EE) implemented a civil liability facet to the CEW recycling payment system, and established a process for administering civil penalties for false statements or representations. CalRecycle proposes to make these regulations permanent.

In addition to the finalization of the emergency rules, the CEW program must respond to a dynamic industry, a changing cast of participants, new technologies and business practices, and associated documentation management requirements. This requires updating recordkeeping and information tracking, creating allowances and establishing limitation, and clarifying the terms and terminology used to administer the CEW program. As such, additional modifications to existing regulations are also included in this proposed regulatory action.

### **STATEMENT OF BENEFITS**

The proposed rules benefit the State by ensuring that only authorized entities receive public funding for the compliant management of specified wastes. The rules do so without placing excess burden on the voluntarily participating recycling industry by primarily relying on documents and demonstrations already required pursuant to a range of other State laws, such as hazardous waste rules and weighmaster rules.

The existing and proposed rules also ensure that only eligible CEW generated in California enters the program and that the funds derived from fees paid by California consumers are expended only on activities conducted in compliance with applicable law. This benefits the State by protecting the environment and public funds. The emergency rules strengthened the documentation requirements for CRT glass management while providing management options. The proposed rules expand the allowable methods for managing, in general, residual materials derived from CEW, which allows participating businesses to select the most economically feasible practices within otherwise compliant options, while maintaining reasonable and effective regulatory oversight.

Additionally, the proposed rules establish the mechanisms to hold accountable anyone making false statements or representations in documents used for the purpose of compliance with the Act and the CEW program regulations, via the imposition of administrative civil penalties. The process and procedures set forth ensure CalRecycle has the ability to exercise its statutory authority and impose civil liabilities. The proposed rules benefit the State through safeguarding the integrity of the CEW program and promoting compliance with the CEW program's rules and regulations by acting as a deterrent to non-compliant behavior. Additionally, the proposed rules benefit the State through promoting a level playing field between program participants and fostering fair business practices.

## **GENERAL COMMENTS APPLICABLE TO STATEMENT OF REASONS**

The Act created the CEW recovery and recycling program, which disburses funds to approved participants in the program after reviewing submitted claims to ensure eligibility and compliance. In order to implement and administer the program, CalRecycle previously adopted regulations, and, more recently adopted emergency rules to better administer its obligations under the Act. The emergency rules (2015-0812-01E/2017-0724-01EE and 2015-0925-02E/2017-0817-01EE) addressed primarily two issues: 1) those associated with compliant residual material management, particularly the management of CRT glass, and 2) the imposition of administrative civil penalties as the consequence of false representations.

CalRecycle is now seeking to make the emergency regulations permanent, as well as edit and amend other existing regulations spanning portions of Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations. The proposed rules intend to clarify terminology (definitions), to provide better structure to participation in the program, to determine the scope of recordkeeping and documentation necessary to verify operational compliance, to establish sound processes for claiming public funds, and to hold persons accountable for the (mis)representations made relative to complying with the Act and the Program.

## **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION**

This paragraph applies to each section below unless otherwise indicated:

CalRecycle considered alternatives to the proposed rules and determined that: 1) no alternative would be more effective in carrying out the purpose for which the action is proposed; 2) no alternative would be as effective and less burdensome to affected private persons, while at the same time protecting human health, safety, and the environment, and the integrity of public funds; and 3) no alternative would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

CalRecycle staff attempted to incorporate documentation requirements that already exist under other regulatory frameworks to minimize any impact on small businesses while still collecting the information necessary to fulfill the intent of statute.

CalRecycle staff hosted several stakeholder workshops and a public hearing on topics relating to this rulemaking and received comments and suggestions on a range of subjects within the CEW program. These are categorized into the subjects of administrative civil liabilities (penalties) and the disposition of residual cathode ray tubes (CRT) and associated glass. The following summarizes major comments that CalRecycle received at its stakeholder workshops prior to the submission of the emergency regulations packages to the Office of Administrative Law (OAL), and provides CalRecycle staff's response to these comments.

## Administrative Civil Liabilities

In general, stakeholders favored the issuance of Notice of Violations (NOVs) or imposition of penalties as it provides a good deterrent to discourage non-compliant behavior and protects fair business practices.

- 1) **Recycler Responsibility:** Several stakeholders expressed concerns that the responsibility would fall on the recycler for accepting material and associated records from collectors and/or handlers that contains false documentation.

Response: Staff explained that the assigning of responsibility will be determined on a case by case basis that would assess the totality of circumstances.

- 2) **Penalty Provisions:** Several commenters suggested to clarify the “Minor” penalty and feared that clerical errors could fall under “unintentional” violations. Comments were also received on the subject of penalty provisions. One comment expressed concerns that penalties might be assessed for something that was not intentional highlighting that inaccuracies in recording consumer information could happen occasionally. Furthermore, it called for defining all violations for which penalties could be imposed. Another comment expressed support for adopting a schedule to assess civil penalties but emphasized that the three-tiered system needs to be more specific and hence proposed incorporating a point system to identify the severity of various violations.

Response: In response to these comments and prior to the submission of the emergency regulations to OAL, CalRecycle staff modified the “Minor” category to include first-time violations where the gravity of the violation is severe (instead of “first-time or multiple unintentional violations”). The “Moderate” category penalty was also revised to include subsequent or multiple violations and penalties for this category could be assessed without prior issuance of notice. The “Major” category includes violations that indicate a pattern and practice of noncompliance or intentional violations. CalRecycle staff believes these changes bring more clarity to distinguish between the three types of violations and provide a more specific assessment.

- 3) **Site of Hearings:** Another commenter asked if the hearings will be held only in Sacramento and called for the possibility to conduct hearings in Southern California, especially if it involves small participants.

Response: CalRecycle staff added another provision to the emergency rules package prior to submission to OAL, specifying that the hearing will take place in Sacramento unless otherwise determined by the hearing officer. The Respondent can request an alternate location by providing a justification of undue burden when filing the Notice of Defense.

- 4) **Public Record:** Several commenters asked if the NOVs and/or Accusations could be made public.

Response: CalRecycle staff has been looking into this option and believes that once filed, the Accusations and the hearing officer’s final decisions could be posted on the CalRecycle website.

The NOV's will not be published as those are intended to serve as warnings and an opportunity to take corrective action by the violator(s).

5) Retroactive Penalties: One comment received inquired if the new penalties would be applied retroactively.

Response: Staff believes CalRecycle has the authority to retroactively assess civil liabilities for the past three years, which is the statute of limitations for fraud, given that it had the authority to impose civil penalties since the statute was enacted in June 2012.

6) Emergency Regulations: Another comment received prior to OAL's adoption of the emergency rules package did not favor the adoption of regulations under emergency rulemaking stating that there was "no emergency" and that stakeholders would not be able to comment on for a period of up to two years.

Response: Per PRC section 42475.2, CalRecycle has the authority to adopt regulations to implement and enforce the Electronic Waste Recycling Act on an emergency basis, as necessary for the immediate preservation of the public peace, health, safety, and general welfare. The proposed regulations implementing civil liabilities are intended to be established under the emergency authority to protect both the environment as well as the integrity of public funds. CalRecycle aimed to involve stakeholders in the civil liabilities regulatory development and hosted a dedicated stakeholder workshop seeking comments. Moreover, CalRecycle now seeks to make these emergency rules permanent thereby providing the requisite written comment period, as well as a public hearing on October 11, 2017, to allow for additional comments and feedback from the public.

7) Hearing Process: Another comment requested that the hearings be conducted as formal hearings pursuant to Government Code section 11500 to provide for protections and guarantees, instead of using the proposed informal hearing specified in Government Code section 11400. The stakeholder argued that the informal hearing is an inappropriate venue given that the civil penalties could exceed the capitalization of the business and that these hearings are never heard by the Director.

Response: CalRecycle staff believes that the informal hearing provides the same due process as a formal hearing. The hearing officer is a third-party neutral. Furthermore, the violator's ability to pay is one of the factors that CalRecycle might consider when imposing a civil penalty.

#### Residual CRT Glass Disposition

A range of perspectives have been expressed over the three-year course of considering this topic in public settings and in written communication. Typically, stakeholders favor recycling of residuals if and when markets exist. However, there is increasing consensus that traditional markets have been fading and anticipated new markets have been slow to materialize. Outright opposition to the prospects of recyclers exercising access to all legal CRT glass disposition options has diminished with the increased understanding of challenging market conditions. Additionally, the proposed limitations on disposition timeliness was generally supported by interested parties.

- 1) **Limitation on Length of Rules:** One commenter asked about placing a “sunset” on the proposed regulations, presumably to revisit the regulations if market conditions change.

Response: Since the regulations were adopted as emergency regulations, there is a default maximum two-year longevity, requiring CalRecycle to re-analyze the subject prior to finalization or re-adoption. CalRecycle now seeks to make these emergency regulations permanent.

- 2) **Limitations on Location of Disposal:** Another comment suggested that any disposal options, including potential Class 1 disposal of RCRA hazardous leaded or mixed CRT glass, be limited to in-state, along with the previously proposed Class 2 and Class 3 limits for panel glass.

Response: It has been determined that adding such a limitation for RCRA leaded glass is not necessary, as the regulation already requires handling in conformance with all applicable laws. DTSC’s universal waste rules for CRT glass would not apply in other states nor exempt these materials from RCRA Sub C in other states.

- 3) **Determining Feasibility:** CalRecycle received comments on the subject of “economic feasibility” relative to whether a recycler must manage residual CRT glass for the purposes of recycling or pursue other options, including disposal. Commenters suggested incorporating concepts of health and safety, environmental protection, and reasonable access to markets into required recycler decision-making.

Response: Staff believe that all of these concepts are embodied in the physical material management rules administered by DTSC (e.g. health, safety, and the environment), as well as market dynamics evaluated on an ongoing basis in the business world that factor into determining “economic feasibility.”

## UPDATES TO THE INITIAL STATEMENT OF REASONS

### **Article 1. General Provisions and Definitions**

#### **Section 18660.5 Definitions.**

Subsection (30): a supplemental revision was made to the originally noticed text. The definition of “Processing Log” was further edited to remove “documenting” and “etc.” Documenting is already covered by the beginning of the definition, which states that an approved recycler records CEW activities and does not fall within CEW cancellation activities described in Section 18660.21(b). “Etc.” is not necessary given that CEW cancellation activities are identified in Section 18660.21(b). In addition, “and” was added to specify that the two cancellation activities are weighing and dismantling.

Subsection (32): a supplemental revision was made to the originally noticed text. The definition of “Proof of Approval” was further edited and amended to clarify what the Proof of Approval is and the role of the unique identification number. The Proof of Approval indicates the status of an approved collector or approved recycler. When approved, a collector or recycler has an active

status and the proof of approval status will appear in the list of active approved collectors or recyclers on the CalRecycle website at <http://www.calrecycle.ca.gov/Electronics/Reports/>. CalRecycle issues a unique identification number to each approved participant. The identification number is a necessary tool that enables CalRecycle to identify each participant. In addition, the last sentence was amended to specify that participants are approved pursuant to this Chapter.

Subsection (42): a supplemental revision was made to the originally noticed text. The definition of “Standard Statewide Recovery Payment Rate” was edited to correct an existing capitalization error.

## **Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, records, Audits and Net Cost Report**

### **Section 18660.6. Applicability and Limitations.**

Subsection (h)(4): supplemental revision was made to the originally noticed text to replace “is compliant” with “complies” to provide better clarity and correct the sentence grammatically.

Subsection (h)(5): supplemental revisions were made to the originally noticed text. This subsection was further edited so that CalRecycle may require approved recyclers to produce documents to demonstrate compliance or conformance with all laws associated with treatment residual shipment, initial destination, or ultimate disposition. Approved recyclers must produce documentation intended to demonstrate compliant management of treatment residuals that is required to be maintained pursuant to Chapter 8.2 of Title 14 of the California Code of Regulations.

Subsection (j)(1): a supplemental revision was made to the originally noticed text to capitalize “State” to align with surrounding text.

### **Section 18660.7. Document Submittals.**

Subsection (b): supplemental revisions were made to the originally noticed text to reflect that more than one person may have authority to sign on behalf of an approved collector or approved recycler. The application requires signatures by all persons with signatory authority.

Subsection (f): a supplemental revision was made to the originally noticed text. This subsection was further edited to outline the scope of liability associated with the use of documentation that contains false statements or representations. Pursuant to PRC 42474(d), civil penalties can be imposed against any person that makes a false statement or representation. Approved participants in the CEW program are liable for making false statements or representations. Apart from approved participants in the CEW program, other persons such as handlers interface with the CEW program by delivering materials management services and providing documentation to approved participants. PRC 42463 (n) defines “person” as “an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government

corporation, partnership, limited liability company, and association...” Therefore, the definition of “person” includes a specific reference to individuals.

#### **Section 18660.8. Records.**

Subsection (a): supplemental revisions were made to the originally noticed text. This subsection was further edited by deleting the existing “and” between “name” and “the unique” and replacing it with a comma. In addition, the text incorporated “and” between “approval” and “the complete” to correct the structure of the sentence and provide better clarity to the text of the regulations.

#### **Section 18660.9. Audits.**

Subsection (c): a supplemental revision was made to the originally noticed text. This subsection was further edited by replacing “or” with “and” to reflect that an approved participant or a registered manufacturer is required to provide CalRecycle access to both location and all records stored at that location.

#### **Section 18660.10. Net Cost Report.**

Subsection (d)(9)(F): a supplemental revision was made to the originally noticed text to revise “and or” to “or” . Landfill drop off and load check are two different collection methods that can occur at a landfill. Hence, “or” is more appropriate to use here than “and” as any of the two collection methods could be used to obtain CEW from a landfill.

### **Article 2.1. Electronic Waste Payment System – Applications for Approval**

#### **Section 18660.12. Additional Application Requirements for Collectors.**

CalRecycle did not revise the originally proposed text.

#### **Section 18660.13. Additional Application Requirements for Recyclers.**

Subsection (a)(3)(A): supplemental revisions were made to the originally noticed text. This subsection was further amended to specify the Chapters within Divisions 4.5. of Title 22 of the California Code of Regulations that outline minimum standard requirements for managing hazardous and universal waste. Pursuant to PRC 42476(f)(2), CalRecycle can only make recycling payments if the CEW, including any derived treatment residuals, is handled in compliance with all applicable statutes and regulations.

### **Section 18660.15. CalRecycle Review of Applications.**

CalRecycle did not revise the originally proposed text.

### **Section 18660.16. Approval Term and Applications for Renewal.**

Subsection (d)(3): a supplemental revision was made to the originally noticed text. This subsection was further edited to strikeout the period after “CalRecycle” at the end of the sentence.

### **Section 18660.17. Prohibited Activities.**

Subsection (a)(12): a supplemental revision was made to the originally noticed text to insert a comma between “maintain” and “~~and~~/or” necessary for punctuation purposes.

Subsection (b)(3): a supplemental revision was made to the originally noticed text to strikeout the period after “CalRecycle” at the end of the sentence to fix a typo.

### **Section 18660.18. Changes to Information Contained in an Approved Application.**

Subsection (b): a supplemental revision was made to the originally noticed text to insert a comma between “occurs” and “an” for punctuation purposes.

### **Section 18660.19. Appeal of Denial, Suspension or Revocation of Approval.**

CalRecycle did not revise the originally proposed text.

## **Article 2.2. Electronic Waste Payment System – Business Requirements**

### **Section 18660.20. Requirements for an Approved Collector.**

CalRecycle did not revise the originally proposed text.

### **Section 18660.21. Requirements for an Approved Recycler.**

Subsection (l)(2): a supplemental revision was made to the originally noticed text to replace “or” with “and.” “And” provides clarity that an approved recycler is required to maintain both records relative to recovery payments made to approved collectors as well as records relative to recovery payments owed to approved collectors.

Subsection (l)(4): a supplemental revision was made to the originally noticed text to replace “be capable of demonstrating” with “demonstrate” to improve the structure of the sentence and provide better clarity to the text of the regulations.

### **Article 2.3. Electronic Waste Payment System – Recycling Payment Claims**

#### **Section 18660.22. General Requirements for Recycling Payment Claims.**

Subsection (c)(2): a supplemental revision was made to the originally noticed text to delete “scale” from “scale weight” to maintain consistency with surrounding regulations.

Subsection (c)(2)(A) and (2)(B): supplemental revisions were made to the originally noticed text to specify that the records relating to the quantity and ultimate disposition of bare plasma panels and lamps must be maintained pursuant to the requirements in Section 18660.8.

#### **~~Section 18660.23. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Crushing or Shredding.~~**

A supplemental revision was made to the originally noticed text to delete “RESERVED” from the title. The text was unnecessarily included in a section that has been deleted in its entirety.

#### **Section 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum.**

Subsection (g)(4)(B): a supplemental revision was made to the originally noticed text to delete “etc.” at the end of the sentence and add “or.” In order to demonstrate post cancellation disposition, approved recyclers must attach specified documentation. For shipments other than by sea, the shipping records required to be included in a payment claim are either bill of landing or manifest, which depends whether the material shipped is universal waste or hazardous waste.

Subsection (g)(4)(C)(1): a supplemental revision was made to the originally noticed text to revise “compliant” to “compliance with” and specify the handling and shipment requirements. These revisions clarify what type of documentation approved recyclers are required to include in a payment claim.

Subsection (g)(4)(C)(2): a supplemental revision was made to the originally noticed text to revise “legality of shipped material status” to “compliance with material handling and shipment requirements.” The revision clarifies that the purpose of requesting additional documentation is to assist CalRecycle with its determination of compliance with existing material handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

### **Section 18660.25. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of Non-CRT-Containing CEWs.**

Subsection (e)(1): a supplemental revision was made to the originally noticed text. This subsection was further amended to specify how the records relating to the quantity and ultimate disposition of bare plasma panels and lamps must be maintained. Section 18660.8 was specifically referenced as it outlines requirements pertaining to recordkeeping that each approved participant must comply with.

Subsection (e)(4): a supplemental revision was made to the originally noticed text. This subsection was further edited to delete “scale” from “scale weight” to maintain consistency with surrounding text. In addition, this subsection was further edited to clarify that a recycler is required to record and report the manufacturer name and model number for each non-CRT device claimed. An identical edit and amendment was made in Section 18660.22(c)(2) in the originally noticed text.

Subsection (g)(4)(C)(1): a supplemental revision was made to the originally noticed text to revise “compliant” to “compliance with” and specify handling and shipments requirements. These revisions clarify what type of documentation approved recyclers are required to include in a payment claim.

Subsection (g)(4)(C)(2): a supplemental revision was made to the originally noticed text to revise “legality of shipped material status” to “compliance with material handling and shipment requirements.” The revision clarifies that the purpose of requesting additional documentation is to assist CalRecycle with its determination of compliance with existing material handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

### **Section 18660.30. CalRecycle Review of Recycling Payment Claims.**

CalRecycle did not revise the originally proposed text.

### **Section 18660.31. Appeal of Denied or Adjusted Recycling Payment Claims.**

Subsection (a): a supplemental revision was made to the originally noticed text to remove the portion of the sentence specifying that recyclers must ensure the appeal is received by CalRecycle.

## **Article 2.4. Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

### **Section 18660.32. Cancellation Methods.**

CalRecycle did not revise the originally proposed text.

**Section 18660.33. Standard Statewide Recovery Payment Rate.**

CalRecycle did not revise the originally proposed text.

**Article 2.5. Electronic Waste Payment System – Manufacturer Payments**

**Section 18660.35. Manufacturer Registration.**

CalRecycle did not revise the originally proposed text.

**Section 18660.36. Requirements for a Registered Manufacturer.**

CalRecycle did not revise the originally proposed text.

**Section 18660.37. Manufacturer Payment Claims.**

CalRecycle did not revise the originally proposed text.

**Section 18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims.**

Subsection (a): supplemental revisions were made to the originally noticed text to remove the portion of the sentence specifying that recyclers must ensure the appeal is received by CalRecycle. In addition, “may” was revised to “shall” for consistency with Section 18660.31(a).

**Article 3. Manufacturer Reporting**

**Section 18660.41. Reporting Requirements.**

CalRecycle did not revise the originally proposed text.

**Article 6. Administrative Civil Penalties**

**Section 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

Subsection (b)(1): a supplemental revision was made to the originally noticed text to revise “would be” to “shall be.” The proposed revision provides additional specificity to the text to ensure that it is clear what the range of penalties will be for a “Minor” violation. CalRecycle shall determine the exact penalty amount for a “Minor” violation by considering any or all factors listed in Subsection (c).

Subsection (b)(2): a supplemental revision was made to the originally noticed text to revise “would be” to “shall be.” The proposed revision provides additional specificity to the text to ensure that it is clear what the range of penalties will be for a “Moderate” violation. CalRecycle shall determine the exact penalty amount for a “Moderate” violation by considering any or all factors listed in Subsection (c).

Subsection (b)(3): a supplemental revision was made to the originally noticed text to revise “would be” to “shall be.” The proposed revision provides additional specificity to the text to ensure that it is clear what the range of penalties will be for a “Major” violation. CalRecycle shall determine the exact penalty amount for a “Major” violation by considering any or all factors listed in Subsection (c). In addition, the definition of “Moderate” violation was edited to address multiple instances of false statements or representations that are made at one time. For example, CalRecycle may receive a payment claim that includes multiple false statements or representations within the same claim so this would be considered a moderate violation.

Subsection (c): a supplemental revision was made to the originally noticed text. This subsection was further edited to revise “may” to “shall” to clarify that CalRecycle is required to consider any or all factors when imposing an administrative civil penalty.

Subsection (c)(1): a supplemental revision was made to the originally noticed text. This subsection was further edited to revise “or” to “and” to provide additional specificity to the text to ensure that it is clear what factors CalRecycle will take into consideration.

Subsection (c)(3): a supplemental revision was made to the originally noticed text to delete “financial or otherwise.” The proposed revision provides clarity as the text did not specify what “otherwise” is intended to cover or what is meant by it.

Subsection (e): a supplemental revision was made to the originally noticed text to clarify that CalRecycle has the discretion to file an accusation directly without prior issuing a Notice of Violation (NOV) to address those instances where the violations indicate a pattern and practice of non-compliance, or the violations are intentional. In such circumstances, it is important for CalRecycle to have the ability to take immediate action to protect the integrity of public funds.

Subsection (e)(2): a supplemental revision was made to the originally noticed text to clarify that the NOV and accompanying documents can be served only by certified mail or personal service. The proposed revision provides additional specificity to the text to ensure that it is clear what the service requirements are.

Subsection (f): a supplemental revision was made to the originally noticed text. This subsection was further edited and amended to clarify that the accusation and enclosed documents can be served only by personal service or registered mail. The proposed revision provides additional specificity to the text to ensure that it is clear what the service requirements are.

Subsection (i): a supplemental revision was made to the originally noticed text to revise “notice of violation” to “NOV”.

## **Section 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

CalRecycle did not revise the originally proposed text.

### **SUMMARY OF STAKEHOLDER COMMENTS AND DEPARTMENT RESPONSES**

CalRecycle made the proposed regulations available to the public for written comment from August 11, 2017, to October 10, 2017. CalRecycle revised the proposed regulations as originally noticed to the public and initiated a 15-day comment period to receive comments to all revisions, which ran from June 21, 2018, to July 6, 2018. Stakeholder comments received during the 45-day written comment period and the additional 15-day written comment period and CalRecycle's responses are included in the rulemaking file, and incorporated by reference herein.

#### **Comments and Responses Received during the 45-Day Public Comment Period on Proposed Regulations Amending the Electronic Waste Recycling Program**

COMMENT NO. 1: Commenter affiliated with CEAR stated that many times recyclers receive non-CRT CEW devices that are missing parts or accessories from the main unit or that have 3rd party accessories attached such as stands or mounting racks so manufacturer weight may not always be accurate. Given that the reported weight cannot be reconciled with the manufacturer weight, the requirement to report and record the scale weight of each non-CRT CEW device prior to dismantling should be removed. We suggest that recyclers submit the make/model/serial number and that CalRecycle assigns a standard weight.

Also, CalRecycle should put in place a protocol to allow payments for a small percentage of devices for which both the manufacturer name and model number cannot be reported and recorded due to damaged or missing labels ("source anonymous" units). Recyclers cannot continue to be monetarily punished for recycling these units.

RESPONSE: Staff has already proposed to remove the requirement to report and record the serial number of each non-CRT CEW device prior to dismantling recognizing that this information item requirement is problematic to comply with in practice. Staff believes the requirement to report and record the scale weight of each device ensures CalRecycle the ability to verify that the claimed devices have been dismantled (cancelled) and cannot re-enter the payment system thus protecting the integrity of the program. Staff also believes that payments should not be allowed for non-CRT CEW devices that miss all the information items required (incorrectly referred as "source anonymous") as this would undermine the integrity of the program. Staff disagree with the comments and no revisions have been made to the proposed regulations.

COMMENT NO. 2: Commenter affiliated with Onsite Electronics Recycling requested to clarify that the quantity of bare plasma panels and lamps required to be recorded should be in pounds and not in units. Subpart (A) of Subsection 18660.22(c)(2) should be amended to read: "If the non-CRT-containing CEWs contain a plasma display, records relating to the quantity, in pounds,

of the bare panel(s)...”. Subpart (B) of Subsection 18660.22(c)(2) should be amended to read: “If the non-CRT-containing CEWs contain cold cathode fluorescent lamps, records relating to the quantity, in pounds, of lamps...”. This change would be consistent with other language regarding quantity in the text of the regulations.

RESPONSE: This provision aims to ensure that treatment residuals derived from dismantling non-CRT CEWs that remain regulated materials are properly managed. The request to maintain records relating to the quantity of bare plasma panels and lamps is intended to provide CalRecycle the ability to verify compliant disposition. Staff believes it is not necessary to specify the type of measurement as quantities can be reported using any appropriate units of measure. Therefore, no change has been made to the proposed regulations.

### **Comments and Responses Received during the 15-Day Public Comment Period on Proposed Regulations Amending the Electronic Waste Recycling Program**

COMMENT NO. 1: Commenter affiliated with ERI stated that they believe shredding should still be considered a form of cancellation for Non-CRT CEWs. As this volume continues to increase, the likelihood of health and safety concerns from LCD based flat screens will continue to increase due to the fragile state of the LCD bulbs in these electronics. Employees hand dismantling these items, if not properly done, or if bulbs are already broken when they open the devices can lead to a health and safety issue as this volume grows.

If companies have permitted technology to shred these devices and reduce the potential for employee hazards this should be a valid cancellation method. By not allowing this, the workers that are dismantling will become more at risk to health and safety concerns around this type of cancellation.

RESPONSE: Staff has not made any supplemental revisions in Section 18660.32. Cancellation Methods. As such, this comment is outside the scope of the changes CalRecycle made in response to the OAL’s recommendations.

### **TECHNICAL STUDIES, REPORTS OR DOCUMENTS**

CalRecycle relied upon the following information sources to edit and amend the regulations:

1. CalRecycle developed the proposed regulations based on over a decade of experience administering the existing CEW program.
2. CalRecycle held over 36 workshops apart from formal departmental considerations, determinations, or actions since the inception of the CEW program to obtain stakeholder input. The purpose of these stakeholder workshops was to inform program participants as well as obtain information from stakeholders and members of the public.
3. CalRecycle developed, presented, and received feedback on the proposed regulations through oral comments received from stakeholders at workshops held in:

- a. December 2013 Stakeholder Workshop, which can be found under “Stakeholder Input”: Presentation by Jeff Hunts “Residual CRT Glass Management and the CEW Recycling Program” <http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>
- b. May 2015 Stakeholder Workshop, which can be found under “Stakeholder Input”: Presentation by Jeff Hunts “Covered Electronic Waste Recycling Program - Reflections on a Decade and the Challenge of Residual CRT Disposition” Presentation by Jason Smyth “CRT Disposition Oversight – How Do Other States Manage Their Glass Residuals?” <http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>
- c. July 2015 Stakeholder Workshop, which can be found under “Stakeholder Input”: Presentation by Ana-Maria Stoian-Chu “Covered Electronic Waste Recycling Program – Civil Liability Initiative – Overview of the Developing Civil Liability Facet to the Covered Electronic Waste Program” <http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>
- d. December 2016 Stakeholder Workshop, which can be found under “Stakeholder Input”: Presentation by Jeff Hunts “Covered Electronic Waste Recycling Program – Rulemaking Informal Workshop – Finalizing Emergency Rules and Modifying Other Portions of Title 14 CCR, Division 7, Chapter 8.2” Presentation by Ana-Maria Stoian-Chu “Covered Electronic Waste Recycling Program – Administrative Civil Penalties” <http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>

4. CalRecycle developed an issue paper entitled “Overview of CRT Issues and the CEW Program” to evaluate the market status and regulatory landscape impacting the management of cathode ray tubes (CRT), which can be found under “Stakeholder Input”, subsection May 2015 Stakeholder Workshop: <http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>

5. CalRecycle analyzed various statutes and regulations administered by other programs and agencies to evaluate different aspects required to implement a civil liability facet to the CEW program and establish mechanism to hold persons accountable for making false statements or representations:

- a. Hazardous Waste Enforcement Statutes: Health and Safety Code, Division 20, Chapter 6.5, Sections 25187-25189
- b. Solid Waste Facility Permitting Enforcement Statutes: Public Resources Code, Division 30, Chapter 1, Sections 45010-45024
- c. Beverage Container Enforcement Statutes: Public Resources Code, Division 12.1, Chapter 8, Sections 14590-14594
- d. Tire Facility Enforcement Statutes: Public Resource Code, Division 30, Part 3, Chapter 16, Article 5. & 6, Sections 42840-42855
- e. Tire Hauler Enforcement Statutes: Public Resources Code, Division 30, Chapter 19, Sections 42962-42966

f. Water Quality Control Enforcement Statutes: Water Code, Division 7, Chapter 4, Sections 13261-13328.

There were no other studies, reports or documents.

**DETERMINATION THAT THE ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESSES**

CalRecycle has determined that the proposed regulations will not have a significant adverse impact on businesses, nor will the proposed regulations affect the ability of California businesses to compete with businesses in other states. CalRecycle is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

There are no new or separate costs incurred to participate in or comply with the CEW program. The CEW program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already require recordkeeping and claim submission. The proposed regulations clarify those records and allow for additional options for managing treatment residuals within otherwise compliant practices to fulfill claim criteria.

The proposed regulations also include procedures for the statutorily authorized penalties. The procedures set forth how CalRecycle can impose administrative civil penalties but do not increase costs of compliance for the regulated businesses.

**DETERMINATION THAT THE REGULATIONS DO NOT IMPOSE A MANDATE UPON LOCAL AGENCIES OR SCHOOL DISTRICTS**

CalRecycle has determined that the regulations do not impose a mandate upon local agencies or school districts.

**DUPLICATION OR CONFLICTS WITH STATE AND FEDERAL REGULATIONS**

CalRecycle has determined that no unnecessary duplication or conflicts exist between the proposed regulations and federal regulations because federal law or regulations do not contain comparable requirements. Although several provisions in section 18660.44 borrow language and process from the California Government Code and Public Resources Code sections, these provisions are not unnecessarily duplicative. The provisions are included in order to provide clarity so that the regulated community can find the relevant processes without needing to refer to those statutes separately from just reading this regulation. The rules establish better documentation practices aimed at verifying compliant management of specified wastes, and increase the integrity of the program and protect the public funds paid annually to participating CEW collectors and recyclers. In addition, the rules establish a framework for imposing civil

liabilities aimed at holding accountable any person that makes a false statement or representation in the context of the Electronic Waste Management Act, which is unique to state law.

**FINDING ON NECESSITY OF REPORTS [GOVERNMENT CODE SECTION 11346.3(d)]**

The proposed regulations add specificity to record-keeping requirements and information required in payment claims. This added specificity is necessary to ensure that records and claims for payment fully address the purpose of the Act such as determining the program's success, safeguarding public funds and determining program participants' compliance with the law. CalRecycle also found that the requirement for further specificity is necessary for the health, safety, and welfare of the people of the state because it will help to ensure that the law applies equally to covered entities.

## REQUEST FOR APPROVAL

**To:** **Scott Smithline**  
Director

**From:** **Howard Levenson**  
Deputy Director, Materials Management and Local Assistance Division

**Request Date:** July 10, 2018

**Decision Subject:** Adoption of Updated Regulations Amending the Electronic Waste Recycling Program

**Action By:** July 17, 2018

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### **Summary of Request:**

Staff requests that the Director approve the adoption of updated regulations that would amend aspects of current regulations governing the covered electronic waste (CEW) recycling payment program, as well as finalize related emergency rules adopted in 2015 and readopted in 2017.

The proposed regulations will serve to finalize two existing emergency regulation packages that address: 1) the assessing of civil liabilities, and 2) the management of treatment residuals derived from the dismantling of CEW. The proposed rules will also amend and clarify aspects of definitions, applicability and limitations, documents and records, net cost reports, applications, prohibited activities, appeals, requirements for collectors and recyclers, claims, cancellation, and manufacturer payments.

These proposed regulations were adopted by the Director in November 2017 and filed with the Office of Administrative Law (OAL) for approval on February 9, 2018. However, OAL recommended changes to the rulemaking file documents and associated regulations that necessitated an additional comment period. As a result, CalRecycle staff withdrew the regulatory package and revised the proposed regulations. On June 21, 2018, CalRecycle initiated a 15-day comment period to receive comments to the new revisions, which ended on July 6, 2018.

### **Recommendation:**

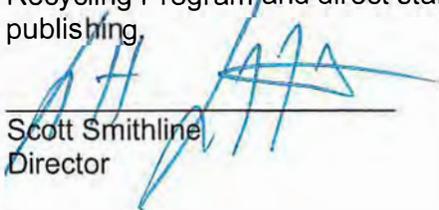
Staff recommends adopting the updated regulations that would modify areas within Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations and directing staff to resubmit the proposed regulations to OAL for approval and publishing.

The updated regulatory language can be found as Attachment 1 to this Request for Approval.

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### **Director Action:**

On the basis of the information and analysis in this Request for Approval and the findings herein, I hereby approve the adoption of updated Regulations Amending the Electronic Waste Recycling Program and direct staff to resubmit the regulatory packet to OAL for approval and publishing.

  
\_\_\_\_\_  
Scott Smithline  
Director

7-17-18  
Date Signed

## **Attachments**

Updated Regulatory Language Editing and Amending Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations including portion of Articles 1, 2, 2.1, 2.2, 2.3, 2.4, 2.5, 3, and 6.

## **Background and Analysis:**

### Statutory Authority:

The authority to adopt regulations to implement and administer the Electronic Waste Recycling Act of 2003 is found in PRC § 42475. Portions of the proposed regulations were previously adopted in late 2015 under emergency authority established by PRC § 42475.2, and readopted in 2017.

### Program Background:

The Electronic Waste Recycling Act of 2003 (PRC § 42460, *et seq.*) establishes a funding mechanism to provide for convenient collection opportunities and waste processing capabilities for certain electronic products discarded in California. Covered electronic devices (CED) are video display devices with screen sizes greater than four inches that the Department of Toxic Substances Control (DTSC) has determined to be hazardous when discarded. When CED are discarded, they become covered electronic waste (CEW). Under the CEW recovery and recycling payment program administered by CalRecycle, approved collectors document the recovery of eligible CEW before transferring that material to an approved recycler. Approved recyclers receive and dismantle (cancel) the CEW, compliantly manage derived residuals, and subsequently submit claims for payment.

The CEW recovery and recycling payment program has been operating largely under the same regulations since its inception in 2005. Initial emergency rules were finalized in October 2006. Subsequent print filings associated with recovery and recycling payment rate changes, emergency rules to enact electronic waste recycling fee changes, and Section 100 rule changes necessary to conform to statutory developments have left the overall requirements of the program unchanged for a dozen years. In that time, more than 2 billion pounds of CEW was recovered and claimed for payments through the program. Along the way, program staff have noted deficiencies within the rules and the industry operational practices that occur due to changes in real-world circumstances relative to static regulations.

In August 2015, CalRecycle filed emergency rules to address the evolution of global markets for treatment residuals, specifically cathode ray tube (CRT) glass. Historically, a key criterion for CEW recycling claims was that treatment residual CRTs or CRT glass be shipped with the purpose of recycling. Markets for CRT glass had been eroding with the demise of CRT use in video technology, and substantial uncertainty existed about both domestic and international destinations receiving California-generated glass. To address this concern, the emergency rules created additional disposition options for CRTs and CRT glass, including disposal, along with improved documentation requirements. Similar documentation enhancements were established for other treatment residuals as well.

In September 2015, CalRecycle filed emergency rules to implement and administer a civil liabilities (penalties) authority that had been vested with CalRecycle via 2012 Budget Act trailer bill language. The rules establish a framework to impose civil liabilities for the failure to pay the CEW recycling fee, manufacturer non-compliance, and false statements or representations. The process and procedures set forth in the rules ensure CalRecycle has the ability to exercise its authority and impose civil liabilities.

### General Intent of Proposed Rules:

In addition to finalizing regulations adopted as emergency rules in late 2015, and readopted in 2017, the intent of this rulemaking is to clarify requirements and allowances relative to the CEW program. The rules will establish better documentation practices aimed at ensuring compliant handling of hazardous electronic waste, and increase the integrity of the program and protect the associated tens of millions of dollars in public funds paid annually to participating CEW collectors and recyclers.

### **Rulemaking Timeline:**

Over the course of several years, program staff have had several opportunities to engage with stakeholders on topics addressed in the proposed regulations. In addition to administering the CEW recovery and recycling program for a dozen year, program staff have hosted over three dozen stakeholder workshops apart from departmental considerations and determinations. A main purpose of the workshops was to exchange information between the program and its participants.

Specific to the issues addressed in the two emergency rule packages:

### CRT/Residuals

Staff held many workshops since 2010, including several in collaboration with DTSC, on the subject of CRT management and diminishing CRT markets. CalRecycle took into consideration stakeholder participation during these workshops, which assisted CalRecycle with its drafting of the proposed regulations. Staff recognized through experience that similar constraints facing CRT glass management also affect recyclers when handling other regulated residual materials, such as plasma panel glass and mercury containing lamps. Staff have proposed documentation requirements that ensure compliance while reducing unnecessary burden.

### Administrative Civil Penalties

Staff held an informal stakeholder workshop on the subject of administrative civil liabilities prior to seeking formal approval to file emergency rules in 2015. CalRecycle incorporated changes into the emergency rules in response to public comments. Staff identified minor issues of clarity that are being addressed between the existing emergency rules and the proposed final rules.

Staff held an informal workshop specific to the entirety of this rulemaking on December 20, 2016, to solicit comments on the draft proposed regulatory text.

Staff presented the Proposed Regulations Amending the Electronic Waste Recycling Program at the January 24, 2017, Public Meeting requesting approval to initiate the formal rulemaking process.

Formal rulemaking activities began on August 11, 2017, when OAL published CalRecycle's Notice of Proposed Regulatory Action. The written comment period ran from August 11, 2017, to October 10, 2017. On October 11, 2017, CalRecycle conducted a public hearing on the proposed regulations to allow for additional written and oral comments. After considering comments received during the 45-day comment period, CalRecycle determined that no further revisions to the proposed regulations were warranted.

Staff presented the Proposed Regulations Amending the Electronic Waste Recycling Program at the November 21, 2017, Public Meeting requesting approval to forward the regulatory package to OAL for approval and publishing. Staff filed the proposed regulations with OAL for approval on February 9, 2018. OAL recommended changes to the rulemaking file documents and associated regulations. As a result, CalRecycle staff withdrew the regulatory package and revised the proposed regulations. The following sections have been amended: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.13, 18660.16, 18660.17, 18660.18, 18660.21, 18660.22, 18660.23, 18660.24, 18660.25, 18660.31, 18660.39, and 18660.44.

On June 21, 2018, CalRecycle initiated a 15-day comment period to receive comments to all revisions made based on OAL's recommendations, which ended on July 6, 2018. CalRecycle received one written comment that suggested to maintain shredding as a cancellation method for non-CRT CEW. As staff did not make any supplemental revisions in Section 18660.32. Cancellation Methods, this comment is outside the scope of the changes CalRecycle made in response to the OAL's recommendations. After considering comments received during the additional 15-day comment period, CalRecycle determined that no further revisions to the proposed regulations are warranted. Staff identified two typos in the revised regulations that were available to public for the 15-day comment period and corrected the text. Section 18660.7(b) inadvertently included "~~of this Chapter, and a signature by any authorized individual on~~" in the revised regulations, which was never contained in the originally proposed text. Section 18660.24(g)(C) inadvertently included "including" in the revised regulations, which was never contained in the originally noticed text.



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

Date: June 21, 2018

TO: Interested Parties

**Subject: Notice of Changes to Proposed Regulations Amending the Electronic Waste Recycling Program**

On June 21, 2018, the Department of Resources Recycling and Recovery (CalRecycle) will initiate a 15-day comment period for revisions to the Proposed Regulations Amending the Electronic Waste Recycling Program. **The 15-day written public comment period for this rulemaking will end at 5:00 p.m. on Friday, July 6, 2018.**

CalRecycle filed the proposed regulations affecting areas within Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations with the Office of Administrative Law (OAL) for approval on February 9, 2018. The rules serve as a vehicle to finalize two existing emergency regulation packages that address: 1) the assessing of civil liabilities pursuant to the authority granted under Public Resources Code (PRC) section 42474, and 2) the management of treatment residuals derived from the dismantling of covered electronic waste (CEW). In addition to other general edits, the proposed rules will also amend and clarify aspects of definitions, applicability and limitations, documents and records, net cost reports, applications, prohibited activities, appeals, requirements for collectors and recyclers, claims, cancellation, and manufacturer payments.

OAL has recommended changes to the rulemaking file documents and associated regulations that necessitate further public comment. As a result, CalRecycle staff withdrew the regulatory package and revised the regulations. These revisions will add clarity to the existing language where needed, and CalRecycle has included an additional explanation with respect to these revisions in the Addendum.

The 15-Day Notice, the Addendum to the Initial Statement of Reasons, and the full text of the regulations as originally proposed with the new changes clearly indicated may be accessed on CalRecycle's Internet webpage at:

<http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/default.htm>

The originally noticed proposed regulations and associated documents may also be accessed at the same webpage.

Text shown in double underline (addition) and ~~double-strikeout~~ (deletion) depict changes made after the initial comment period and submission of regulations to the OAL. CalRecycle staff will only respond to comments related to the newly proposed changes to the regulations.



Please submit your comments to:

Ana-Maria Stoian-Chu  
Electronic Waste Recycling Program MS-9  
CalRecycle  
P.O. Box 4025  
Sacramento, California 95812-4025

Email: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

Fax: (916) 319-7609

Text shown in single underline (addition) and ~~single-strikeout~~ (deletion) depict changes proposed in the originally noticed text. Text shown in double underline (addition) and ~~double-strikeout~~ (deletion) depict changes made after the initial comment period and submission of regulations to the Office of Administrative Law.

## Article 1. General

### § 18660.5. Definitions.

(a) For the purposes of this Chapter, the following shall apply:

- (1) “Act” or “the Act” means the Electronic Waste Recycling Act of 2003 (Senate Bill 20, Chapter 526, Statutes of 2003), as amended.
- (2) “Approved Collector” means an authorized collector as defined in Section 42463(b) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recovery payments from approved recyclers.
- (3) “Approved Dual Entity” means an entity that is both an “approved collector” and an “approved recycler” as defined in this Section.
- (4) “Approved Recycler” means a “covered electronic waste recycler” as defined in Section 42463(h) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recycling payments from CalRecycle.
- (5) “Bare CRT” means a Cathode Ray Tube with the vacuum relieved and the yoke removed that has been separated from the device housing and has had all circuit boards, wiring and other components detached from the tube.
- (6) “Bare Panel” means an LCD, ~~gas~~ plasma, or other non-CRT video display panel that has been separated from the device housing and has had all circuit boards, lamps, wiring and other components detached from the panel. Lamps may remain affixed to an otherwise bare panel only if they cannot be removed without breaking.
- (7) “Cancellation” means a processing or treatment method that qualifies CEWs for recycling payments, removes the CEWs from the payment system eliminating the possibility of double payments, dismantles or destroys the original CEW, and results in treatment residuals as specified in Section 18660.32 of this Chapter.
- (8) “Claim Activity Period” means the span of time during which an approved recycler received CEWs from approved collectors, processed and cancelled CEWs, and shipped treatment residuals, as required, that results in a recycling payment claim being submitted to CalRecycle.
- (9) “CRT” means a Cathode Ray Tube with the yoke still attached that has been separated from a CRT device.
- (10) “CRT device” means a whole covered electronic device containing a Cathode Ray Tube.
- (11) “California Source” means persons, as defined in Section 42463(n) of the Public Resources Code, located in California who generate CEWs after their own use of a CED. Persons who receive, accumulate, consolidate, store, or otherwise handle discarded, donated or collected CEWs are not the California sources of those CEWs.
- (12) “CalRecycle” means the Department of Resources Recycling and Recovery.
- (13) “Collection log” means a record maintained by an approved collector that records CEW collection activities as specified in Section 18660.20(j) of this Chapter.
- (14) “Collective Report” means a report submitted to CalRecycle through a trade association, a group of associations, or other organization that represents more than one manufacturer.
- (15) “Commingled” means mixed together and impossible to economically or practically separate.

- (16) “Covered Electronic Device” or “CED” has the same meaning, for the purposes of this Chapter, as a covered electronic device specified in Section 42463(e) of the Public Resources Code.
- (17) “Covered Electronic Waste” or “CEW” means a discarded device that DTSC has determined to be a covered electronic device, as specified by Section 42463(e) of the Public Resources Code.
- (18) “Designated Approved Collector” means an approved collector, as defined in subsection (a)(2) of this section, that has been designated by a California local government to provide CEW collection services for or on behalf of the local government in accordance with Article 7 of this Chapter.
- (19) “DTSC” means the Department of Toxic Substances Control.
- (20) ~~“End Use Destination” means the location where the treatment residuals from the approved recycler are sent after cancellation.~~
- ~~(21) “Further treat” means, for the purposes of this Chapter, activities such as crushing, size reduction, washing, cleaning, smelting, or similar steps taken to process the treatment residual rendering it more marketable and alter its physical form or characteristics. “Further treat” does not mean, for the purposes of or of this Chapter, receiving, storing, accumulating, consolidating, brokering, shipping, disposing or other similar activities that do not alter the physical form or characteristics of the treatment residual.~~
- ~~(22) “Handler”, for the purposes of this Chapter, has the same meaning as a universal waste handler or CRT material handler, as applicable, as defined in Section 66273.9 of Title 22 of the California Code of Regulations.~~
- ~~(23) “Illegal Disposal” means, for the purposes of this Chapter, the disposal or placement of CEWs on a property without the permission of the owner(s) of, or responsible party(ies) for, the property.~~
- (23) “Initial Destination” means, for the purposes of this Chapter, the location(s) to which treatment residuals are initially shipped by an approved recycler.
- (24) “Load” means a single transfer (a pick up or delivery) of CEWs, such as from a California source to a collector or from a collector to a recycler.
- (25) “Load Check Activities” means, for the purposes of this Chapter, the efforts made to identify, retrieve and divert from the disposed solid waste stream those CEWs that have been illegally discarded by generators. “Load Check Activities” do not include the rejection or acceptance of CEWs due to the lack of source documentation.
- (26) “Manufacturer Payment” or “Manufacturer Take Back Payment” means a payment made by CalRecycle to a registered manufacturer that takes back covered electronic wastes (CEWs) from a California source for the purposes of recycling the CEW pursuant to Section 42476(g) of the Public Resources Code.
- (27) “Manufacturer Payment Claim” means a registered manufacturer's request submitted to CalRecycle with all required documentation for a manufacturer payment.
- (28) “Manufacturer Take Back” means a program administered by a registered manufacturer that accepts CEWs from California sources for the purposes of recycling.
- (29) “PBBs” mean Polybrominated Biphenyls.
- (30) “Processing log” means a record maintained by an approved recycler that records CEW activities associated with CEW cancellation, such as but not limited to weighing, and dismantling, ~~documenting~~ ~~crushing, shredding, etc.,~~ as specified in Section 18660.21(b) of this Chapter.
- (31) “Product Category” means the types of covered electronic devices as defined in Section 42463(e) of the Public Resources Code. These categories include, but are not limited to, the following:
- (A) Cathode Ray Tubes (CRTs) devices used in televisions,
  - (B) CRTs devices used in monitors,
  - (C) Liquid Crystal Display (LCD) monitors,
  - (D) Laptop computers containing LCD screens,
  - (E) LCD televisions,

- (F) ~~Gas-~~ Plasma display televisions, and
- (G) Other video display devices as specified by the DTSC pursuant to Section 25214.10.1(b) of the Health and Safety Code.

(32) “Proof of Approval” means ~~the status of an approved collector or approved recycler, as portrayed on the CalRecycle website.~~ The Proof of Approval that is associated with the an unique identification number and expiration date, issued by CalRecycle to identify a collector or recycler that identifies a collector or recycler as being approved pursuant to this Chapter as being approved pursuant to this Chapter.

(33) “Proof of Designation” means a document issued by a California Local Government to a Designated Approved Collector in accordance with Article 7 of this Chapter.

(34) “Receiving log” means a record maintained by an approved recycler that documents CEW transfers from approved collectors to the approved recycler.

(35) “Recovery payment” means the payment made by an approved recycler to an approved collector in exchange for the transfer of CEWs pursuant to Section 42477 of the Public Resources Code.

(36) “Recovery payment request” means an approved collector's request for recovery payment made to an approved recycler accompanying the transfer of CEWs.

(37) “Recycling payment” means the payment made by CalRecycle to an approved recycler that includes a recovery component related to recycler payments to collectors pursuant to Section 42477 of the Public Resources Code and a recycling component for CEW cancellation pursuant to Section 42478 of the Public Resources Code.

(38) “Recycling payment claim” means an approved recycler's claim that includes all required documentation submitted to CalRecycle for recycling payments for cancelled CEWs.

(39) “Registered Manufacturer” means a manufacturer as defined in Section 42463(m) of the Public Resources Code who registers with CalRecycle pursuant to this Chapter and therefore may be eligible for manufacturer payments from CalRecycle.

(40) “Source-anonymous CEWs” means CEWs whose originating California source cannot be identified in collection log information required pursuant to Section 18660.20(j)(1)(B) of this Chapter.

(41) “Source documentation” means collection logs and other information developed, maintained and transferred pursuant to Section 18660.20(h) of this Chapter that demonstrates the eligibility, originating generator and/or intermediate handlers of collected CEWs as applicable.

(42) “Standard Statewide Recovery Payment Rate” means the amount paid to an approved collector per pound of CEWs transferred to an approved recycler to cover the cost of collection, consolidation and transportation of CEWs as established pursuant to Section 42477 of the Public Resources Code.

(43) “Standard Statewide Combined Recycling and Recovery Payment Rate” means the amount paid to an approved recycler per pound of CEWs cancelled and claimed to cover the cost of receiving, processing and recycling CEWs as established pursuant to Section 42478 of the Public Resources Code, and making recovery payments to approved collectors.

(44) “Transfer” or “Transferred” means physically changing possession of CEWs, such as a transfer from a California source to a collector or from a collector to a recycler.

(45) “Transfer documentation” means, for the purposes of this Chapter, records and/or receipts that record the transfer of CEWs from an approved collector to an approved recycler, which include the weight, number, and source of the transferred CEWs, and the date(s) of transfer.

(46) “Treatment ~~Residuals~~” means any material resulting from the dismantling or treatment of a CEW. Treatment residuals are not considered CEWs and are not eligible for recovery or recycling payment, however the costs or revenues associated with managing treatment residuals shall be factored into the net cost of recycling CEW. ~~In some cases, t~~ Treatment residuals may be used to demonstrate the prior processing of CEWs, and bills of lading for documentation demonstrating the subsequent movement or

ultimate disposition of the material treatment residuals may be required as part of the claim for payment submitted by an approved recycler.

(47) “Ultimate disposition” means, for the purposes of this Chapter, the consumption of a treatment residual into a manufacturing process or the disposal of a treatment residual at a permitted disposal facility. Storage of a treatment residual at a site of generation or at an intermediate facility, or accumulation of a treatment residual at a location prior to consuming or disposing, is not ultimate disposition.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463, 42465.2, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

### **§ 18660.6. Applicability and Limitations.**

(a) Limitations on the types of CEWs eligible for payments:

- (1) An approved collector may request recovery payment only for the types of CEWs specified by DTSC that are transferred to an approved recycler by the collector.
- (2) An approved recycler may claim recycling payment only for the types of CEWs specified by DTSC that are received from an approved collector and are cancelled by the recycler.
- (3) A registered manufacturer may claim manufacturer payment only for the types of CEWs specified by DTSC that the manufacturer takes back for recycling.

(b) Limitations on the timeframes eligible for payments:

- (1) An approved collector, an approved recycler, or a registered manufacturer shall not receive payment for any CEWs transferred from a California source before January 1, 2005.
- (2) An approved collector shall not request recovery payments from recyclers for transfers that occur prior to the approval of the collector's application by CalRecycle.
- (3) An approved recycler shall not claim recycling payments from CalRecycle for CEWs cancelled prior to the approval of the recycler's application by CalRecycle.
- (4) A registered manufacturer shall not claim manufacturer payments from CalRecycle for recycling that occurs prior to the manufacturer's registration with CalRecycle.

(c) Limitations on the Sources of CEWs and CEWs eligible for payments:

- (1) Only CEWs resulting from a California source are eligible for recovery, recycling, or manufacturer payments.
- (2) CEWs owned by a person in California, but used entirely outside of California are not eligible for payments.
- (3) Source-anonymous CEWs, documented pursuant to Section 18660.20(j)(1)(E) of this Chapter, are eligible for recovery and recycling payments if:
  - (A) The source-anonymous CEWs result from load check activities as defined in Section 18660.5(a)(25) conducted at permitted solid waste facilities whose operator is an approved collector or, if not an approved collector, the source-anonymous CEWs are directly transferred from the permitted solid waste facility to an approved collector; or
  - (B) The source-anonymous CEWs result from illegal disposal clean-up activities conducted by an approved collector who is a local government or its designated approved collector; or
  - (C) The source-anonymous CEWs result from illegal disposal on property owned or managed by an approved collector.
- (4) CEWs are transferred to a designated approved collector are not eligible for payments unless the CEWs are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(d) Limitations on the ability of collectors and recyclers to charge a fee:

- (1) If the recovery payment from a recycler does not fully cover the net cost of CEW recovery, and the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector, then an approved collector may charge a fee for CEW recovery.
- (2) If the recovery payment from a recycler fully covers the net cost of CEW recovery, an approved collector shall provide CEW recovery at no charge to California sources or CalRecycle may revoke approval and direct recyclers to deny recovery payments to the collector.
- (3) If the recycling payment from CalRecycle does not fully cover the net cost of CEW recycling, an approved recycler may charge a fee for CEW recycling.

(4) If the recycling payment from CalRecycle fully covers the net cost of CEW recycling, an approved recycler shall provide CEW recycling at no charge to approved collectors or CalRecycle may revoke approval and deny recycling payments to the recycler.

(e) Limitations on recovery payments:

(1) An approved recycler shall make recovery payments at the rate specified in Section 18660.33 of this Chapter to approved collectors for all CEWs transferred to the recycler and that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(2) CalRecycle shall revoke a recycler's approval and deny recycling payments to a recycler that fails to make recovery payments to approved collectors as specified in this Chapter.

(3) An approved recycler shall not make the recovery payments as specified in this Chapter to collectors who are not approved pursuant to this Chapter.

(4) An approved recycler may make other types of payments, not provided for under this Chapter, to a collector regardless of the collector's approval status.

(5) An approved recycler shall not provide recovery payments to a collector other than the approved collector that transfers the CEWs to the recycler, but nothing limits the collectors involved in prior transfers from negotiating payments among themselves unrelated to the recovery payment provisions of this Chapter.

(6) An approved collector is eligible for recovery payments only if the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector.

(7) An approved collector is entitled for recovery payments only for CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(8) The approved collector shall repay the approved recycler the amount of recovery payment that was paid if an approved collector has received recovery payment from an approved recycler for which the approved collector was not entitled.

(f) Limitations on recycling payments:

(1) CalRecycle shall make recycling payments only to approved recyclers who:

(A) Cancel CEWs using cancellation methods as specified in Section 18660.32 of this Chapter.

(B) Document cancellation and meet the other requirements of this Chapter.

(2) CalRecycle shall not make recycling payments to a recycler other than the approved recycler that cancels the CEWs, but nothing limits the recyclers involved in subsequent transfers from negotiating payments among themselves unrelated to the recycling payment provisions of this Chapter.

(3) CalRecycle shall not make recycling payments for reuse of either a whole CEW or of a partially disassembled CEW, such as a CRT with an attached yoke.

(g) Limitations in relation to current business practices:

(1) CalRecycle shall not limit the ability of approved collectors and approved recyclers to transfer or not transfer CEWs to or from any party.

(2) CalRecycle shall not limit the ability of approved collectors and approved recyclers from entering into contracts with each other or other parties.

(3) CalRecycle shall not limit the ability of collectors to recover CEWs or recyclers to recycle CEWs without participating in the system described in this Chapter.

(4) If collectors wish to receive recovery payments or recyclers wish to receive recycling payments, then they must meet the requirements in this Chapter.

(h) Limitations on ~~recycling payments on exported CEWs and~~ the disposition of treatment residuals:

~~(1) CalRecycle shall not approve recyclers located outside the State. CEWs sent to and cancelled by unapproved recyclers are not eligible for payments pursuant to this Chapter regardless of the location of the unapproved recycler.~~

~~(2) If treatment residuals are disposed to land, water or air, then a recycler shall not be eligible for recycling payments for the original CEWs unless the treatment residual is not economically feasible to recycle and/or cannot be recycled because it would pose a hazard to public health, safety or the environment.~~

(1) Approved recyclers are not eligible for CEW recycling payments if treatment residuals are managed in a manner noncompliant or nonconforming with applicable law.

(2) Treatment residuals shall be managed for recycling to the extent economically feasible.

(A) Economic feasibility shall be determined by an approved recycler based on current market conditions for legal management options.

(B) CalRecycle may demand demonstration of economic infeasibility in accordance with Public Resources Code section 42479.

(3) Approved recyclers that ship treatment residual CRTs or CRT glass for the purposes of recycling shall be capable of demonstrating to CalRecycle or its designee upon demand that the CRT or CRT glass material has reached an ultimate disposition within one year of the initial shipment, unless the approved recycler is exempt from such demonstration pursuant to Article 7 of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(4) If treatment residuals are disposed, an approved recycler shall ensure and be able to demonstrate that the disposal is compliant complies with all applicable laws and conforms to any conditions of authorization or approval under which the approved recycler managed the CEW from which the treatment residuals were derived.

(5) CalRecycle may demand require approved recyclers to produce documentation maintained pursuant to this Chapter to demonstrate demonstration of compliance or conformance with all applicable laws associated with treatment residual shipment, initial destination, or ultimate disposition.

(i) Limitations on the manufacturer payment system:

(1) CalRecycle shall not register any entity other than a manufacturer as defined in Section 42463~~(am)~~ of the Public Resources Code to be a registered manufacturer.

(2) CalRecycle shall not make manufacturer payments to any entity other than a registered manufacturer.

(3) A registered manufacturer shall only claim payment for, and CalRecycle shall only make manufacturer payments for, CEWs received from California sources that are processed for recycling that in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(4) A registered manufacturer shall not claim payment for, and CalRecycle shall not make manufacturer payments for, CEWs that are reused, repaired, refurbished or otherwise returned to use.

(j) Limitations on recycling payments on exported CEWs:

(1) CalRecycle shall not approve recyclers located outside the State of California.

(2) CEWs sent to and cancelled by unapproved recyclers are not eligible for recycling payments pursuant to this Chapter regardless of the location of the unapproved recycler.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42472(b), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.7. Document Submittals.**

(a) A collector, a recycler, or a manufacturer shall prepare and submit applications, registrations, claims and/or reports required pursuant to this Chapter in the manner designated by CalRecycle.

(b) CalRecycle shall only accept collector, recycler or dual entity applications, bearing the signatures of all persons with signatory authority designated pursuant to Section 18660.11. CalRecycle shall accept claims and

~~reports bearing a signature by any person with signatory authority designated pursuant to Section 18660.11 of this Chapter, and a signature by any authorized individual on claims and reports containing all the required information and bearing an original signature of the primary applicant, or all persons with signature authority as designated by the primary applicant pursuant to Section 18660.11 of this Chapter.~~

(c) CalRecycle shall only accept manufacturer registrations, claims and reports containing all the required information and bearing an original signature of the primary registrant, or a person with signature authority as designated by the primary registrant pursuant to Section 18660.35 of this Chapter.

(d) CalRecycle shall provide forms upon request that may be used to meet the requirements for the applications, registrations, and payment claims specified in this Chapter.

(e) A collector, a recycler, or manufacturer shall ensure that applications, registrations, claims, reports and all applicable supporting documentation are accurate, complete, and typed or legibly handwritten in English using permanent ink. A collector or a recycler may void errors only by using a single line through the error. A collector or a recycler shall not use correction fluid, correction tape or erasures for correcting errors on any document required by or submitted to CalRecycle.

~~(f) Any person, including but not limited to a handler, who provides documentation or information to an approved collector or an approved recycler that may be used by the approved collector or approved recycler pursuant to this Chapter shall not make a false statement or representation in any document filed, submitted, maintained, or used for purposes of compliance with this Chapter, the information or documentation provided.~~

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(d), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.8. Records.**

(a) An approved collector, an approved recycler, or a registered manufacturer shall send written notice to CalRecycle regarding any change in location, or intent to establish a new location, of records required by this Chapter no less than 10 days prior to the change. In the written notice, an approved collector or an approved recycler shall include its name, ~~and the unique identification number from the proof of approval, and the complete present and potential future address of the location of the records, if applicable, and the names and telephone numbers of the individuals responsible for such records.~~

(b) All records maintained pursuant to this Chapter must include the books of account that are ordinarily maintained by a prudent business person engaged in the same activity, together with all bills, receipts, invoices, manifests, cash register tapes, or other documents of original entry supporting the entries in the books of account.

(c) An electronic data processing system must have built into its program a method of producing visible and legible records that will provide the necessary information to determine compliance with the requirements of this Chapter.

(d) An approved collector, an approved recycler, or a registered manufacturer shall maintain records for at least three years.

(e) An approved collector, an approved recycler, or a registered manufacturer shall maintain records that are originals, and typed or legibly handwritten in English.

(f) An approved collector, an approved recycler, or a registered manufacturer shall not store records in an unprotected area, in an outside location, in a motor vehicle or in a location where the records are likely to become contaminated, damaged or stolen.

(g) An approved collector, an approved recycler, or a registered manufacturer shall maintain records suitable for examination prepared and retained in accordance with generally accepted accounting principles and good business practice.

(h) If CalRecycle determines that records do not meet the conditions in this Section, CalRecycle may revoke approval ~~and~~/or deny payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### § 18660.9. Audits.

(a) CalRecycle, or persons authorized by CalRecycle, may conduct audits of approved collectors, approved recyclers, and registered manufacturers to determine compliance with the requirements of this Chapter.

(b) As part of an audit, CalRecycle may do any one or all of the following in relation to CEW recovery or recycling:

- (1) Review, examine or investigate any books, records, accounts, ~~and~~/or documentation.
- (2) Observe, review, examine or investigate any on-site activities, operations, processes, CEWs, treatment residuals or other materials.
- (3) Observe and inspect transactions.
- (4) Verify measurements, counts, weights, and calculations.
- (5) Examine and verify revenue, cost and net cost information and calculations.
- (6) Use other examination procedures to investigate recovery payments, recycling payments, manufacturer payments, transfers of CEWs or treatment residuals, costs, revenue, net costs, or other activities related to determining compliance with this Chapter.

(c) An approved collector, an approved recycler, or a registered manufacturer shall provide CalRecycle staff, or persons authorized by CalRecycle, access to location(s) ~~and/or~~ and records for the purpose of audits related to the requirements of this Chapter, and for any or all of the following purposes in relation to CEW recovery or recycling:

- (1) To determine compliance with CalRecycle's regulations and with the provisions of the Act.
- (2) To determine the accuracy of the information provided in the application for approval or registration.
- (3) To determine the accuracy of the information, calculations, weights, counts, and other data upon which claims for payments or payments are based.
- (4) For the investigation of complaints related to recovery payments to collectors.
- (5) For the investigation of complaints related to the geographic origin of CEWs.
- (6) To obtain cost data, revenue data and net cost calculations required for CalRecycle to set and adjust the Standard Statewide recovery payment rate, recycler payment rate and consumer fees.
- (7) To obtain sample data to calculate component weight to device weight conversion factors.
- (8) To inspect any records required by this Chapter or the Act.

(d) If an approved collector, an approved recycler, or a registered manufacturer fails to provide reasonable access for audits pursuant to this Section, CalRecycle shall do one or more of the following:

- (1) Deny approval or registration if a renewal is pending.
- (2) Revoke an existing approval or registration.
- (3) Recoup monies previously paid by CalRecycle, which were the subject of the audit, accumulated interest, and any associated penalties.
- (4) Deny current and future claims for payments.

(e) An approved collector, an approved recycler or a registered manufacturer that must repay monies to CalRecycle based on the results of a CalRecycle audit shall pay the entire amount, including the original amount, accumulated interest, and any associated penalties.

(f) An approved collector, an approved recycler or a registered manufacturer shall make any payments, repayments or recoupments in U.S. dollars by check, draft, money order or cashier's check payable to the State of California, Department of Resources Recycling and Recovery, or to a designee selected by CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.10. Net Cost Report.**

(a) To adjust the statewide recovery and recycling payment rates, establish future payment schedules and adjust the consumer fees, CalRecycle shall periodically update information concerning the net costs of CEW recovery and CEW recycling.

(b) An approved collector or an approved recycler shall maintain records and provide information for use by CalRecycle in the update on their actual net costs to operate.

(c) An approved collector or an approved recycler shall use the following allowable revenues and costs for use in the calculation of net costs:

(1) Revenues in relation to CEW recovery or recycling, other than the payments required pursuant to this Chapter, including but not limited to:

(A) Up-front revenues received, such as from fees charged.

(B) ~~End-use~~ Treatment residual revenues, such as from commodity values.

(2) Costs in relation to CEW recovery or recycling including, but not limited to:

(A) The actual costs of receiving, handling, processing, storing, transferring and transporting CEWs.

(B) The actual costs of canceling CEWs.

(C) Labor.

(D) Property taxes.

(E) Depreciation.

(F) Utilities.

(G) Supplies.

(H) Fuel.

(I) Insurance.

(J) Interest.

(K) General overhead.

(L) Facilities and equipment rent or lease.

(M) Maintenance.

(N) Transportation.

(O) Handling costs.

(P) Disposition costs.

(Q) A reasonable rate of profit or return on investment.

(R) Marketing, promotion and public education.

(d) An approved collector and approved recycler shall submit to CalRecycle a report on the net costs of recovery ~~and/or~~ recycling for the prior calendar year, including:

(1) An annualized summary of the revenues, costs, and net cost (costs minus revenues) of CEW recovery ~~and/or~~ CEW recycling based on the records maintained pursuant to Sections 18660.20(j)(3) and 18660.21(l)(5) of this Chapter.

(2) Name, identification number and mailing address.

(3) The name and phone number of a contact person for purposes of the report.

(4) The reporting year and date of preparation of the report.

(5) The total annualized revenues excluding recovery and recycling payments received from CalRecycle, plus a list of the types of revenues included in the revenue calculation.

(6) The total annualized costs, plus a list of the types of costs included in the cost calculation.

- (7) The total annualized net costs (annualized costs minus annualized revenues).
  - (8) The net cost per pound of CEW recovery and the net cost per pound of CEW recycling.
  - (9) Provide a description of the types of targeted consumers, and the methods of collection used to obtain CEWs from the California sources, including but not limited to:
    - (A) Drop-off at permanent location,
    - (B) Temporary event drop off,
    - (C) Pick up at source,
    - (D) Pick up at handler location,
    - (E) Curbside collection,
    - (F) Landfill drop off ~~and~~ or load check.
  - (10) The signature and title of a person with signature authority for net cost reports as designated pursuant to Section 18660.11 of this Chapter.
  - (11) The signature block shall state and certify the following statement: "I hereby declare under penalty of perjury that this net cost report, including any and all figures, calculations and accompanying documents has been examined by me and is true, correct and complete."
  - (12) The date and place of the signing of the report.
- (e) An approved collector or an approved recycler shall convert any data captured on a per unit basis to a per pound basis for the purposes of determining revenues, costs and net costs.
- (f) CalRecycle may revoke approval ~~and~~/or deny recycling payments for failure to submit a net cost report, or for the submission of a fraudulent report.
- (g) The net cost report shall be submitted to CalRecycle on or before March 1, 2006, and each year thereafter.
  - (1) The requirement to submit a net cost report subsequent to March 1, 2007, shall be determined by CalRecycle at a public hearing.
  - (2) Notice of the requirement to submit a net cost report subsequent to March 1, 2007, shall be issued by CalRecycle on or before December 31 of the year proceeding the year in which the report is next due.
- (h) In addition to the net cost report described by this Section, an approved collector or an approved recycler may submit test results, studies or other information for CalRecycle to consider when the Standard Statewide Recovery Payment Rate ~~and~~/or the Standard Statewide Combined Recovery and Recycling Payment Rate is reviewed and, if necessary, adjusted pursuant to Sections 18660.33 and 18660.34 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42464, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.1. Electronic Waste Payment System – Applications for Approval**

### **§ 18660.12. Additional Application Requirements for Collectors.**

- (a) In addition to the general application information required in Section 18660.11 of this Chapter, a collector shall also include the following information:
- (1) The date and the name under which the collector notified DTSC as a CRT ~~and~~/or universal waste handler.
  - (2) A description of the existing or proposed collection operation, including but not limited to:
    - (A) The types of California sources from which the collector may recover CEWs, including but not limited to households, businesses, ~~and~~/or other collectors.
    - (B) The type(s) of CEWs that may be recovered by the collector.
    - (C) Whether the collector may recover CEWs from outside of the State of California.

(D) The cost-free opportunity(ies) established by the collector for a California source to transfer CEWs to the collector as required by Section 42476(f)(23) of the Public Resources Code.

(3) Certification statements by the collector as follows:

(A) “The undersigned collector agrees under penalty of immediate revocation of approval and denial of recovery payments that as an approved collector:”

1. “I shall make reasonable efforts to ensure that any CEWs for which payment is claimed originate from a California source.”
2. “I shall provide free CEW collection to California sources if the payments I receive from recyclers fully covers the net cost of collection, transportation and charges paid to the recycler.”
3. “I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions.”
4. “I shall establish a cost-free CEW collection opportunity for California sources.”
5. “I have read and understand the requirements set forth in the statutes and regulations governing this program.”

(B) “The undersigned collector certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct.”

(4) The name and signature of the primary applicant who has the authority to sign and bind the collector to this application.

(5) The date and location of application.

(b) A collector shall maintain a physical location within the state of California at which:

- (1) CEWs can be handled.
- (2) All records required by this Chapter shall be maintained.

(c) CalRecycle shall not approve a collector located outside the United States, unless required to by treaty. If CalRecycle must approve a collector outside the United States, the collector must comply with the requirements of Section 42476.5 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42476.5, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.13. Additional Application Requirements for Recyclers.**

(a) In addition to the general information required in Section 18660.11 of this Chapter, a recycler shall also include the following information:

- (1) Documentation that the recycler has fulfilled DTSC notification and authorization requirements regarding the handling and processing of CEWs.
- (2) A description of the recycling operation, including:
  - (A) The method(s) of cancellation used by the recycler.
  - (B) The types of CEWs cancelled by the recycler, pursuant to Section 18660.32 of this Chapter.
  - (C) Estimated percentages of cancelled CEWs expected to originate from inside of and from outside of the State of California annually.

(3) An explanation and documentation showing how the demonstrations in Public Resources Code Section 42479(b) have been satisfied, including but not limited to the following:

- (A) The recycler is in compliance with DTSC’s minimum standards for managing hazardous and universal waste set forth in applicable requirements of Chapter 23 of Chapters 12, 14, 15, 16, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.
- (B) The recycler demonstrates to CalRecycle that the recycler's facility meets all of the following standards:

1. The facility has been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A). If a DTSC inspection has been requested but not yet completed, then CalRecycle will review the remainder of the application but withhold approval until the DTSC inspection is completed and the facility found to be in conformance.
2. The facility is accessible during normal business hours for unannounced inspections by state or local agencies.
3. The facility has health and safety, employee training, and environmental compliance plans and certifies compliance with the plans.
4. The facility meets or exceeds the standards specified in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300), of the Labor Code or, if all or part of the work is to be performed in another state, the equivalent requirements of that state.

(4) Unless the recycler is applying as a dual entity, the name, address, contact person's name and telephone number of at least one (1) collector from which the recycler has accepted, has contracted to accept or intends to contract to accept CEWs for cancellation with a letter from the collector certifying under penalty of perjury that California CEWs from that collector will be transferred to the recycler for recycling.

(5) A completed "Payee Data Record" STD. 204 form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.

(6) Certification statements by the recycler as follows:

(A) "The undersigned recycler agrees under penalty of perjury and of immediate revocation of approval and denial of recycling payments that as an approved recycler:"

1. "I shall fully reimburse an approved collector for all CEWs ~~and/or CEWs~~ transferred at the rate specified in this Chapter within 90 days"
2. "Notwithstanding the allowances contained in Section 18660.6(d) of this Chapter, I shall not adjust fees, charges or other contract provisions upward for the purpose of negating the recovery payment to approved collectors."
3. "I shall provide free CEW recycling by accepting without charge CEWs from approved collectors if the payment from CalRecycle fully covers the net cost of CEW recycling."
4. "I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions."
5. "I have read and understand the requirements set forth in the statutes and regulations governing this program."

(B) "The undersigned certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct."

(7) The name and signature of the primary applicant who has the authority to sign and bind the recycler to this application.

(8) The date and location of application.

(b) CalRecycle shall not approve a recycler located outside California.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.15. CalRecycle Review of Applications.**

(a) Upon receipt of the application, CalRecycle will notify the applicant within 30 calendar days if the application is complete or incomplete.

(b) If CalRecycle determines the application is incomplete, with exception of a pending inspection by DTSC, CalRecycle notification will list the missing information, and the applicant will have 30 calendar days from the notification to provide the missing information or CalRecycle will deny the application.

(c) After CalRecycle determines that an application is complete, CalRecycle will notify the applicant within 30 calendar days whether the application has been:

(1) Approved, and if so, issue a proof of approval ~~bearing a unique approval identification number will be provided~~ stating the type of approval granted:

(A) Approved collector, ~~and/or~~

(B) Approved recycler.

(2) Denied, and if so, the cause(s) for denial will be listed. After denial, an application to become approved may be resubmitted at any time after the causes for denial have been corrected.

(d) CalRecycle shall not charge collector or recyclers to process an application.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.16. Approval Term and Applications for Renewal.**

(a) An approved collector's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the collector continues to meet and fulfill the requirements of this Chapter, and the collector continues to operate in conformance with DTSC requirements.

(b) An approved recycler's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the recycler continues to meet and fulfill the requirements of this Chapter, and the recycler continues to operate in conformance with DTSC requirements and submit to inspections by DTSC.

(c) To renew approval, a collector or recycler shall ~~re-apply~~ reapply to CalRecycle on a biennial basis at least 90 calendar days prior to the expiration date of approval.

(d) If a collector or recycler fails to ~~renew~~ reapply for approval, after the expiration date all of the following conditions apply:

(1) The approval is expired and invalid.

(2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.

(3) The collector or recycler shall immediately cease using the issued unique identification number.  
~~return any issued proof of approval to CalRecycle.~~

(e) An approved collector or an approved recycler may withdraw their approved application at any time via written notice to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.17. Prohibited Activities.**

(a) CalRecycle may deny a ~~renewal~~ an application or revoke or suspend the approval of a collector or recycler for any of the following prohibited activities:

(1) Failure by a collector or recycler to operate in conformance with DTSC requirements.

(2) Failure by a recycler to submit to a DTSC inspection within any 12-month period.

(3) Failure by a recycler to provide recovery payments to approved collectors as specified in this Chapter.

- (4) Failure to submit to CalRecycle audits as specified by this Chapter.
- (5) Failure to submit a net cost report as specified in Section 18660.10.
- (6) Transferring an approval or proof of approval to any other person.
- (7) ~~Altering the proof of~~ Misrepresenting an approval status.
- (8) A material breach of any of the certification statements contained in the approved application.
- (9) Fraudulently requesting a recovery payment.
- (10) Fraudulently claiming a recycling payment.
- (11) Submitting a fraudulent net cost report.
- (12) Failure to secure, maintain, ~~and/or~~ transfer documentation as specified by this Chapter.
- (13) Failure to notify CalRecycle of changes to information contained in the approved application.
- (14) Making a false statement or representation in a document filed, submitted, maintained or used for purposes of compliance with this chapter or Division 30, Part 3, Chapter 8.5 of the Public Resources Code.

(b) If CalRecycle denies an application renewal or revokes an approval for prohibited activities, all of the following conditions apply:

- (1) The approval is immediately invalid.
- (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.
- (3) The collector or recycler shall immediately cease using the issued unique identification number.  
~~return any issued proof of approval to CalRecycle.~~

(c) A collector or recycler may not reapply for approval until 180 calendar days after denial or revocation for prohibited activities.

(d) If CalRecycle suspends an approval for prohibited activities, all the following conditions apply until CalRecycle determines that the cause for suspension has been remedied:

- (1) The approval is temporarily invalid.
- (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter for recovery ~~and/or~~ recycling activities conducted during the suspension of approval.

(e) An application for approval or renewal from a collector or recycler or an individual identified in the application who has a history of demonstrating a pattern of operation in conflict with the requirements of this chapter and Division 30, Part 3, Chapter 8.5 of the Public Resources Code may be denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.18. Changes to Information Contained in an Approved Application.**

(a) An approved collector or an approved recycler shall ~~reapply notify to~~ notify to CalRecycle ~~for approval in writing of~~ changes to information contained in an approved application at least ~~90~~ 30 calendar days prior to the effective date of any proposed changes. ~~change taking effect, if one of the following changes may occur:~~

- (1) ~~A change in recovery, recycling or business practices that will prevent the approved collector or approved recycler from meeting the requirements of this Chapter.~~
- (2) ~~A change in recovery, recycling or business practices that will result in the breach of a certified statement on the application or in a prohibited activity as specified in Section 18660.17 of this Chapter.~~

(b) If an unforeseen change occurs, an approved collector or an approved recycler shall notify CalRecycle in writing of the change within ten calendar days after the unforeseen change. ~~In cases of notification after a change specified in subsections (1) or (2) in part (a) of this Section, CalRecycle may revoke the approval immediately or may require the collector or recycler to reapply for approval.~~

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.19. Appeal of Denial, Suspension or Revocation of Approval.**

(a) If CalRecycle denies an application for approval or suspends or revokes an approval, the collector or recycler shall appeal that decision and request a hearing within 30 calendar days after the date of the denial, suspension or revocation. Any appeal received by CalRecycle after 30 calendar days from the date of the denial, suspension or revocation shall be denied without a hearing or consideration of the appeal.

(b) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

(c) The collector or recycler requesting a hearing must submit the appeal in writing and ensure that it is received by CalRecycle's main business office, to the attention of the Legal Office. The collector or recycler shall clearly mark the outside of the package containing the appeal with: "~~e-Waste~~ Covered Electronic Waste Application Appeal Enclosed".

(d) In an appeal, a collector or recycler shall include, at a minimum, all of the following:

(1) The collector's or recycler's name, mailing address, contact name and daytime telephone number.

(2) The type of approval: collector, recycler or both.

(3) The location and street address.

(4) The date on the notification from CalRecycle and the stated reasons for denial, suspension or revocation.

(5) A statement of the basis for objecting to the denial, suspension or revocation.

(e) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(f) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the application, the reasons for denial, suspension or revocation, and any additional relevant information presented by the applicant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(g) CalRecycle will notify the collector or recycler of the determination in writing within 20 calendar days from the date of the decision.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463(b), 42474(e)(3) and 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

## **Article 2.2. Electronic Waste Payment System – Business Requirements**

### **§ 18660.20. Requirements for an Approved Collector.**

(a) Upon CalRecycle approval of its application, an approved collector may begin requesting recovery payments for CEWs documented and transferred to approved recyclers pursuant to the requirements of this Chapter after the approval.

(b) An approved collector shall comply with the requirements of this Chapter, including:

- (1) Begin collection activities from California sources within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to begin collection activities within 180 days.
  - (2) Transfer at least one (1) load of CEWs to an approved recycler within 180 calendar days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to transfer at least one load of CEWs within 180 calendar days of approval.
- (c) An approved collector shall make reasonable efforts to determine if CEWs it collects are from California sources or from non-California sources and shall keep track of those materials separately. Reasonable efforts may include any of the following, but are not limited to:
- (1) Posting signs and asking California sources.
  - (2) Conducting spot checks ~~and~~/or surveys.
  - (3) Checking for a valid California identification of a person, a California license plate on a vehicle, ~~and~~/or a bill of lading showing a California origin.
  - (4) Requiring additional documentation from California sources or collectors delivering large numbers of CEWs.
  - (5) Instituting measures to prevent CEWs from being dropped-off anonymously or illegally disposed at the approved collector's facilities or operations.
- (d) An approved collector shall not request recovery payment for non-California CEWs.
- (e) An approved collector shall determine if CEWs they transfer to recyclers have already been cancelled, and shall keep track of those materials separately.
- (f) An approved collector shall not request recovery payment for previously cancelled CEWs.
- (g) An approved collector shall provide the CalRecycle-issued proof of approval identification number when transferring CEWs to or requesting recovery payments from an approved recycler. If an approved collector, or its agent, fails to provide the unique identification number from the proof of approval, the approved recycler may deny recovery payment.
- (h) An approved collector shall provide to any approved collector or approved recycler to whom it transfers CEWs information on the origin (California or non-California) and cancellation status of CEWs transferred, including but not limited to the following:
- (1) Signed statement listing the sources(s) of the transferred CEWs as recorded pursuant to subsection (j) of this section.
  - (2) A copy(ies) of the applicable portions of the collection log specified in subsection (j) of this section that describe the collection activities that resulted in the transferred CEWs.
  - (3) Written description of any activity, such as storage, repair, refurbishment, resale, reuse, transfer, packaging ~~and~~/or consolidation, that explains any discrepancy between the CEWs transferred and the CEWs collected as recorded in a log specified in subsection (j) of this section.
  - (4) A copy of any applicable Proof of Designation, issued pursuant to and used in accordance with Article 7 of this Chapter, associated with CEWs collected while acting as a designated approved collector for a local government.
- (i) An approved collector shall operate in accordance with all Federal, State and local laws and regulations.
- (j) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved collector shall maintain the following records:
- (1) A collection log containing:
    - (A) For each collection activity or event that results in CEWs transferred to the approved collector, a brief written description of the collection activity or event, including the type of California sources targeted for collection, the date and location the activity or event occurred, the number of CRT CEWs or non-CRT CEWs collected, and an estimate of the weight of CEWs collected.

(B) Approved collectors that are not California local governments, nor entities acting as the Designated Approved Collector for a California local government, shall maintain a list of all California sources who discarded the CEWs transferred to the approved collector, including the name and address of the California source and the number and type(s) of CEWs discarded by the California source.

(C) When receiving five (5) or more CEWs units discarded from a non-residential California source, an approved collector shall record the name of the non-residential organization, an address, a contact person and a telephone number.

(D) A list of other handlers and approved collectors who transferred CEWs to the approved collector in any month, including the name and address of the other handler and approved collector and the number of CEWs transferred and the sources of those CEWs as recorded pursuant to parts (A) and (B) of this Section.

(E) When collecting source-anonymous CEWs, all approved collectors shall:

1. Log the source-anonymous CEW collection activity separately.
2. Provide a brief written description of the activity or incident that resulted in the source-anonymous CEWs.
3. Record the date and location of the activity or incident, the number and an estimate of the weight of source-anonymous CEWs collected from the location of the activity or incident.
4. Record the name, organizational affiliation, address and phone number of a person responsible for the site of the activity or incident.

(2) Records of transfers by load to, and recovery payments from, approved recyclers, including:

(A) Inventory records that document the relationship between the CEWs received from all sources and the CEWs transferred to the approved recycler or to other handlers.

(B) Signed and dated receipts showing the number and weight of CEWs transferred. The approved collector shall identify and record each approved recycler using the name and identification number from the recycler's "proof of approval."

(3) Records on the costs, revenues and net costs associated with the collection, transportation and disposition of all CEWs handled as specified in Section 18660.10 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.21. Requirements for an Approved Recycler.**

(a) Upon CalRecycle approval of its application, an approved recycler may begin claiming recycling payments for CEWs received from an approved collector and cancelled after the approval.

(b) An approved recycler shall comply with the requirements of this Chapter, including:

(1) Begin CEW cancellation activities within 180 calendar days of approval. CalRecycle may revoke approval if a recycler fails to begin CEW cancellation within 180 days.

(2) Accept transfer of and cancel at least one (1) load of CEWs from an approved collector within 180 days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 days of approval. CalRecycle may revoke approval if a recycler fails to cancel at least one load within 180 days of approval.

(3) Record each approved collector's proof of approval identification number and provide a receipt showing the weight and number of CEWs transferred and the amount of the corresponding recovery payment due to the collector.

- (4) Make recovery payments to approved collectors, or their agents, for all CEWs transferred, in accordance with this Chapter, at the time of transfer of CEWs, or at a later time specified in a written contract between the approved collector and approved recycler, but not more than 90 days from the date of transfer.
- (5) Cancel CEWs by one or more of the manners prescribed in Section 18660.32 of this Chapter.
- (A) An approved recycler shall maintain a processing log that records the date, method of cancellation, and quantity in pounds of CEWs cancelled.
- (B) An approved recycler shall maintain inventory records that document the relationship between CEWs received from approved collectors, CEWs processed and cancelled by the approved recycler, and treatment residuals shipped to ~~end-use~~ initial destinations or ultimate dispositions, as applicable.
- (6) Submit recycling payment claims to CalRecycle as specified in Sections 18660.22 through 18660.31 of this Chapter.
- (7) Submit to and obtain a DTSC inspection, within any 12-month period.
- (c) Based on information supplied by approved collectors, an approved recycler shall, at a minimum, keep track of the weight of CEWs from both California and non-California sources transferred from approved collectors and ensure that recycling payments are not claimed for non-California source materials.
- (d) An approved recycler shall not provide recovery payment to approved collectors for CEWs from non-California sources, or to approved collectors that fail to provide complete and applicable source documentation on CEW origin pursuant to Section 18660.20(h) of this Chapter.
- (e) An approved recycler shall not claim recycling payments for non-California CEWs.
- (f) Approved recyclers shall determine if CEWs they accept from collectors have already been cancelled and shall keep track of the weight of those materials and ensure that recycling payments are not claimed for these materials.
- (g) An approved recycler shall not provide recovery payment to approved collectors for previously cancelled material.
- (h) An approved recycler shall not claim recycling payments for previously cancelled material.
- (i) An approved recycler may deny recovery payments for commingled loads in which CEWs cannot be distinguished from other materials.
- (j) An approved recycler shall operate in accordance with all Federal, State and local laws and regulations.
- (k) An approved recycler shall:
- (1) Be equipped with scales and be a weighmaster in accordance with Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.
- (2) Measure, record and report weights in pounds and issue certified weights.
- (3) Weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 (commencing with Section 12500) of the Business and Professions Code.
- (l) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved recycler shall maintain the following records:
- (1) A receiving log containing a brief written description of CEW transfers by load from approved collectors, the certified number of units and the certified weight of CEWs transferred, and the dates the transfers from collectors occurred.
- (2) Records of CEW transfers, including all documentation received from an approved collector as specified in Section 18660.20(h), and recovery payments made ~~and/or~~ and owed to approved collectors, including signed and dated receipts showing the certified number of units and the certified weight of CEWs transferred.
- (A) The approved recycler shall identify and record each approved collector using the name and identification number from the collector's "proof of approval."

- (B) The approved recycler shall record separately the number of units and sum of estimated weights of source-anonymous CEWs reported by and transferred from an approved collector.
- (3) A processing log showing the definitive cancellation of CEWs by weight, date and cancellation method, as specified in Section 18660.32 of this Chapter, upon which a payment claim is based.
- ~~(4) Records for all bills of lading for treatment residuals including the following information:~~
- (4) Applicable records for all shipments of treatment residuals, including but not limited to weight certificates, packing lists, bills of lading, manifests, destination receipts, invoices, and payments. Applicable records shall be maintained pursuant to Section 18660.8 of this Chapter and ~~be capable of demonstrating demonstrate~~ the following information:
- (A) Date of shipment.
  - (B) Quantity and material type in shipment.
  - (C) The full name and address of shipping service.
  - (D) The full name and address of the buyer or other transferee, and destination name and address if different.
  - (E) Identification and description of the initial destinations or ultimate disposition of the treatment residuals, as applicable.
- (5) Records on the net costs associated with the disposition of all CEWs handled, the net costs of accepting the transfer of CEWs, the net costs of each cancellation method used, and any additional administrative costs of providing recovery payments to approved collectors.
- (6) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **Article 2.3. Electronic Waste Payment System – Recycling Payment Claims**

#### **§ 18660.22. General Requirements for Recycling Payment Claims.**

- (a) An approved recycler shall submit all of the following general information in a claim for recycling payments from CalRecycle:
- (1) The full name, mailing address, and federal tax identification number of the recycler preparing the report.
  - (2) The name and phone number of a contact person for purposes of the report.
  - (3) The reporting month (calendar month and year) and date of preparation of the report.
  - (4) The claim activity period, listing the start and end dates.
  - (5) The total weight of CEW claimed, as calculated in Sections ~~18660.23~~, 18660.24, and 18660.25 of this Chapter.
  - (6) The total monetary amount being claimed.
  - (7) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.11 of this Chapter. The signature block shall include the following certification statements:
    - (A) “I hereby declare under penalty of perjury that:”
      - 1. “The approved recycler whom I represent is currently in compliance with all Federal, State and local requirements, including compliance with the requirements of the Act and this Chapter.”

2. "All claimed CEWs have been cancelled as specified in Section 18660.32 and are unable to re-enter the payment system, and all treatment residuals specified in Section 18660.22(c) derived from the claimed CEWs have been shipped off-site to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of those treatment residuals."
3. "I have certified the weights and verified the calculations, including the adjustments for CEWs from non-California sources and for prior cancellation."
4. "This payment claim, including any and all accompanying documents has been examined by me and is true, and correct ~~and complete~~."
5. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
6. "I further understand that fraud could result in revocation of the recycler's approval."

(8) The date and place of the signing of the claim.

(b) For each cancellation method used, an approved recycler shall submit no more than one recycling payment claim per calendar month and may only include one reporting month, as specified by Sections ~~18660.23~~, 18660.24 and 18660.25 of this Chapter, in a single recycling payment claim. An approved recycler shall prepare payment claims for different cancellation methods separately, but may submit a package containing all the claims for a reporting month.

(c) Prior to submitting a payment claim for cancelled CEWs, an approved recycler shall:

(1) Ship off-site all the following treatment residuals derived from the cancelled and claimed CEWs to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of the treatment residual:

~~(A) CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through crushing or shredding.~~

~~(B) (A) Bare CRTs or CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~

(B) CRT glass cullet.

1. CRT glass, CRT funnel glass, and CRT panel glass, as defined in Section 66273.9 of Chapter 23 of Title 22 of the California Code of Regulations, shall be accounted for separately, as applicable.

2. The shipped CRT glass cullet shall account for the amount derived from the cancelled and claimed CEW.

~~(C) Gas plasma display glass cullet if conducting non-CRT-containing CEW cancellation through crushing or shredding.~~

~~(D) Bare gas plasma display panels if conducting non-CRT-containing CEW cancellation through dismantling to a bare panel.~~

(2) For each claimed ~~cancelled~~ non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and ~~scale~~ weight of each device prior to cancellation.

(A) If the non-CRT-containing CEWs contain a plasma display, records relating to quantity of the bare panel(s) and ultimate disposition shall be maintained pursuant to Section 18660.8 of this Chapter.

(B) If the non-CRT-containing CEWs contain cold cathode fluorescent lamps, records relating to quantity of the lamps and ultimate disposition shall be maintained pursuant to Section 18660.8 of this Chapter.

(C) Records maintained pursuant to (A) and (B) above shall be made available upon request by CalRecycle or its designee.

(3) Only those CEWs that have been processed and documented pursuant to the applicable requirements of subsections (c)(1) and (c)(2) of this section shall be claimed for payment.

(d) An approved recycler shall attach all of the following to the payment claim:

(1) For all CEWs received from collectors during the claim activity period that are cancelled and included in the current claim, a report that includes:

(A) A list of approved collectors from which the transfers of CEWs were accepted with the name and proof of approval identification number of each.

(B) The total weight of CEWs in all loads transferred from each approved collector. Note that this weight may not equal the weight claimed for recycling payment because recovery payments are made on the weight of all CEWs transferred while recycling payments are made on the weight of only those CEWs cancelled.

(C) Signed and dated receipts documenting all CEW transfers from approved collectors.

(D) A copy(ies) of the applicable records specified in Section 18660.21(l)(1)-(4) pertaining to the collection, transfer, and processing activities involving the CEWs cancelled and being claimed for payment.

1. Source documentation not associated with the claimed CEWs shall not be included in the report.

2. Transfer documentation not associated with the claimed CEWs shall not be included in the report.

(E) A sum of the estimated weight of source-anonymous CEWs as reported by and transferred from approved collectors.

(2) For all CEWs cancelled during the claim activity period and that are included in the current claim, a description of cancellation activities that includes:

(A) The type(s) of cancellation method used.

(B) The date(s) when cancellation occurred.

(C) The amount of CEWs processed by dismantling, ~~crushing or shredding~~ by date in pounds.

(D) The dates and destinations of all treatment residual shipments required prior to submitting a claim as specified in subsection (c) of this section.

(3) For all CEWs received from collectors during the claim activity period that are not included in a prior claim and that are not cancelled, a description and quantification of those activities including but not limited to storage, repair, refurbishment, resale, reuse, transfer ~~and/or~~ export.

(e) An approved recycler shall deliver recycling payment claims to CalRecycle's main business office, to the attention of the Accounting Section. An approved recycler shall mark the outside of the package containing the claims clearly with "~~e-Waste~~ Covered Electronic Waste Claim Enclosed."

(f) An approved recycler shall submit timely recycling payment claims so that CalRecycle receives each claim within 45 days of the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle may return without payment any claim received more than 45 days after the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.

(g) CalRecycle may reject a claim if it fails to comply with the general requirements of this Section, or the additional requirements in the applicable provisions regarding cancellation methods in Sections ~~18660.23~~, 18660.24 ~~and/or~~ 18660.25 of this Chapter.

(h) CalRecycle's rejection of a recycling payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.23. ~~RESERVED-Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT Containing CEWs through Crushing or Shredding.~~**

- (a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT-containing CEWs through crushing or shredding as specified in Section 18660.32 of this Chapter.
- (b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of CRT glass cullet were sent to an end use destination.
- (d) The reporting month for a recycling payment claim pursuant to this Section is the month in which shipment(s) of CRT glass cullet were made.
- (e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through crushing or shredding as follows:
- (1) The total weight of CRT-containing CEWs cancelled for the reporting month from which all treatment residuals specified in Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end use destination authorized to receive and further treat or legally dispose of those treatment residuals.
  - (2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.
  - (3) If the amount in subsection (e)(1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.
- (f) An example calculation for canceling CRT-containing CEWs through crushing or shredding is included for illustration purposes as follows:

*The weight of CRT-containing CEWs cancelled: \_\_\_\_\_ 1000 pounds*  
*Times the per pound Standard Statewide combined*  
*—recovery and recycling payment rate: \_\_\_\_\_ X \$0.49*  
*Equals the payment claim for the reporting period: \_\_\_\_\_ = \$490.00 Total Claim*

- (g) An approved recycler shall attach to the payment claim the following documentation from all shipments of CRT glass cullet made during the reporting period of a calendar month:
- (1) Shipping reports to end-use destinations, including the names of the shipping recycler and the receiving end-use destination.
  - (2) The date of the shipment and the weight of the CRT glass cullet.
  - (3) Weight tickets of individual shipments of CRT glass cullet.
  - (4) Verification of post-cancellation disposition, including:
    - (A) For shipments by sea, the proof of disposition to an end-use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.
    - (B) For other shipments, the proof of disposition to an end-use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.
    - (C) For all shipments of CRT glass cullet, information pertaining to a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is not disposal to land, water or air compliant with applicable law and conformant with the approved recycler's conditions of authorization.
      1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.
      2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.

~~(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and qualification quantification of the disposition of other treatment residuals derived from cancellation of the CRT containing CEWs, including but not limited to metals, plastics, fibers and wood.~~

~~Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.~~

~~Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.~~

**§ 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar reporting month in which one or more shipments of bare CRTs or CRT glass cullet were sent to an end-use destination.

(d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first makes shipment(s) to an initial destination of bare CRTs or CRT glass cullet derived from the claimed CEWs were made.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through dismantling to a bare CRT as follows:

(1) The total weight of CRT-containing CEWs cancelled from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use initial destination authorized to receive and further treat or legally dispose of those treatment residuals.

(2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(f) An example calculation for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum is included for illustration purposes as follows:

<i>The weight of CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

(g) An approved recycler shall attach the following documentation for all shipments of bare CRTs or CRT glass cullet made during the reporting claim activity period of a calendar month:

(1) Shipping reports to end-use initial destinations, including the names of the shipping recycler and the receiving end-use initial destination.

(2) The date of the shipment and the weight of the bare CRTs or CRT glass cullet.

(3) Certified Wweights tickets of individual shipments of bare CRTs or CRT glass cullet.

(4) Verification of post cancellation disposition, including:

(A) For shipments by sea, the proof of ~~disposition transfer to an end-use~~ initial destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.

(B) For other shipments, the proof of ~~disposition transfer to an end-use~~ initial destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading or manifest, etc.

(C) For all shipments of bare CRTs or CRT glass cullet, information pertaining to a discussion of the ultimate initial destination or the ultimate disposition of the material shipped, including: demonstrating that the disposition is not disposal to land, water or air compliant with applicable law and conformant with the recycler's conditions of authorization.

1. All documentation necessary to demonstrate compliance with material disposition handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations shall be included in the discussion claim.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine compliance with the legality of shipped material handling and shipment requirements, disposition status set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.25. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of Non-CRT-Containing CEWs.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of the cancelled non-CRT-containing CEWs.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar reporting month in which it cancels non-CRT-containing CEWs.

(d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first cancels any of the non-CRT CEW being claimed cancellation occurs.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as follows:

(1) The total weight of cancelled non-CRT-containing CEWs for the reporting month for which records specified in Section 18660.22(c)(2) of this Chapter have been established and maintained pursuant to Section 18660.8 of this Chapter from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped to an end-use destination authorized to receive and further treat those treatment residuals. Note that non-CRT-containing CEWs commingled with other material are ineligible for recycling payment.

(2) The total payment claimed, calculated by multiplying the weight of non-CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(4) For each ~~claimed cancelled~~ non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and ~~the scale~~ weight of each device prior to cancellation.

(f) An example calculation for canceling non-CRT-containing CEWs through dismantling to a bare panel or ~~crushing/shredding of the entire CEW~~ is included for illustration purposes as follows:

<i>The weight of non-CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

(g) An approved recycler shall attach the following documentation for all ~~shipments of circuit boards bare plasma panels and lamps derived from non-CRT-containing CEWs made during the reporting claim activity~~ period of a calendar month:

(1) Shipping reports to ~~end-use initial~~ destinations, including the names of the shipping recycler and the receiving ~~end-use initial~~ destination.

(2) The accumulation start date(s) of the bare plasma panels or lamps shipped or stored shipment and the weight of the circuit boards.

(3) ~~W~~ Certified weights tickets of individual shipments of the circuit boards.

(4) Verification of post cancellation disposition, including:

(A) For shipments by sea, the proof of ~~disposition transfer to an end-use initial~~ destination shall be the on-board bill of lading or manifest, as applicable.

(B) For other shipments, the proof of ~~disposition transfer to an end-use initial~~ destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading or manifest.

(C) For all shipments of bare plasma panels and lamps derived from non-CRT-containing CEWs circuit boards, a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is ~~not disposal to land, water or air~~ compliant with applicable law and conforms with the approved recycler's conditions of authorization.

1. All documentation necessary to demonstrate compliance with material handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations shall be included in the claim.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine compliance with the legality of shipped material handling and shipment requirements, status set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(5) The quantities of treatment residuals recorded pursuant to section 18660.22(c)(2)(A) and (B) shall be included in the claim.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals

derived from cancellation of the non-CRT-containing CEWs, including but not limited to circuit boards, other video display panels, metals, plastics, and fibers.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.30. CalRecycle Review of Recycling Payment Claims.**

(a) CalRecycle shall review a recycling payment claim and determine if a recycling payment is due pursuant to this Chapter. If CalRecycle has cause to investigate any aspect of a claim, the review may be extended until resolution of all issues aspects under investigation.

(b) CalRecycle may deny or adjust payment for any of the following reasons:

(1) CalRecycle determines that:

(A) The signature on the claim is not that of a person with signature authority for recycling payment claims as designated pursuant to Section 18660.11 of this Chapter.

(B) The recycler did not have current approval for the reporting period ~~and~~/or the cancellation period in the claim.

(C) The approved recycler failed to meet the requirements in this Chapter or committed an activity prohibited in this Chapter.

(D) The payment claim contains a numerical discrepancy between values or calculations reported on the claim and CalRecycle verified values and calculations.

(E) The facility has not been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A) of the Public Resources Code.

(F) The recycler is ineligible for payment pursuant to Section 42479(b)(1) of the Public Resources Code.

(G) The payment claim is deficient with regard to any of the following:

1. CEW source documentation

2. CEW transfer documentation

3. CEW processing documentation

4. Treatment residual disposition documentation

5. Any other documentation required as part of a payment claim as specified in Sections 18660.22 through 18660.25 of this Chapter.

(2) CalRecycle has prevailed against the claimant in a civil or administrative action and money is owed to CalRecycle as a result of the action.

(3) CalRecycle discovers, as part of an application review, claim review or an audit, significant inconsistencies or fraud.

(c) If CalRecycle adjusts or denies a payment claim based on deficiencies in documentation specified in subsection (b)(1)(G) of this section, an approved recycler shall not resubmit as part of a future claim that same documentation, or any revised form of that documentation, seeking payment for those CEWs for which payment had been denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.31. Appeal of Denied or Adjusted Recycling Payment Claims.**

(a) An approved recycler shall ~~submit an appeal in writing and ensure that it is received by the~~ submit an appeal in writing and ensure that it is received by the to the CalRecycle main business office, to the attention of the Legal Office, ~~file a formal appeal by writing to CalRecycle~~ file a formal appeal by writing to CalRecycle within 30

calendar days of the date of the notice denying or adjusting the claim. The recycler shall clearly mark the outside of the package containing the appeal with: “Covered Electronic Waste Claim Appeal Enclosed”.

(b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice letter from CalRecycle ~~on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.

(c) An approved recycler shall include all of the following information in a written appeal:

- (1) The recycler's name and identification number from its proof of approval.
- (2) The month(s) and year(s) in question.
- (3) A copy of the recycling payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
- (4) An explanation of why the adjustment or denial was in error.
- (5) Any other documentation that supports the appeal.

(d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(f) CalRecycle will notify the recycler of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e)(3) and 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

## **Article 2.4. Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

### **§ 18660.32. Cancellation Methods.**

(a) CalRecycle shall not pay recycling payment claims unless the cancellation method used meets the requirements of this Section.

(b) An approved recycler shall not use or propose cancellation methods that are inconsistent with any DTSC requirements for handling or otherwise processing CEWs.

(c) An approved recycler may use the following standard CEW cancellation methods that qualify for recycling payments as specified in the requirements of this Chapter:

- ~~(1) CRT or CRT-containing CEW cancellation through crushing or shredding.~~
- ~~(2) CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~
- ~~(3) Cancellation of non-CRT-containing CEWs through crushing/shredding of the entire CEW.~~
- (4) (2) Cancellation of non-CRT-containing CEWs through dismantling to a bare panel.

(d) An approved recycler may submit proposals for alternative cancellation methods to CalRecycle for review on a case-by-case basis. CalRecycle, in consultation with DTSC, shall act within ~~180~~ 90 calendar days to disapprove an alternative method, approve an alternative method for use only by the requesting recycler, or approve an alternative method for use by all recyclers.

(e) An approved recycler shall not claim, and CalRecycle shall not pay, recycling payments for CEWs “cancelled” with an alternative method unless CalRecycle has previously approved the alternative method. CalRecycle shall deny payment on any CEWs “cancelled” with an alternative method prior to CalRecycle approval.

(f) Reuse of either an intact CEW or of a partially disassembled CEW, such as a CRT with an attached yoke, is not cancellation and is not eligible for recycling payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.33. Standard Statewide Recovery Payment Rate.**

(a) An approved recycler shall pay an approved collector the Standard Statewide ~~Combined~~ Recovery Payment Rate for all CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter regardless of the real or anticipated disposition of the CEWs.

(b) Beginning July 1, 2016, the Standard Statewide Recovery Payment Rate is \$0.19 per pound.

(c) CalRecycle shall review the Standard Statewide Recovery Payment Rate at a public meeting ~~of the Board~~ and establish the rate pursuant to Section 42477 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.5. Electronic Waste Payment System – Manufacturer Payments**

### **§ 18660.35. Manufacturer Registration.**

(a) A manufacturer may apply to become registered, to renew an existing registration, or to revise an existing registration at any time by submitting a complete application.

(b) In an application for registration, manufacturers shall provide the following general information:

(1) Name of manufacturer.

(2) Mailing address and physical address.

(3) Name of the employee or officer of the manufacturer who is the contact person.

(4) Telephone number(s) of the contact person.

(5) An e-mail address of the contact person.

(6) Name of the employee or officer of the manufacturer who is the primary applicant authorized to sign:

(A) Payment claims.

(B) Reports.

(C) Other payment-related documentation ~~and/or~~ correspondence required by CalRecycle.

(7) Name of the employee or officer of the manufacturer (if any), in addition to the primary applicant, who is authorized to sign:

(A) Payment claims.

(B) Reports.

- (C) Other-payment related documentation ~~and/or~~ correspondence required by CalRecycle.
- (8) An indication of whether the manufacturer wishes to be included in an on-line registry.
- (9) The location in which the records required by this Chapter will be maintained.
- (c) In an application for registration, a manufacturer shall also include the following information about its take back program or activities, including but not limited to:
  - (1) The types of California sources from which the manufacturer may take back CEWs, including but not limited to households, businesses, ~~and/or~~ other collectors.
  - (2) The type(s) of CEWs that the manufacturer may take back for recycling.
  - (3) The mechanism(s) by which the manufacturer will accept CEWs into the take back program, such as mail-in, drop-off, trade-in, or pick-up.
  - (4) Any conditions the manufacturer may place on accepting CEWs.
  - (5) Whether the manufacturer may recover for the purposes of recycling discarded electronic devices similar to CEWs from outside of the State of California.
- (d) In an application for registration, a manufacturer shall also include the following information regarding the recycling of the CEWs received into its take back program:
  - (1) The name and address of the recycling facility(ies) used by the manufacturer.
  - (2) A description of the recycling operation used by the manufacturer, including the recycling process that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (e) In an application for registration, a manufacturer shall make the following certification statements:
  - (1) “The undersigned manufacturer agrees under penalty of immediate revocation of registration and denial of manufacturer payments that as an registered manufacturer:”
    - (A) “I shall ensure that any CEWs for which payment is claimed originate from a California source.”
    - (B) “I shall only claim payment for those CEWs that I take back and process for recycling.”
    - (C) “I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions.”
  - (2) “The undersigned manufacturer certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct.”
    - (A) The name and signature of the primary applicant who has the authority to sign and bind the manufacturer to this application.
    - (B) The date and location of application execution.
- (f) In an application for registration, a manufacturer shall submit a completed “Payee Data Record” STD. 204 Form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.
- (g) Within 30 calendar days upon receipt of the application for registration, CalRecycle will notify the manufacturer if the applicant is a registered manufacturer and provide a registration number to be used in all correspondence and claims.
- (h) A registered manufacturer's registration remains valid for 2 years following the date of registration provided that the information in the original application remains unchanged and the manufacturer continues to meet and fulfill the requirements of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Sections 42475(a) and 42476, Public Resources Code.

**§ 18660.36. Requirements for a Registered Manufacturer.**

- (a) Upon registration with CalRecycle, a registered manufacturer may claim manufacturer payments for those CEWs received by the manufacturer's take back program after the effective date of registration and processed for recycling as specified in Section 18660.6(i)(3) of this Chapter.
- (b) A registered manufacturer shall determine if CEWs received by the manufacturer's take back program and processed for recycling are from California sources or from non-California sources and shall keep track of those materials separately.
- (c) A registered manufacturer shall not request payment for non-California CEWs.
- (d) A registered manufacturer shall not request payment for previously cancelled CEWs.
- (e) A registered manufacturer shall ensure that any CEW on which the manufacturer has claimed manufacturer payment does not enter the recovery and recycling payment system.
- (f) The recycling operation used by a registered manufacturer shall operate in accordance with all Federal, State and local laws and regulations.
- (g) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, a registered manufacturer shall obtain and maintain the following records:
- (1) A written description of the take back program, including the type of consumers from whom CEWs are accepted for take back.
  - (2) A record of the number of CEWs collected by the product categories defined in Section 18660.5(a)(31) of this Chapter.
  - (3) Records of transfers by load to the recycling operation used by the registered manufacturer, including signed and dated receipts showing the weight and number of CEWs transferred.
  - (4) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the recycling operation used by the manufacturer.
  - (5) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
  - (6) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
  - (7) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
  - (8) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.
- (h) A registered manufacturer shall measure, record and report weights in pounds. A registered manufacturer shall weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 of the Business and Professions Code (Weights and Measures) or in accordance with comparable standards of the state in which the registered manufacturer is located.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

**§ 18660.37. Manufacturer Payment Claims.**

- (a) A registered manufacturer shall base a manufacturer payment claim on the number of CEWs processed for recycling by screen size(s) as listed in Section 42464(a) of the Public Resources Code.
- (b) A registered manufacturer shall submit all of the following general information in a claim for manufacturer payments from CalRecycle:

- (1) The full name, mailing address, registration number, and federal tax identification number of the registered manufacturer preparing the claim.
  - (2) The name and phone number of a contact person for purposes of the claim.
  - (3) The period of time covered by the claim and date of preparation of the claim.
  - (4) The number of CEW devices claimed:
    - (A) In each product category as defined in Section 18660.5(a)(31).
    - (B) By screen size as listed in Section 42464(a) of the Public Resources Code.
  - (5) The total monetary amount being claimed, as calculated in subsection (f) of this Section.
  - (6) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.35(b)(6) or (7) of this Article. The signature block shall include the following certification statements:
    - (A) "I hereby declare under penalty of perjury that:"
      1. "All claimed CEWs were received from California sources through the manufacture take back program described in the manufacturer registration."
      2. "All claimed CEWs have been processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result."
      3. "No claimed CEWs were transferred into the recovery and recycling payment system."
      4. "I have certified the number of devices and verified the calculations."
      5. "This payment claim, including any and all accompanying documents, has been examined by me and is true, correct and complete."
      6. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
      7. "I further understand that fraud could result in revocation of the manufacturer registration."
  - (7) The date and place the claim was signed.
- (c) A registered manufacturer shall submit no more than one payment claim per calendar month.
- (d) The claim period for a manufacturer payment claim pursuant to this Section is the time period within which processing occurs and may not exceed three (3) months.
- (e) A registered manufacturer shall attach all of the following to the payment claim:
  - (1) A written description of take back program that collected the CEWs for which payment is being claimed, including the type of consumers from whom CEWs were accepted, and a record of the number of CEWs collected by the product categories as defined in Section 18660.5(a)(31) of this Chapter.
  - (2) Records of transfers by load to the registered manufacturer's recycling operation, including signed and dated receipts showing the weight and number of CEWs transferred.
  - (3) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the manufacturer's recycling operation.
  - (4) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
  - (5) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
  - (6) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (f) A registered manufacturer shall calculate the payment and include the calculation in a manufacturer payment claim as follows:

- (1) The total number of CEWs, by screen size as specified in Section 42464(a) of the Public Resources Code, that are processed for recycling during the claim period.
- (2) The total payment claimed, calculated by:
  - (A) Multiplying the number of CEWs in each screen size category by the value of the covered electronic waste recycling fee that applies to that category.
  - (B) Adding the calculations in (A) above for each screen size category calculation together.
- (g) An example calculation for a manufacturer claim is included for illustration purposes as follows:

*The number CEWs processed for recycling by screen size:*

<i>100 devices with less than 15 inch screen size</i>	<i>100 devices</i>
<i>Times the covered electronic waste recycling fee for category</i>	<i>X <del>\$6.00</del> <u>\$5.00</u></i>
	<i><del>\$600.00</del> <u>\$500.00</u></i>
<i>200 devices greater than or equal to 15 inch screen size but less than 35 inch screen size</i>	<i>200 devices</i>
<i>Times the covered electronic waste recycling fee for category</i>	<i>X <del>\$8.00</del> <u>\$6.00</u></i>
	<i><del>\$1600.00</del> <u>\$1200.00</u></i>

*Equals the payment claim for the claim period: (~~\$6~~500.00+~~\$16~~1200.00) = \$221700.00 Total Claim*

- (h) A registered manufacturer shall deliver manufacturer payment claims to CalRecycle’s main business office, to the attention of the Accounting Section. A registered manufacturer shall mark the outside of the package containing the claims clearly with “Electronic Manufacturer e-Waste Claim Enclosed.”
- (i) A registered manufacturer shall submit timely manufacturer payment claims so that CalRecycle receives each claim within 45 days of the end of the claim period. CalRecycle may return without payment any claim received more than 45 days after the end of the claim period. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.
- (j) CalRecycle may reject a claim if it fails to comply with the requirements of this Section.
- (k) CalRecycle’s rejection of a manufacturer payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
 Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

**§ 18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims.**

- (a) A registered manufacturer ~~may shall~~ submit an appeal in writing and ensure that it is received by the to the CalRecycle main business office, to the attention of the Legal Office, file a formal appeal by writing to CalRecycle within 30 calendar days of the date of the notice denying or adjusting the claim. The registered manufacturer shall clearly mark the outside of the package containing the appeal with: “Electronic Manufacturer Claim Appeal Enclosed”.
- (b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice ~~letter from CalRecycle on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.

- (c) A registered manufacturer shall include all of the following information in a written appeal:
- (1) The registered manufacturer's name and registration.
  - (2) The month(s) and year(s) in question.
  - (3) A copy of the manufacturer payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
  - (4) An explanation of why the adjustment or denial was in error.
  - (5) Any other documentation that supports the appeal.
- (d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.
- (e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.
- (f) CalRecycle will notify the registered manufacturer of the determination in writing within 20 calendar days from the date of the decision.
- (g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474 and 42476, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

### **Article 3. Manufacturer Reporting**

#### **§ 18660.41. Reporting Requirements.**

Each manufacturer as defined by Section 42463(m) of the Public Resources Code shall submit an annual report to CalRecycle on or before July 1, 2005, and annually thereafter, for the period of the previous calendar year. Each manufacturer shall report information by brand name of covered electronic devices sold in the state.

- (a) The report shall include the following:
- (1) Name and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer.
  - (2) The information elements, as described in Section 42465.2 of the Public Resources Code and specified in Sections 18660.41(b) through (f), below.
- (b) The sales reporting shall include:
- (1) Data on the number of covered electronic devices sold in the state by product category.
  - (2) An explanation of the methodology used to estimate data.
- (c) The materials reporting shall include:
- (1) An estimated average amount in milligrams for mercury, cadmium, lead, hexavalent chromium, including their alloys and compounds, and PBBs used in covered electronic devices, and all their component parts by product category.

- (2) Estimates may be based on either physical testing or maximum tolerance levels of the material in product design specifications.
- (3) An explanation of the methodology used to estimate data.
- (d) Recyclable content reporting shall include:
  - (1) Estimates on the amount in tons of recyclable content materials (e.g., plastics, glass, and metals) contained in covered electronic devices;
  - (2) The increase from the previous year in the use of recyclable content materials; and
  - (3) An explanation of the methodology used to estimate recyclable content.
- (e) Design for recycling reporting shall include:
  - (1) Information on current activities and future plans related to the design of covered electronic devices, including but not limited to, the following:
    - (A) Ease of disassembly of covered electronic devices;
    - (B) Identification of resin types; and
    - (C) Improved materials efficiency through reduction in hazardous materials use or other approaches.
- (f) List of retailers noticed pursuant to Section 42465.2(a)(1)(E) of the Public Resources Code shall include:
  - (1) The contact information used by the manufacturer to perform the notice, such as the name, address, contact person, phone number and ~~for~~ email address of the retailer to which the notice was made.
  - (2) The list of covered products contained in the notice.
- (g) Manufacturers shall individually submit to CalRecycle samples of the consumer information and description of all methods used to comply with Section 18660.42 of this Chapter. Manufacturers shall submit this information at the same time they comply with Section 18660.41(a) through (e), above.
- (h) Each manufacturer shall maintain the report and all supporting documentation for three years after the report is submitted. If CalRecycle or DTSC requests a copy of the supporting documentation the manufacturer shall submit the supporting documentation within 10 days of the request.
- (i) Each manufacturer shall provide a certification under penalty of perjury that the information is true and correct.
- (j) Collective reporting - Compliance with the reporting required in Sections 18660.41(b) through (f), above, is the individual responsibility of each manufacturer. A manufacturer may comply with the reporting requirements in subsections (b) and (c), above, by submitting a collective report for the subsections containing sales and materials information, if the following conditions are met:
  - (1) A collective report must contain all of the information required in Sections 18660.41(b) and (c), above, but may combine the information for those manufacturers submitting information for the collective report;
  - (2) The collective report shall contain a list of all manufacturers whose reports are included in the collective report. This list shall include the name of the manufacturer and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer;
  - (3) Each manufacturer shall provide a certification under penalty of perjury that the information provided for the collective report is true and correct; and
  - (4) Notwithstanding Section 18660.41(j)(1) through (3), above, CalRecycle may request, on a case-by-case basis, a manufacturer to submit an individual report with the information required in Sections 18660.41(b) and (c), above, and all supporting documentation of the information contained in the report. In response to CalRecycle's request, the manufacturer shall submit an individual report and supporting documentation within ten days of receiving CalRecycle's request.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Section 42465.2, Public Resources Code.

## **Article 6. Administrative Civil Penalties**

### **§ 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

(a) Administrative civil penalties authorized by Public Resources Code Section 42474(d) shall be assessed in accordance with the procedures set forth in this Section.

(b) The penalties shall be assessed as follows:

(1) A “Minor” violation means first-time violations where the gravity of the violation is severe. The penalties for this type of violation ~~would~~ shall be no less than five hundred dollars (\$500) and no more than four thousand dollars (\$4,000).

(2) A “Moderate” violation means subsequent or multiple violations occurring at one time. The penalties for this type of violation ~~would~~ shall be no less than four thousand dollars (\$4,000) and no more than fifteen thousand dollars (\$15,000).

(3) A “Major” violation means violations that indicate a pattern and practice of noncompliance, or intentional violations. The penalties for this type of violation ~~would~~ shall be no less than fifteen thousand dollars (\$15,000) and no more than twenty-five thousand dollars (\$25,000).

(c) CalRecycle ~~may~~ shall consider any or all of the following when imposing an administrative civil penalty:

(1) The nature, circumstances, extent, ~~and/or~~ and gravity of the violation;

(2) The value of the actual or potential economic benefit to the violator associated with the violation;

(3) The amount of actual or potential harm to CalRecycle, ~~financial or otherwise~~;

(4) Any prior history of noncompliance with this Chapter, including but not limited to any prior violations of a similar nature;

(5) Truthful and forthright cooperation during any relevant investigation, including but not limited to any measures taken by the violator to remedy the current violation or prevent future violations;

(6) The violator’s ability to pay the proposed penalty;

(7) The deterrent effect that the imposition of the proposed penalty would have on the community as a whole and the violator; and

(8) Any other matters that justice may require.

(d) In any case in which it is determined that more than one person or entity is responsible and liable for a violation, each such person may be held jointly and severally liable for an administrative civil penalty.

(e) Prior to the issuance of an accusation, CalRecycle may issue a ~~a-prior~~ written notice of violation (NOV). ~~alleging with specificity~~. A NOV shall not be issued in the event of a violation that indicates a pattern and practice of noncompliance, or an intentional violation.

(1) The NOV shall allege with specificity the following:

(A~~1~~) A description of the violation or violations;

(B~~2~~) The ~~proposed~~ potential penalty amount, ~~if any~~; ~~(b)~~

(C~~3~~) The facts considered in determining the type of violation and potential penalty amount;

(D~~4~~) ~~A list of~~ The corrective action(s) to be taken by the violator; and

(E~~5~~) An acknowledgement of receipt and review to be executed by the violator.

(2) The NOV and all accompanying documents ~~may~~ shall be served by certified mail or personal service.

(f) CalRecycle shall issue an accusation, as defined in Government Code Section 11503, seeking an administrative penalty or penalties pursuant to this Section. The accusation and all accompanying documents ~~may~~ shall be served by personal service or registered mail.

(g) Within fifteen (15) days after service upon the respondent of the accusation seeking any administrative civil penalty, respondent may request a hearing by filing a Notice of Defense pursuant to Government Code Sections 11505 and 11506. The request for hearing may be made by delivering or mailing the Notice of Defense to

CalRecycle. Failure to file a Notice of Defense within fifteen (15) days of service of the accusation shall constitute a waiver of the respondent's right to a hearing and CalRecycle may proceed upon the accusation without a hearing.

(h) CalRecycle shall provide a hearing before the director or his or her designee, who shall act as hearing officer. At any time during the proceeding, before a decision is issued, CalRecycle and the respondent(s) may engage in settlement of the matter.

(i) The hearing officer shall consider the ~~notice of violation~~ NOV (if applicable), the accusation, the Notice of Defense, and all other relevant evidence presented by CalRecycle and the respondent. The hearing officer shall specify relevant procedures to be conducted during the proceeding, which include but are not limited to, informing the parties as to whether the hearing officer will consider witness testimony, and whether there shall be written and/or oral arguments. The hearing officer shall issue a written decision stating the factual and legal basis for the decision within thirty (30) days of the hearing. If the hearing officer determines that any penalties are owed, the hearing officer shall include in the written decision the date payment of the assessed penalties shall be due and paid.

(j) The respondent's failure to comply with the hearing officer's written decision may be grounds for suspension or revocation of their status as an approved collector and/or approved recycler.

(k) Except as otherwise specified herein, the hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. The hearing shall take place in Sacramento, California unless a location is otherwise specified by the hearing officer. If respondent wishes to request an alternate location, the respondent must make that request in the Notice of Defense and provide a justification of undue burden.

(l) Penalties assessed in a hearing officer's decision may be in addition to any adjustments made pursuant to Section 18660.30 and may be offset by CalRecycle against any other amounts that are otherwise due to the respondent(s) for payment claims. In the event of settlement, the parties may agree to offset provisions in the settlement agreement.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

(a) The administrative procedure set forth in Section 18660.44(c)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(a).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.**

(a) The administrative procedure set forth in Section 18660.44(b)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(c).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Proposed Electronic Waste Regulations—Title 14 CCR Division 7 Chapter 8.2 Section 18660.5 et seq.  
Administration of the Electronic Waste Recycling Act of 2003; Public Resources Code 42460 et seq.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

## **ADDENDUM TO THE INITIAL STATEMENT OF REASONS**

**June 19, 2018**

### **Article 1. General Provisions and Definitions**

#### **Section 18660.5 Definitions.**

A supplemental revision was made to the originally noticed text. Subsection (30): the definition of “Processing Log” was further edited to remove “documenting” and “etc.” Documenting is already covered by the beginning of the definition, which states that an approved recycler records CEW activities and does not fall within CEW cancellation activities described in Section 18660.21(b). “Etc.” is not necessary given that CEW cancellation activities are identified in Section 18660.21(b). In addition, “and” was added to specify that the two cancellation activities are weighing and dismantling. These revisions are necessary to reflect activities associated with CEW cancellation.

A supplemental revision was made to the originally noticed text. Subsection (32): the definition of “Proof of Approval” was further edited and amended to clarify what the Proof of Approval is and the role of the unique identification number. The Proof of Approval indicates the status of an approved collector or approved recycler. When approved, a collector or recycler has an active status and the proof of approval status will appear in the list of active approved collectors or recyclers on the CalRecycle website at <http://www.calrecycle.ca.gov/Electronics/Reports/>. CalRecycle issues a unique identification number to each approved participant. The identification number is a necessary tool that enables CalRecycle to identify each participant. In addition, the last sentence was amended to specify that participants are approved pursuant to this Chapter.

Subsection (41): the definition of “Source documentation” was edited to use “or” instead of “and.” “Or” is necessary to reflect that source documentation is intended to demonstrate either the originating generator or the intermediary handler of collected CEW. Not all CEW collection involves intermediary handlers, hence it is not necessary to demonstrate this if not applicable. No supplemental revisions were made to the originally noticed text.

A supplemental revision was made to the originally noticed text. Subsection (42): the definition of “Standard Statewide Recovery Payment Rate” was edited to correct an existing capitalization error. This is necessary to align with surrounding text.

Subsection (45): the definition of “Transfer documentation” was edited to use “or” instead of “and.” “Or” is necessary to reflect that transfer documentation means either records or receipts that document the transfer of CEWs. It is not necessary to have both records and receipts provided any of these documents include the information specified such as weight, number, source, and date of transfer. No supplemental revisions were made to the originally noticed text.

## **Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

### **Section 18660.6. Applicability and Limitations.**

A supplemental revision was made to the originally noticed text. Subsection (h)(4) was further edited to replace “is compliant” with “complies.” This is necessary to provide better clarity and correct the sentence grammatically.

Supplemental revisions were made to the originally noticed text. Subsection (h)(5) was further edited so that CalRecycle may require approved recyclers to produce documents to demonstrate compliance or conformance with all laws associated with treatment residual shipment, initial destination, or ultimate disposition. It is necessary for CalRecycle to have the authority to demand demonstration of compliance in those instances when it must determine if an approved recycler has operated in compliance and the determination cannot be made based on the documentation initially provided. For example, a recycler shipped treatment residual Cathode Ray Tubes (CRTs) to an intermediary facility and provided shipping records, a receipt issued by the facility, and a description of the ultimate disposition as part of the payment claim documentation. Subsequently, CalRecycle must determine if residuals CRTs were managed compliantly downstream. To be able to make this determination, CalRecycle needs to request additional documentation demonstrating that the residual CRTs had reached its ultimate disposition. The revision is also necessary to clarify what type of documentation CalRecycle has the authority to demand. Approved recyclers must produce documentation intended to demonstrate compliant management of treatment residuals that is required to be maintained pursuant to Chapter 8.2 of Title 14 of the California Code of Regulations.

Subsection (j) was added in the emergency regulations (OAL No. 2015-0182-01E and OAL No. 2017-0724-01EE) as a place to move a portion of the original subsection (h) pertaining to the export of CEW. The original Subsection (h) outlined two different limitations: the first limitation was outlined in (h)(1) and was associated with export of CEW material and the second limitation was outlined in (h)(2) and was associated with treatment residuals disposition. The emergency regulations amended Subsection (h) to place new limitations and allowances to the management of treatment residuals, outlined in Subsections (h)(1)-(5). Given the addition of new requirements pertaining to management of treatment residuals in Subsection (h), it was necessary for clarity purposes to consolidate the requirements pertaining to the export of CEW material in a new dedicated subsection (Subsection (j)). The original subsection (h)(1) outlined two different limitations relative to export of CEW in one place. The new subsection (j) restructured these two different limitations in two subparts: (j)(1) and (j)(2). Subpart (j)(1) describes limitations relative to out of state recyclers. Subpart (j)(2) describes limitations relative to unapproved recyclers. This restructuring is necessary to reflect the two distinct limitations relating to the export of CEW material.

Subpart (j)(1) was edited to capitalize “State.” This is necessary to align with surrounding text. No supplemental revisions were made to the originally noticed text in Subpart (j)(2).

### **Section 18660.7. Document Submittals.**

Subsection (a) was edited to use “or” instead of “and.” “Or” is necessary to clarify that a collector, recycler, or a manufacturer is not required to submit all the documents listed. For example, collectors and recyclers are not required to submit registrations, and manufacturers are not required to submit applications, hence not all the listed documents are necessary to be provided by all participants. No supplemental revisions were made to the originally noticed text.

Supplemental revisions were made to the originally noticed text. Subsection (b) was further edited to reflect that more than one person may have authority to sign on behalf of an approved collector or approved recycler. The application requires signatures by all persons with signatory authority. This is necessary to identify all persons with specified signatory authorities because more than one person may be designated with signatory authority. Any subsequently submitted reports and claims do not require signatures by all persons with signatory authority. Any person designated with signatory authority can sign claims and reports.

A supplemental revision was made to the originally noticed text. Subsection (f) was further edited to outline the scope of liability associated with the use of documentation that contains false statements or representations. Pursuant to PRC 42474(d), civil penalties can be imposed against any person that makes a false statement or representation. Approved participants in the CEW program are liable for making false statements or representations. Apart from approved participants in the CEW program, other persons such as handlers interface with the CEW program by delivering materials management services and providing documentation to approved participants. PRC 42463 (n) defines “person” as “an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association...” Therefore, the definition of “person” includes a specific reference to individuals. The specific incorporation of these other persons in the regulations is necessary to clarify that penalties could be imposed against any person, including but not limited to a handler, that makes false statements or representations in any document filed, submitted, maintained, or used for purposes of compliance with this Chapter. The inclusion of handlers consists with the statutory authority granted pursuant to 42474(d) given that person is defined in PRC 42463 (n) and that other persons besides approved participants maintain or submit documentation used for purposes of compliance with this Chapter.

### **Section 18660.8. Records.**

Supplemental revisions were made to the originally noticed text. Subsection (a) was further edited by deleting the existing “and” between “name” and “the unique” and replacing it with a comma. In addition, the text incorporated “and” between “approval” and “the complete.” This is necessary to correct the structure of the sentence and provide better clarity to the text of the regulations.

Subsection (h) was edited to use “or” instead of “and.” “Or” is necessary to reflect that CalRecycle can either revoke approval or deny payments. If records do not meet conditions specified in this Section, it is not necessary for CalRecycle to take both actions. No supplemental revisions were made to the originally noticed text.

#### **18660.9. Audits.**

Subsection (b)(1) was edited to use “or” instead of “and.” “Or” is necessary to reflect that CalRecycle may review or investigate any documents that participants are required to maintain. Section 18660.8(b) requires participants to keep all bookkeeping records that are ordinarily maintained by a prudent business along with all bills, receipts, invoices, manifests, cash register tapes, or other documents of original entry supporting the entries in the books of account. It is not necessary for CalRecycle to review or investigate all documents specified as part of an audit. No supplemental revisions were made to the originally noticed text.

A supplemental revision was made to the originally noticed text. Subsection (c) was further edited by replacing “or” with “and.” “And” is necessary to reflect that an approved participant or a registered manufacturer is required to provide CalRecycle access to both location and all records stored at that location. This ensures that required records are accessible to staff for review and is necessary to maintain the integrity of the CEW program.

#### **Section 18660.10. Net Cost Report.**

Subsection (d) was edited to use “or” instead of “and.” “Or” is necessary to clarify that an approved collector or recycler must submit a report on the net cost of recovery or recycling, which depends on the type of activity conducted. For example, an approved collector must submit only a report on the net cost of recovery. No supplemental revisions were made to the originally noticed text.

Subsection (d)(1) was edited to use “or” instead of “and.” “Or” is necessary to reflect that an approved collector or approved recycler is required to submit a net cost report of either CEW recovery or CEW recycling. This requirement depends on the type of activity conducted by the approved participant. For example, an approved collector is required to submit only a report on the net cost of CEW recovery (collection). No supplemental revisions were made to the originally noticed text.

A supplemental revision was made to the originally noticed text. Subsection (d)(9)(F) was further edited to revise “and or” to “or.” This is necessary to correct an existing grammar error. Landfill drop off and load check are two different collection methods that can occur at a landfill. Hence, “or” is more appropriate to use here than “and” as any of the two collection methods could be used to obtain CEW from a landfill.

Subsection (f) was edited to use “or” instead of “and.” “Or” is necessary to reflect that CalRecycle can either revoke approval or deny payments. If an approved collector or recycler fails to submit a net cost report, it is not necessary for CalRecycle to take both actions. No supplemental revisions were made to the originally noticed text.

Subsection (h) was edited to use “or” instead of “and.” “Or” is necessary to reflect that there are two different types of payment rates and that CalRecycle can adjust any rate or both rates if warranted. No supplemental revisions were made to the originally noticed text.

#### **Section 18660.12. Additional Application Requirements for Collectors.**

Subsection (a)(1) was edited to use “or” instead of “and.” “Or” is necessary to reflect that the collector is required to include the name under which it notified DTSC as a CRT handler or a universal waste

handler, which is necessary depending on the types of materials handled. No supplemental revisions were made to the originally noticed text.

Subsection (a)(2)(A) was edited to use “or” instead of “and.” “Or” is necessary to reflect that the collector may recover CEW from any of the listed types of California sources. No supplemental revisions were made to the originally noticed text.

#### **Section 18660.13. Additional Application Requirements for Recyclers.**

Supplemental revisions were made to the originally noticed text. Subsection (a)(3)(A) was further amended to specify the Chapters within Divisions 4.5. of Title 22 of the California Code of Regulations that outline minimum standard requirements for managing hazardous and universal waste. Pursuant to PRC 42476(f)(2), CalRecycle can only make recycling payments if the CEW, including any derived treatment residuals, is handled in compliance with all applicable statutes and regulations. The requirements pertaining to the physical management of hazardous and universal waste are set forth in Division 4.5 within multiple interrelated chapters so this revision is necessary to identify the relevant references and provide better clarity as to which legal requirements are applicable to program participants.

#### **Section 18660.15. CalRecycle Review of Applications.**

Subsection (c)(1) was edited to use “or” instead of “and.” “Or” is necessary to reflect the type of approval granted by CalRecycle to the applicant, which depends on the type of activity conducted. No supplemental revisions were made to the originally noticed text.

#### **Section 18660.16. Approval Term and Applications for Renewal.**

A supplemental revision was made to the originally noticed text. Subsection (d)(3) was further edited to strikeout the period after “CalRecycle” at the end of the sentence. This deletion is necessary to fix a typo in the proposed regulations because a period had already been included in the proposed text.

#### **Section 18660.17. Prohibited Activities.**

A supplemental revision was made to the originally noticed text. Subsection (a)(12) was further amended to insert a comma between “maintain” and “~~and/or~~.” This is necessary for punctuation purposes. “Or” is necessary instead of “and” in order to reflect that failure to do any of the listed activities constitutes a prohibited activity.

Subsection (b)(3) was further edited to strikeout the period after “CalRecycle” at the end of the sentence. This is necessary to fix a typo in the proposed regulations because a period had already been included in the proposed text.

Subsection (d)(2) was edited to use “or” instead of “and.” “Or” is necessary to reflect that a collector or recycler will be ineligible for recovery or recycling payments, which depends on the type of activity conducted by the approved participant. No supplemental revisions were made to the originally noticed text.

### **Section 18660.18. Changes to Information Contained in an Approved Application.**

Subsection (a) was edited to streamline the requirements and methods by which an approved participant shall update information contained in an application to allow for edits to the information without the submission of an application to reapply and the subsequent approval process. The notice requirement has been shortened to 30 days as this is considered a reasonable time to inform CalRecycle of changes to information contained in an application since the review and approval process for the application, which can take up to 90 days, was eliminated. In addition, approved participants are also regulated by the Department of Toxic Substances Control who uses 30 days as the timeframe for their notifications. No supplemental revisions were made to the originally noticed text in Subsection (a).

Subsection (b) was further edited to insert a comma between “occurs” and “an.” This is necessary for punctuation purposes.

### **Section 18660.20. Requirements for an Approved Collector.**

Subsection (c)(2) was edited to use “or” instead of “and.” “Or” is necessary to clarify that as part of making reasonable efforts, a collector may conduct either spot checks or surveys. An approved collector is not required to conduct both spot checks and surveys. No supplemental revisions were made to the originally noticed text.

Subsection (c)(3) was edited to use “or” instead of “and.” “Or” is necessary to clarify that as part of making reasonable efforts, a collector may check any of the listed documents to demonstrate California origin. An approved collector is not required to verify all the documents. No supplemental revisions were made to the originally noticed text.

Subsection (h)(3) was edited to use “or” instead of “and.” “Or” is necessary to reflect that an approved collector is required to provide written description of any of the activities specified in this Subsection that explains discrepancy between the CEWs collected and those transferred. No supplemental revisions were made to the originally noticed text.

### **Section 18660.21. Requirements for an Approved Recycler.**

Subsection (b)(5)(B) was edited and the term “end-use” was deleted and replaced by the term “initial”. This is necessary to better reflect the downstream movement of treatment residuals derived from the dismantling and processing of CEW material. No supplemental revisions were made to the originally noticed text.

Subsection (k)(3) was edited to use “and” instead of “or.” “And” is necessary to reflect that both the CEW material and derived treatment residuals must be weighed on a scale or other device approved, tested, and sealed in accordance with the Business and Professions Code. The precise weight of treatment residuals is necessary to ensure that the CEW material claimed for payment was processed compliantly. No supplemental revisions were made to the originally noticed text.

A supplemental revision was made to the originally noticed text. Subsection (l)(2) was further edited to replace “or” with “and.” “And” is necessary to clarify that an approved recycler is required to maintain both records relative to recovery payments made to approved collectors as well as records relative to recovery payments owed to approved collectors. The obligation for an approved recycler to maintain all

records relative to payments made or due to collectors enables CalRecycle to verify the net cost associated with recycling CEW material and is necessary to maintain the integrity of the CEW program.

A supplemental revision was made to the originally noticed text. Subsection (l)(4) was further edited to replace “be capable of demonstrating” with “demonstrate.” This is necessary to improve the structure of the sentence and provide better clarity to the text of the regulations.

Subsection (l)(4)(E) was added in the emergency regulations (OAL No. 2015-0182-01E and OAL No. 2017-0724-01EE) to require the identification and description of the ultimate disposition of the treatment residuals. This is necessary for CalRecycle to evaluate and verify if derived treatment residuals were managed and disposed of compliantly. The text was further amended to specify that the requirement covers the initial destination, if applicable. This is necessary to better reflect the downstream movement of treatment residuals derived from the dismantling and processing of CEW material. Treatment residuals can flow to an initial destination, which is an intermediary location, or to an ultimate disposition, where materials are consumed or disposed of. No supplemental revisions were made to the originally noticed text.

### **Article 2.3. Electronic Waste Payment System – Recycling Payment Claims**

#### **Section 18660.22. General Requirements for Recycling Payment Claims.**

A supplemental revision was made to the originally noticed text. Subsection (c)(2) was further edited to delete “scale” from “scale weight.” This is necessary to maintain consistency with surrounding regulations.

Subsection (c)(2) Subparts (A) and (B) were further amended to specify that the records relating to the quantity and ultimate disposition of bare plasma panels and lamps must be maintained pursuant to the requirements in Section 18660.8. This is necessary to provide better clarity as to what expectations CalRecycle has with respect to the maintenance of records by program participants.

Subsection (d)(3) was edited to use “or” instead of “and.” “Or” is necessary to reflect that an approved recycler is required to provide a description of any listed activities. No supplemental revisions were made to the originally noticed text.

Subsection (g) was edited to use “or” instead of “and.” “Or” is necessary to reflect that the additional requirements a claim must comply with are included in Section 18660.24 or 18660.25, which depends on the type of CEW material processed and claimed. No supplemental revisions were made to the originally noticed text.

#### **Section 18660.23. RESERVED Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Crushing or Shredding.**

A supplemental revision was made to the originally noticed text. This edit is necessary to remove text that was unnecessarily included in a section that has been deleted in its entirety.

**Section 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum.**

Subsection (g)(1) was edited and the terms “end-use” were deleted and replaced by the terms “initial”. This is necessary to better reflect the downstream movement of treatment residuals derived from the dismantling and processing of CEW material. No supplemental revisions were made to the originally noticed text.

Subparts (4)(A) and (4)(B) were edited and the terms “end-use” were deleted and replaced by the terms “initial”. This is necessary to better reflect the downstream movement of treatment residuals derived from the dismantling and processing of CEW material. No supplemental revisions were made to the originally noticed text.

A supplemental revision was made to the originally noticed text. Subsection (g)(4)(B) was further edited to delete “etc.” at the end of the sentence and amended to add “or.” In order to demonstrate post cancellation disposition, approved recyclers must attach specified documentation. For shipments other than by sea, the shipping records required to be included in a payment claim are either bill of lading or manifest, which depends whether the material shipped is universal waste or hazardous waste. The revisions make it clear that the only documents required for a proof of transfer are a receipt issued by the person receiving the shipment as well as any applicable bill of lading or manifest.

Subsection (g)(4)(C)(1) was further edited to revise “compliant” to “compliance with” and amended to specify the handling and shipment requirements. These revisions clarify what type of documentation approved recyclers are required to include in a payment claim and are necessary to enable CalRecycle to determine if residual CRTs or CRT glass were handled and shipped in compliance with existing requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

Subsection (g)(4)(C)(2) was further edited to revise “legality of shipped material status” to “compliance with material handling and shipment requirements.” The revision clarifies that the purpose of requesting additional documentation is to assist CalRecycle with its determination of compliance with existing material handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations. It is necessary for CalRecycle to have the authority to demand demonstration of compliance in those instances when it must determine if an approved recycler has operated in compliance and the determination cannot be made based on the documentation initially provided. For example, a recycler shipped treatment residual CRTs to an intermediary facility and provided shipping records, a receipt issued by the facility, and a description of the ultimate disposition as part of the payment claim documentation. Subsequently, CalRecycle must determine if residuals CRTs were managed compliantly downstream. To be able to make this determination, CalRecycle needs to request additional documentation demonstrating that the residual CRTs had reached its ultimate disposition.

**Section 18660.25. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of Non-CRT-Containing CEWs.**

A supplemental revision was made to the originally noticed text. Subsection (e)(1) was further amended to specify how the records relating to the quantity and ultimate disposition of bare plasma panels and

lamps must be maintained. Section 18660.8 was specifically referenced as it outlines requirements pertaining to recordkeeping that each approved participant must comply with. The revision is necessary to provide better clarity and instruction to program participants.

Subsection (e)(4) was further edited to delete “scale” from “scale weight.” This is necessary to maintain consistency with surrounding regulations. Subsection (e)(4) was further edited to clarify that a recycler is required to record and report the manufacturer name and model number for each non-CRT device claimed. This is necessary to ensure the ability to verify that all claimed devices have been cancelled. An identical edit and amendment was made in Section 18660.22(c)(2) in the originally noticed text.

Subsection (g)(1) was edited and the terms “end-use” were deleted and replaced by the terms “initial”. This is necessary to better reflect the downstream movement of treatment residuals derived from the dismantling and processing of CEW material. No supplemental revisions were made to the originally noticed text.

Subparts (4)(A) and (4)(B) were edited and the terms “end-use” were deleted and replaced by the terms “initial”. This is necessary to better reflect the downstream movement of treatment residuals derived from the dismantling and processing of CEW. No supplemental revisions were made to the originally noticed text.

Subsection (g)(4)(C)(1) was further edited to revise “compliant” to “compliance with” and amended to specify handling and shipments requirements. These revisions clarify what type of documentation approved recyclers are required to include in a payment claim and are necessary to enable CalRecycle to determine if residual plasma panels or lamps were handled and shipped in compliance with existing requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations. In addition, these revisions conform with the supplemental revisions made in 18660.24(g)(4)(C)(1).

Subsection (g)(4)(C)(2) was further edited to revise “legality of shipped material status” to “compliance with material handling and shipment requirements.” The revision clarifies that the purpose of requesting additional documentation is to assist CalRecycle with its determination of compliance with existing material handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations. It is necessary for CalRecycle to have the authority to demand demonstration of compliance in those instances when it must determine if an approved recycler has operated in compliance and the determination cannot be made based on the documentation initially provided. In addition, this revision conforms with the supplemental revision made in 18660.24(g)(4)(C)(2).

### **Section 18660.30. CalRecycle Review of Recycling Payment Claims.**

Subsection (b)(1)(B) was edited to use “or” instead of “and.” “Or” is necessary to clarify that CalRecycle may deny or adjust payment if a recycler did not have approval for the reporting period or the cancellation period, which depends on the type of CEW material processed and claimed. For example, if claiming CRT CEW, the reporting period (the month the CRT/glass was shipped off-site) might be different from the cancellation period (the month the CEWs were cancelled) so it is necessary to reflect this distinction. No supplemental revisions were made to the originally noticed text.

### **Section 18660.31. Appeal of Denied or Adjusted Recycling Payment Claims.**

A supplemental revision was made to the originally noticed text. Subsection (a) was further edited to remove the portion of the sentence specifying that recyclers must ensure the appeal is received by CalRecycle. This language is not necessary given that CalRecycle does not specify a particular delivery method.

## **Article 2.4. Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

### **Section 18660.32. Cancellation Methods.**

Subsection (d) was edited to shorten the deadline for CalRecycle to review a proposal for alternative cancellation methods. Technology is changing rapidly affecting the way covered electronic devices are managed once they reach their end of life. The evolving e-waste stream requires industry to change its operational practices to optimize processing methods and maximize material value. This modification is necessary to ensure that proposed alternative cancellation methods are reviewed in a more timely fashion to account for new industry operational practices and allow those operational practices to be eligible for recycling payments. As stated in Subsection (f), approved recyclers cannot claim payment for CEW cancelled using an alternative method unless this alternative method was approved by CalRecycle. The review process was shortened to 90 days as this was considered a reasonable deadline that allows CalRecycle sufficient time to evaluate the proposed alternative method and make a decision. In addition, CalRecycle has an identical deadline for reviewing payment claims. Pursuant to PRC 42479(a)(1), CalRecycle may examine a payment claim for a period of not more than 90 days from the date of receipt of the payment claim to validate the claim's completeness, accuracy, truthfulness, and compliance with applicable laws and regulations. No supplemental revisions were made to the originally noticed text.

### **Section 18660.35. Manufacturer Registration.**

Subsection (b)(6)(C) was edited to use "or" instead of "and." "Or" is necessary to clarify that the required contact is authorized to sign either payment-related documentation or correspondence. This is necessary to reflect the different types of documentation. No supplemental revisions were made to the originally noticed text.

Subsection (b)(7)(C) was edited to use "or" instead of "and." "Or" is necessary to clarify that the additional required contact is authorized to sign either payment-related documentation or correspondence. This is necessary to reflect the different types of documentation required by CalRecycle. No supplemental revisions were made to the originally noticed text.

Subsection (c)(1) was edited to use "or" instead of "and." "Or" is necessary to reflect that the manufacturer may recover CEW from any of the listed types California sources. No supplemental revisions were made to the originally noticed text.

### **Section 18660.36. Requirements for a Registered Manufacturer.**

Subsection (h) was edited to use “and” instead of “or.” “And” is necessary to clarify that both the CEW material and derived treatment residuals must be weighed on a scale or other device approved, tested, and sealed in accordance with the Business and Professions Code. The precise weight of treatment residuals is necessary to ensure that the CEW material claimed for payment had been processed. No supplemental revisions were made to the originally noticed text.

### **Section 18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims.**

Supplemental revisions were made to the originally noticed text. Subsection (a) was further edited to remove the portion of the sentence specifying that recyclers must ensure the appeal is received by CalRecycle. This language is not necessary given that CalRecycle does not specify a particular delivery method. In addition, “may” was revised to “shall” for consistency with Section 18660.31(a).

### **Section 18660.41. Reporting Requirements.**

Subsection (f) was edited to use “and” instead of “or.” “And” is necessary to clarify that the email address of the retailer to which the notice was made is required to be included as part of the contact information. The email address is necessary to allow CalRecycle to communicate with the retailer. No supplemental revisions were made to the originally noticed text.

## **Article 6. Administrative Civil Penalties**

### **Section 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

OAL approved Section 18660.44 as an emergency rulemaking package (OAL No. 2015-0925-02) and issued a Notice of Approval for re-adoption in 2017 (OAL No. 2017-0817-01EE).

A supplemental revision was made to the originally noticed text. Subsection (b)(1) was further edited to revise “would be” to “shall be.” This is necessary to clarify this is a mandatory requirement. The proposed revision provides additional specificity to the text to ensure that it is clear what the range of penalties will be for a “Minor” violation. CalRecycle shall determine the exact penalty amount for a “Minor” violation by considering any or all factors listed in Subsection (c).

A supplemental revision was made to the originally noticed text. Subsection (b)(2) was further edited to revise “would be” to “shall be.” This is necessary to clarify this is a mandatory requirement. The proposed revision provides additional specificity to the text to ensure that it is clear what the range of penalties will be for a “Moderate” violation. CalRecycle shall determine the exact penalty amount for a “Moderate” violation by considering any or all factors listed in Subsection (c).

A supplemental revision was made to the originally noticed text. Subsection (b)(3) was further edited to revise “would be” to “shall be.” This is necessary to clarify this is a mandatory requirement. The proposed revision provides additional specificity to the text to ensure that it is clear what the range of penalties will be for a “Major” violation. CalRecycle shall determine the exact penalty amount for a “Major” violation by considering any or all factors listed in Subsection (c).

Subsection (b) describes the types of violations and criteria to consider when imposing an administrative civil penalty, as well as the associated penalty amounts that CalRecycle shall assess. The statute set forth specific maximum penalty amount but did not describe the types of violation, penalty ranges and how the penalty will be calculated. Subsection (b) is necessary because it informs the public how CalRecycle will assess penalties and what elements shall be taken into consideration.

CalRecycle approached the development of the civil liability rules in two stages: 1) research and evaluation of other similar programs that impose administrative civil penalties to understand how they are authorized, structured, and administered; and 2) drafting and revising the proposed regulations based on feedback from staff and public comments. In determining the types of violations and penalty ranges, CalRecycle staff analyzed various statutes and regulations administered by other programs and agencies such as CalRecycle's Beverage Container, Tire, and Solid Waste Facility Permitting programs, as well as State Water Resources Control Board programs and DTSC programs. The main challenge was to accommodate the various concepts researched to the needs and specificities of the CEW program and its participants and affiliates. For example, in assessing penalties, several programs use a matrix approach, which is defined by the extent of deviation from hazardous waste management requirements and potential harm to public health and safety and the environment. Other programs use a matrix approach which multiplies the number of violations with the risk factors.

CalRecycle staff determined that a similar matrix approach would not be suited for the CEW Program given that the imposition of penalties is for making false statements or representations and not for failing to comply with the CEW rules and regulations, releasing harmful substances or abandoning waste. As such, CalRecycle staff opted to use categories with ranges of penalty amounts. The violations associated with each categories are determined based on frequency, severity, and intent. This approach enables CalRecycle to better address the type of violation and assess penalties on a case-by-case basis taking into consideration numerous factors.

The categories for defining violations are the following: minor, moderate, and major. The categories chosen are similar to categories described in various other programs and allow CalRecycle to distinguish between the types of violations.

The "Minor" category is intended to include first-time violations where the gravity of the violation is severe. The severity of violation is necessary as criteria in order to distinguish between simple clerical errors or omissions and violations that are determined to be serious and hence pose a threat to the integrity of the CEW program.

The "Moderate" category is intended to include subsequent or multiple violations. This category is necessary to address repeated violations. A supplemental revision was made to the originally noticed text to include multiple violations that occurred at one time in this category. The revision is necessary to address multiple instances of false statements or representations that are made at one time. For example, CalRecycle may receive a payment claim that includes multiple false statements or representations within the same claim so this would be considered a moderate violation.

The “Major” category is intended to include violations that indicate a pattern and practice of noncompliance or intentional violations. This category is necessary to address instances where the individual/entity has ignored warnings by CEW program and has continued to act in what amounts to a reckless disregard with respect to submitting false documentation and has done so repeatedly. The penalty amounts chosen for each category are necessary to reflect the seriousness and gravity of the different violations. These amounts are similar to penalty ranges outlined in various statutes and regulations administered by other programs.

The penalty range for a minor violation is between five hundred dollars and four thousand dollars. Given that a minor violation is severe, it is necessary to have a minimum penalty. As such, five hundred dollars was deemed an appropriate amount for the low range of penalty. Four thousand dollars was deemed an appropriate amount for the high range given that a minor violation addresses first-time instances of non-compliance.

The penalty range for a moderate violation is between four thousand dollars and fifteen thousand dollars. Given that a moderate violation addresses repeated instances of non-compliance, it is necessary for the high range to be significant enough to act as deterrent so fifteen thousand dollars was deemed an appropriate amount.

The penalty range for a major violation is between fifteen thousand dollars and twenty-five thousand dollars. Given that a major violation addresses egregious instances of non-compliance, it is necessary for the high range to correspond to the maximum penalty amount authorized by statute.

Subsection (c) describes that CalRecycle can take any or all factors into consideration when imposing an administrative civil penalty. In determining the factors, CalRecycle staff analyzed various statutes and regulations administered by other programs and agencies such as CalRecycle’s Beverage Container, Tire, and Solid Waste Facility Permitting programs, as well as State Water Resources Control Board programs and DTSC programs. CalRecycle staff chose to list similar factors intended to cover a broad range of aspects.

Subsection (c) was further edited to revise “may” to “shall.” CalRecycle’s discretion to account for different situations that may arise on a case-by-case basis is provided in the phrase “any or all of the following.” Therefore, the revision to the proposed regulations is necessary to clarify that CalRecycle is required to consider any or all factors when imposing an administrative civil penalty.

(c)(1): The nature, circumstances, extent, and gravity of the violation is intended to evaluate the nature, gravity of violation and the circumstances associated with the act of non-compliance. These factors enable CalRecycle to consider what type of false statements or representations the violator made and how often the false statements occurred. For example, it is necessary for CalRecycle to evaluate the duration of the violation and whether the false statements have been intentional to determine the impact of the violation on the integrity of the program and public funds. These factors also enable CalRecycle to consider the specific circumstances under which the violation was committed to understand the reasons for the violator’s actions. For example, it might be determined that the violator had aggravating circumstances so this allows CalRecycle to assess a higher penalty amount.

Subsection (c)(1) was further edited to revise “or” to “and” to provide clarity. The proposed revision provides additional specificity to the text to ensure that it is clear what factors CalRecycle will take into consideration. Given that these factors address and cover various different aspects, it is necessary for CalRecycle to consider all of them when making a determination.

(c)(2): Value of the actual or potential economic benefit to the violator is intended to evaluate the actual or potential gains made by the violator. This factor enables CalRecycle to estimate direct financial benefits resulting from non-compliance, as well as indirect benefits such as impact on business model or business practices. For example, CalRecycle would estimate the amount over-claimed by a recycler for conducting non-compliant activities involving false statements or representations. CalRecycle would also evaluate if the use of incorrect source documentation enabled a handler to expand its collection network and business operations.

(c)(3): The amount of actual or potential harm to CalRecycle is intended to evaluate the harm incurred by CalRecycle. For example, this factor enables CalRecycle to estimate the amount of payments made from the public fund that should not have been paid to the violator. This is necessary to determine the financial impact on the public fund. This factor also enables CalRecycle to estimate the amount of time and effort spent by staff to investigate these matters. This is necessary to determine additional impacts on the CEW program. This factor allows CalRecycle to determine a penalty that is proportional to the impact of the violation on the integrity of the program as a whole.

Subsection (c)(3) was further edited to delete “financial or otherwise.” The proposed revision provides clarity as the text did not specify what “otherwise” is intended to cover or what is meant by it. As explained in the previous paragraph, the amount of actual or potential harm to CalRecycle evaluates both financial impacts as well as non-financial impacts on the CEW program.

(c)(4): Prior history of noncompliance is intended to evaluate the violator’s record in the CEW program. This factor enables CalRecycle to look at duration of participation in the program, previous non-compliance (if any), and types of prior violations. For example, if the violator has a track record of non-compliance, it is important for CalRecycle to be able to assess a higher penalty.

(c)(5): Truthful and forthright cooperation during relevant investigations, including measures taken by the violator to remedy the current violation or prevent future violation is intended to evaluate if the violator cooperated with CalRecycle and what corrective measures the person established. This factor enables CalRecycle to determine if the violator has taken corrective actions to address the violations.

(c)(6): The violator’s ability to pay the proposed penalty is intended to evaluate the financial means of the violator. This factor enables CalRecycle to determine if the violator has funds that could be applied to a penalty payment. The factor also protects the violator by ensuring that the penalty is proportionate with its financial means.

(c)(7): The deterrent effect that the imposition of penalty would have on the community as a whole is intended to evaluate if the penalty is sufficient to promote compliance. It is necessary for CalRecycle to

have the ability to assess a penalty that is high enough to discourage non-compliant behavior and safeguard the integrity of the CEW program.

(c)(8): Any other matters that justice may require enables CalRecycle to consider any other significant aspect that is not covered by listed previous factors.

The emergency regulations propose two options to implement civil penalties: (1) notice of violation (NOV), and (2) the accusation.

Subsection (e) describes the first option to impose civil penalties: the issuance of a NOV, which may be issued prior to the issuance of an accusation. The NOV is intended as a warning mechanism that provides an opportunity for violators to take corrective actions. CalRecycle has the discretion to refrain from issuing an accusation, especially in instances where the violation is addressed and there are no other subsequent violations. The accusation can be filed following the issuance of a NOV or may be filed directly without prior warning if warranted by circumstances. The discretion to file an accusation directly without prior issuing a NOV is necessary for CalRecycle to address those instances where the violations indicate a pattern and practice of non-compliance, or the violations are intentional. In such circumstances, it is important for CalRecycle to have the ability to take immediate action to protect the integrity of public funds. For example, if CalRecycle discovers that an approved participant submitted numerous payment claims using incorrect or falsified weights and claimed a substantial amount of money from public funds, it is necessary to have the ability to seek penalties right away.

Subsection (e)(2) was further edited and amended to specify an additional service requirement and clarify that the NOV and accompanying documents can be served only by certified mail or personal service. The proposed revision provides additional specificity to the text to ensure that it is clear what the service requirements are. The certified mail option is necessary for CalRecycle to record that the NOV was mailed to the violator. It is also necessary to provide CalRecycle with a mailing receipt and verification that the NOV was delivered or that a delivery attempt was made that can hold as evidence in a case. The personal service option is necessary to allow CalRecycle or law enforcement to hand in the NOV directly to the person named, in particular instances such as when the certified mail was returned. The personal service enables to track down violators and provide proof of service that can hold as evidence in a case.

A supplemental revision was made to the originally noticed text. Subsection (f) was further edited and amended to clarify that the accusation and enclosed documents can be served only by personal service or registered mail. The proposed revision provides additional specificity to the text to ensure that it is clear what the service requirements are. The personal service option is necessary to allow CalRecycle or law enforcement to hand in the Accusation directly to the person named, in particular instances such as when the registered mail was returned. The personal service enables to track down violators and provide proof of service that can hold as evidence in a case. The registered mail option is necessary for CalRecycle to record that the accusation was mailed to the violator and track the status from the time it is mailed to the time it is received. This option provides the mail end-to-end security in locked containers, which is necessary given that an accusation contains important information. The registered

mail option is also necessary to provide CalRecycle with a mailing receipt and verification that the accusation was delivered or that a delivery attempt was made that can hold as evidence in a case. A supplemental revision was made to the originally noticed text. Subsection (i) was further edited to revise “notice of violation” to “NOV”. This is necessary as the abbreviation for notice of violation was already established in subsection (e).

Subsection (i) was edited to use “or” instead of “and.” “Or” is necessary to clarify that the hearing officer shall consider whether there will be written or oral arguments. It is necessary to allow the hearing officer the discretion to determine the hearing procedures, including what type of arguments shall be considered. No supplemental revisions were made to the originally noticed text.

Subsection (j) was edited to use “or” instead of “and.” “Or” is necessary to reflect that approved participants that fail to comply with the hearing officer’s decision may be suspended or revoked of their status as an approved collector or recycler, which depends on the type of activity conducted. No supplemental revisions were made to the originally noticed text.

#### **TECHNICAL STUDIES, REPORTS OR DOCUMENTS**

CalRecycle relied upon the following information sources to edit and amend the regulations:

1. CalRecycle developed the proposed regulations based on over a decade of experience administering the existing CEW program.
2. CalRecycle held over 36 workshops apart from formal departmental considerations, determinations, or actions since the inception of the CEW program to obtain stakeholder input. The purpose of these stakeholder workshops was to inform program participants as well as obtain information from stakeholders and members of the public.
3. CalRecycle developed, presented, and received feedback on the proposed regulations through oral comments received from stakeholders at workshops held in:
  - a. **December 2013 Stakeholder Workshop**, which can be found under “Stakeholder Input”:  
Presentation by Jeff Hunts “Residual CRT Glass Management and the CEW Recycling Program”  
<http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>
  - b. **May 2015 Stakeholder Workshop**, which can be found under “Stakeholder Input”:  
Presentation by Jeff Hunts “Covered Electronic Waste Recycling Program - Reflections on a Decade and the Challenge of Residual CRT Disposition”

Presentation by Jason Smyth “CRT Disposition Oversight – How Do Other States Manage Their Glass Residuals?” <http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>

c. **July 2015 Stakeholder Workshop**, which can be found under “Stakeholder Input”:

Presentation by Ana-Maria Stoian-Chu “Covered Electronic Waste Recycling Program – Civil Liability Initiative – Overview of the Developing Civil Liability Facet to the Covered Electronic Waste Program” <http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>

d. **December 2016 Stakeholder Workshop**, which can be found under “Stakeholder Input”:

Presentation by Jeff Hunts “Covered Electronic Waste Recycling Program – Rulemaking Informal Workshop – Finalizing Emergency Rules and Modifying Other Portions of Title 14 CCR, Division 7, Chapter 8.2” Presentation by Ana-Maria Stoian-Chu “Covered Electronic Waste Recycling Program – Administrative Civil Penalties”

<http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>

4. CalRecycle developed an issue paper entitled “Overview of CRT Issues and the CEW Program” to evaluate the market status and regulatory landscape impacting the management of cathode ray tubes (CRT), which can be found under “Stakeholder Input”, subsection May 2015 Stakeholder Workshop:

<http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/>

5. CalRecycle analyzed various statutes and regulations administered by other programs and agencies to evaluate different aspects required to implement a civil liability facet to the CEW program and establish mechanism to hold persons accountable for making false statements or representations:

a. Hazardous Waste Enforcement Statutes: Health and Safety Code, Division 20, Chapter 6.5, Sections 25187-25189

b. Solid Waste Facility Permitting Enforcement Statutes: Public Resources Code, Division 30, Chapter 1, Sections 45010-45024

c. Beverage Container Enforcement Statutes: Public Resources Code, Division 12.1, Chapter 8, Sections 14590-14594

d. Tire Facility Enforcement Statutes: Public Resource Code, Division 30, Part 3, Chapter 16, Article 5. & 6, Sections 42840-42855

e. Tire Hauler Enforcement Statutes: Public Resources Code, Division 30, Chapter 19, Sections 42962-42966

f. Water Quality Control Enforcement Statutes: Water Code, Division 7, Chapter 4, Sections 13261-13328.

There were no other studies, reports or documents.

**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

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P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

**NOTICE OF PROPOSED RULEMAKING**

**Title 14:** Natural Resources  
**Division 7:** Department of Resources Recycling and Recovery  
**Chapter 8.2:** Electronic Waste Recovery and Recycling  
**Articles/Sections:** Article 1.0, § 18660.5; Article 2.0, §§ 18660.6, 18660.7, 18660.8, 18660.9, 18660.10; Article 2.1, §§ 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19; Article 2.2, §§ 18660.20, 18660.21; Article 2.3, §§ 18660.22, 18660.23, 18660.24, 18660.25, 18660.30, 18660.31; Article 2.4, §§ 18660.32, 18660.33; Article 2.5, §§ 18660.35, 18660.36, 18660.37, 18660.39; Article 3.0, § 18660.41; Article 6, §§ 18660.44, 18660.45, 18660.46

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**PROPOSED REGULATORY ACTION**

The Department of Resources Recycling and Recovery (“CalRecycle”) proposes to amend California Code of Regulations, Title 14, Division 7, Chapter 8.2 commencing with Section 18660.5. The proposed regulations address issues such as eligibility, documentation, compliance, and accountability with respect to the implementation and administration of the Covered Electronic Waste (CEW) program. CalRecycle intends to adopt the proposed regulations described herein after considering all recommendations, comments and objections regarding the proposed action.

**PUBLIC HEARING**

A public hearing to receive public comments is scheduled for 10/11/2017. The hearing will be held at the:

Joe Serna Jr., Cal EPA Building  
Coastal Hearing Room  
1001 I Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

The hearing will begin at **9:30 a.m.** on **October 11, 2017**, and **will conclude at 12:00 p.m.**, or after all testimony is given. Any person may present statements or arguments, orally or in writing, with respect to the proposed action. CalRecycle requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheelchair accessible. If you have any questions, please contact:

Andrew Hurst  
Materials Management and Local Assistance Division  
California Department of Resources Recycling and Recovery  
P.O. Box 4025  
Sacramento, CA 95812-4025  
Phone: (916) 323-2872  
FAX: (916) 319-7609  
E-mail: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit to CalRecycle written comments relevant to the proposed regulations. **The written comment period for this rulemaking closes at 5:00 p.m. on October 10, 2017. CalRecycle will consider only comments received by CalRecycle by that time.** Comments may be submitted via the contact information below. CalRecycle will also accept written comments during the public hearing described above. Please submit your written comments to:

Andrew Hurst  
Materials Management and Local Assistance Division  
California Department of Resources Recycling and Recovery  
P.O. Box 4025  
Sacramento, CA 95812-4025  
FAX: (916) 319-7609  
E-mail: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

### **AUTHORITY AND REFERENCES**

Public Resources Code Sections (PRC) 40502(a), 42475(b) provide authority for the proposed regulations. The purpose of the proposed action is to implement, interpret, and make specific laws related to the implementation and administration of the CEW program. The following is a list of references cited in the proposed regulations: PRC Sections 42461, 42463, 42464, 42465.2, 42472(b), 42474, 42475(a), 42475.2, 42476, 42476.5, 42477, 42478, and 42479, and make reference to specific statutory provisions in Government Code Sections 11400.20, 11415.10, 11445.10, 11445.20, 11503, 11505, and 11506.

The following sections are being implemented, interpreted, or made specific: Article 1.0, § 18660.5; Article 2.0, §§ 18660.6, 18660.7, 18660.8, 18660.9, 18660.10; Article 2.1, §§ 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19; Article 2.2, §§ 18660.20, 18660.21; Article 2.3, §§ 18660.22, 18660.23, 18660.24, 18660.25, 18660.30, 18660.31; Article 2.4, §§ 18660.32, 18660.33; Article 2.5, §§ 18660.35, 18660.36, 18660.37, 18660.39; Article 3.0, § 18660.41; Article 6, §§ 18660.44, 18660.45, 18660.46.

The Request for Approval was executed by the Director of CalRecycle, Scott Smithline, on 1/24/2017.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The California Integrated Waste Management Act (CIWMA), Public Resources Code (PRC) § 40000 *et seq.*, gives CalRecycle authority to provide for the protection of public health, safety, and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC § 40502(a) requires CalRecycle to adopt rules and regulations to implement the CIWMA, and PRC § 42461 provides authority to CalRecycle to adopt regulations necessary to implement the CEW recycling program. PRC § 42474 provides CalRecycle authority to impose a civil penalty facet to the program.

Existing sets of emergency regulations, aimed at managing residual material derived from processed CEW, particularly cathode ray tube (CRT) glass, and administering a civil penalty facet to the CEW recovery and recycling payment system, address the fundamental problems of overseeing an environmental program and dispensing public funds. *See* attached Office of Administrative Law Notices of Approval for File Nos. 2015-0812-01E and 2015-0925-02 (***See Attachments 1 and 2 to CalRecycle’s Initial Statement of Reasons***). CalRecycle is seeking to make these emergency regulations permanent pursuant to Public Resources Codes section 42475.2(b).

The proposed regulations provide clarity with respect to implementing and administering the CEW program in order to achieve the intent of the Electronic Waste Recycling Act of 2003 (“the Act”), established through SB 20, Sher, Chapter 526 (Public Resources Code Section 42460, *et seq.*) Issues being addressed include: eligibility, documentation, compliance, and accountability. In addition to providing more consistency within the text of the regulations, the proposed regulations clarify and make specific the following topics: definitions, applicability and limitations, record-keeping and information tracking, net cost reports, compliance requirements with respect to information provided in applications and recycling payment claims, requirements with respect to the management of treatment residuals derived from the dismantling of CEW, the appeal processes, cancellation methods, manufacturer payments, and the procedure for imposing civil liabilities for false statements or representations.

Program staff held multiple workshops to address various aspects of the proposed regulations prior to the submission of the emergency regulations. Comments from the public were incorporated into those regulations. With respect to the proposed regulations, staff held a public workshop on 12/20/2016 to share and accept comments on the informal draft of the proposed regulatory text. This workshop was offered both in-person and via webinar.

### ***Benefits of the Proposed Regulations***

The proposed rules benefit the State by ensuring that only authorized entities receive public funding for the compliant management of specified wastes. The rules do so without placing excess burden on the voluntarily participating recycling industry by primarily relying on documents and demonstrations already required pursuant to a range of other State laws, such as hazardous waste rules and weighmaster rules.

The existing and proposed rules also ensure that only eligible CEW generated in California enters the program and that the funds derived from fees paid by California consumers are expended only on activities conducted in compliance with applicable law. This benefits the State by protecting the environment and public funds. The emergency rules strengthened the documentation requirements for CRT glass management while providing management options. The proposed rules expand the allowable methods for managing, in general, residual materials derived from CEW, which allows participating businesses to select the most economically feasible practices within otherwise compliant options, while maintaining reasonable and effective regulatory oversight.

Additionally, the proposed rules establish the mechanisms to hold accountable anyone making false statements or representations in documents used for the purpose of compliance with the Act and the CEW program regulations, via the imposition of administrative civil penalties. The process and procedures set forth ensure CalRecycle has the ability to exercise its statutory authority and impose civil liabilities. The proposed rules benefit the State through safeguarding the integrity of the CEW program and promoting compliance with the CEW program's rules and regulations by acting as a deterrent to non-compliant behavior. Additionally, the proposed rules benefit the State through promoting a level playing field between program participants and fostering fair business practices.

#### **PLAIN ENGLISH REQUIREMENTS**

CalRecycle prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements set forth in Government Code Sections 11342.580 and 11346.2(a)(1). CalRecycle considers the proposed regulations non-technical and drafted to be easily understood by those parties that will use them.

#### **FEDERAL LAW OR REGULATIONS MANDATE**

CalRecycle has determined that these proposed regulations do not have any significant differences from federal law.

#### **CONSISTENCY WITH STATE REGULATIONS**

CalRecycle performed a search of existing state regulations and finds that the proposed regulations are not inconsistent or incompatible with existing state laws or regulations.

#### **OTHER STATUTORY REQUIREMENTS**

There are no other requirements prescribed by statute that are applicable to CalRecycle or to any specific regulations or class of regulations. (Govt. Code § 11346.5(a)(4)).

#### **MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS**

CalRecycle has determined that the proposed regulations do not impose a mandate on state agencies, local agencies, or school districts.

## **COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

The CEW recycling program, including the associated payment system, is a voluntary program intended to relieve the costs of managing certain electronic wastes and businesses are not required to participate. However, participants must comply with applicable laws and regulations, including State hazardous waste rules that govern the handling of CEW and the compliant management of treatment residual.

CalRecycle is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new or separate costs incurred to participate in or comply with the CEW program. The CEW program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already require recordkeeping and claim submission. The proposed regulations clarify those records and allow for additional options for managing treatment residuals within otherwise compliant practices to fulfill claim criteria.

The proposed regulations also include procedures for the statutorily authorized penalties. The procedures set forth how CalRecycle can impose administrative civil penalties but do not increase costs of compliance for the regulated businesses.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

### ***Creation/Elimination of California Jobs***

The requirements and options in the regulations will not create or eliminate jobs within the State of California. The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including cathode ray tubes (CRT) and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

Additionally, the proposed rules establish the mechanisms to hold accountable anyone making false statements or representations in documents used for the purpose of compliance with the Act and the CEW program regulations, via the imposition of administrative civil penalties. The process and procedures set forth ensure CalRecycle has the ability to exercise its statutory authority and impose civil liabilities.

### ***Creation/Elimination of California Businesses***

The requirements and options in the regulations will not create or eliminate businesses within the State of California. The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including CRT and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic

Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

Additionally, the proposed rules establish the mechanisms to hold accountable anyone making false statements or representations in documents used for the purpose of compliance with the Act and the CEW program regulations, via the imposition of administrative civil penalties. The process and procedures set forth ensure CalRecycle has the ability to exercise its statutory authority and impose civil liabilities.

#### ***Expansion of Businesses Doing Business Within the State***

The requirements and options in the regulations will not create, expand, or eliminate businesses within the State of California. The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including CRT and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

Additionally, the proposed rules establish the mechanisms to hold accountable anyone making false statements or representations in documents used for the purpose of compliance with the Act and the CEW program regulations, via the imposition of administrative civil penalties. The process and procedures set forth ensure CalRecycle has the ability to exercise its statutory authority and impose civil liabilities.

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

The proposed rules ensure that only authorized entities receive public funding for the compliant management of specified wastes. The existing and proposed rules also ensure that only eligible CEW generated in California enters the program and that the funds derived from fees paid by California consumers are expended only on activities conducted in compliance with applicable law. This benefits the State by protecting the environment and public funds. The proposed rules expand the allowable methods for managing, in general, residual materials derived from CEW, which allows participating businesses to select the most economically feasible practices within otherwise compliant options, while maintaining reasonable and effective regulatory oversight.

The proposed rules establish the mechanisms to hold accountable anyone making false statements or representations in documents used for the purpose of compliance with the Act and the CEW program regulations, via the imposition of administrative civil penalties. The process and procedures set forth ensure CalRecycle has the ability to exercise its statutory authority and impose civil liabilities. The proposed rules benefit the State through safeguarding the integrity of the CEW program and promoting compliance with the CEW program's rules and regulations by acting as a deterrent to non-compliant behavior. Additionally, the proposed rules benefit the State through promoting a level playing field between program participants and fostering fair business practices.

CalRecycle does not anticipate that the proposed regulations will affect worker safety.

### **FISCAL IMPACT**

#### ***Cost or Savings to Any State Agency***

CalRecycle has determined that the proposed regulations do not result in any cost or savings to any state agency.

#### ***Cost to Any Local Agency or School District***

CalRecycle has determined that the proposed regulations do not result in cost to any local agency or school district that is required to be reimbursed pursuant to Government Code section 17500 *et seq.*

#### ***Non-Discretionary Cost or Savings Imposed Upon Local Agencies***

CalRecycle has determined that there are no non-discretionary costs or savings imposed upon any local agencies.

#### ***Cost or Savings in Federal Funding to the State***

CalRecycle has determined that there are no costs or savings in federal funding to the state.

### **FINDINGS ON NECESSITY OF REPORTS**

CalRecycle has determined that the requirement for specific reports is necessary for the health, safety, and welfare for the people of the state because it will help to ensure that the law applies equally to covered entities.

### **EFFECT ON HOUSING COSTS**

CalRecycle made a determination that the proposed regulations will not have an effect on housing costs.

### **EFFECT ON BUSINESSES**

CalRecycle has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. There are currently 410 approved collectors in the CEW program, of which approximately 30 are also approved recyclers. Both approved collectors and approved recyclers must apply to participate by submitting certain documents that demonstrate eligibility. Subsequently, approved collectors and approved recyclers conduct and document CEW recovery and recycling activities. Recyclers generate treatment residuals such as cathode ray tubes (CRT) and other regulated materials as a result of dismantling CEW.

CalRecycle made an initial determination that the proposed regulations will not affect the ability of California businesses to compete with businesses in other states because the proposed

regulations clarify existing law and impose no requirements that would result in adverse cost impacts.

There are no new or separate costs incurred to participate in or comply with the CEW program. The CEW program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already require recordkeeping and claim submission. The proposed regulations clarify those records and allow for additional options for managing treatment residuals within otherwise compliant practices to fulfill claim criteria.

The proposed regulations also include procedures for the statutorily authorized penalties. The procedures set forth how CalRecycle can impose administrative civil penalties but do not increase costs of compliance for the regulated businesses.

### **EFFECT ON SMALL BUSINESSES**

The majority of potentially affected businesses are small businesses. Only approved collectors and approved recyclers would be directly affected by these rules, and approximately 75 percent of these are small businesses. However, CalRecycle has made the initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact because the proposed regulations clarify existing law and impose no new requirements that would result in significant adverse cost impacts.

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

The requirements and options in the regulations will not create or eliminate businesses within the State of California. The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including cathode ray tubes (CRT) and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

### **CONSIDERATION OF ALTERNATIVES**

CalRecycle must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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.

CalRecycle staff attempted to incorporate documentation requirements that already exist under other regulatory frameworks to minimize impact on small businesses while still collecting the information necessary to fulfill the intent of statute.

CalRecycle invites any interested persons to present statements or arguments with respect to any alternatives to the proposed regulations at the scheduled hearing and/or during the written comment period.

**CONTACT PERSONS**

Inquiries concerning the proposed action may be directed to:

Andrew Hurst  
Materials Management and Local Assistance Division  
California Department of Resources Recycling and Recovery  
P.O. Box 4025  
Sacramento, CA 95812-4025  
Phone: (916) 323-2872  
FAX: (916) 319-7609  
E-mail: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

The backup contact person to whom inquiries concerning the proposed administration action may be directed to:

Jason Smyth  
Materials Management and Local Assistance Division  
California Department of Resources Recycling and Recovery  
P.O. Box 4025  
Sacramento, CA 95812-4025  
Phone: (916) 341-6676  
FAX: (916) 319-7147  
E-mail: [ewaste@calrecycle.ca.gov](mailto:ewaste@calrecycle.ca.gov)

**AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

CalRecycle will have the entire rulemaking file, the express terms of the proposed regulations, and all information that provides the basis for the proposed action, available for inspection and copying throughout the rulemaking process at the address provided above. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the text of the proposed regulations, the initial statement of reasons (ISOR), and the economic and fiscal impact statement. Copies may be obtained by contacting Andrew Hurst at the address or e-mail or phone number listed above. For more timely access to the text of the proposed regulations, and in the interest of waste prevention, interested parties are encouraged to access CalRecycle's Internet webpage at:

<http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/default.htm>

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

CalRecycle may adopt the proposed regulations substantially as described in this Notice after holding the hearing and considering all timely and relevant comments. If CalRecycle makes modifications that are sufficiently related to the originally proposed text, it will make the modified

text (with the changes clearly indicated) available to the public for at least fifteen (15) days before CalRecycle adopts the regulations as revised. Requests for the modified text should be made to the contact person named above. CalRecycle will transmit any modified text to all persons who testify at the public hearing, all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. CalRecycle will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

The Final Statement of Reasons will be available at the webpage listed herein, or you may contact the individuals listed above.

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of this Notice, the Initial Statement of Reasons (ISOR), and the text of the proposed regulations in underline and strikeout may be accessed at:

<http://www.calrecycle.ca.gov/Laws/Rulemaking/EWasteFinal/default.htm>

**Title 14 Natural Resources**  
**Division 7 California Department of Resources Recycling and Recovery**  
**Chapter 8.2 Electronic Waste Recovery and Recycling**

For reference, this document depicts proposed regulatory revisions, deletions, and additions via underline and ~~strikethrough~~.

**Article 1 General**

18660.5. Definitions

**Article 2.0 Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

18660.6. Applicability and Limitations

18660.7. Document Submittals

18660.8. Records

18660.9. Audits

18660.10. Net Cost Report

**Article 2.1 Electronic Waste Payment System - Applications for Approval**

18660.12. Additional Application Requirements for Collectors

18660.13. Additional Application Requirements for Recyclers

18660.15. CalRecycle Review of an Application

18660.16. Approval Term and Applications for Renewal

18660.17. Prohibited Activities

18660.18. Changes to Information Contained in an Approved Application

18660.19. Appeal of Denial or Revocation of Approval

**Article 2.2 Electronic Waste Payment System - Business Requirements**

18660.20. Requirements for an Approved Collector

18660.21. Requirements for an Approved Recycler

**Article 2.3 Electronic Waste Payment System - Recycling Payment Claims**

18660.22. General Requirements for Recycling Payment Claims

18660.23. ~~Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of CRTs through Crushing or Shredding~~ RESERVED

18660.24. Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of CRTs through dismantling to a bare CRT after relieving the vacuum

18660.25. Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of non-CRT-containing CEWs

18660.30. CalRecycle Review of Recycling Payment Claims

18660.31. Appeal of Denied or Adjusted Recycling Payment Claims

**Article 2.4 Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

18660.32. Cancellation Methods

18660.33. Standard Statewide Recovery Payment Rate

**Article 2.5 Electronic Waste Payment System – Manufacturer Payments**

18660.35. Manufacturer Registration

18660.36. Requirements for a Registered Manufacturer

18660.37. Manufacturer Payment Claims

18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims

Proposed Electronic Waste Regulations—Title 14 CCR Division 7 Chapter 8.2 Section 18660.5 et seq.

Administration of the Electronic Waste Recycling Act of 2003; Public Resources Code 42460 et seq.

Edited and Amended to Address:

Definitions, Program Participation, Treatment Residual Management, Cancellation, Claims, Administrative Civil Liabilities, and General Clean-up

**Article 3. Manufacturer Reporting**

18660.41. Reporting Requirements

**Article 6. Administrative Civil Penalties**

18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.

18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.

18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.

## Article 1. General

### § 18660.5. Definitions.

(a) For the purposes of this Chapter, the following shall apply:

- (1) “Act” or “the Act” means the Electronic Waste Recycling Act of 2003 (Senate Bill 20, Chapter 526, Statutes of 2003), as amended.
- (2) “Approved Collector” means an authorized collector as defined in Section 42463(b) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recovery payments from approved recyclers.
- (3) “Approved Dual Entity” means an entity that is both an “approved collector” and an “approved recycler” as defined in this Section.
- (4) “Approved Recycler” means a “covered electronic waste recycler” as defined in Section 42463(h) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recycling payments from CalRecycle.
- (5) “Bare CRT” means a Cathode Ray Tube with the vacuum relieved and the yoke removed that has been separated from the device housing and has had all circuit boards, wiring and other components detached from the tube.
- (6) “Bare Panel” means an LCD, ~~gas~~ plasma, or other non-CRT video display panel that has been separated from the device housing and has had all circuit boards, lamps, wiring and other components detached from the panel. Lamps may remain affixed to an otherwise bare panel only if they cannot be removed without breaking.
- (7) “Cancellation” means a processing or treatment method that qualifies CEWs for recycling payments, removes the CEWs from the payment system eliminating the possibility of double payments, dismantles or destroys the original CEW, and results in treatment residuals as specified in Section 18660.32 of this Chapter.
- (8) “Claim Activity Period” means the span of time during which an approved recycler received CEWs from approved collectors, processed and cancelled CEWs, and shipped treatment residuals, as required, that results in a recycling payment claim being submitted to CalRecycle.
- (9) “CRT” means a Cathode Ray Tube with the yoke still attached that has been separated from a CRT device.
- (10) “CRT device” means a whole covered electronic device containing a Cathode Ray Tube.
- (11) “California Source” means persons, as defined in Section 42463(n) of the Public Resources Code, located in California who generate CEWs after their own use of a CED. Persons who receive, accumulate, consolidate, store, or otherwise handle discarded, donated or collected CEWs are not the California sources of those CEWs.
- (12) “CalRecycle” means the Department of Resources Recycling and Recovery.
- (13) “Collection log” means a record maintained by an approved collector that records CEW collection activities as specified in Section 18660.20(j) of this Chapter.
- (14) “Collective Report” means a report submitted to CalRecycle through a trade association, a group of associations, or other organization that represents more than one manufacturer.
- (15) “Commingled” means mixed together and impossible to economically or practically separate.
- (16) “Covered Electronic Device” or “CED” has the same meaning, for the purposes of this Chapter, as a covered electronic device specified in Section 42463(e) of the Public Resources Code.
- (17) “Covered Electronic Waste” or “CEW” means a discarded device that DTSC has determined to be a covered electronic device, as specified by Section 42463(e) of the Public Resources Code.

(18) “Designated Approved Collector” means an approved collector, as defined in subsection (a)(2) of this section, that has been designated by a California local government to provide CEW collection services for or on behalf of the local government in accordance with Article 7 of this Chapter.

(19) “DTSC” means the Department of Toxic Substances Control.

(20) “End-Use Destination” means the location where the treatment residuals from the approved recycler are sent after cancellation.

~~(21) “Further treat” means, for the purposes of this Chapter, activities such as crushing, size reduction, washing, cleaning, smelting, or similar steps taken to process the treatment residual rendering it more marketable and alter its physical form or characteristics. “Further treat” does not mean, for the purposes of this Chapter, receiving, storing, accumulating, consolidating, brokering, shipping, disposing or other similar activities that do not alter the physical form or characteristics of the treatment residual.~~

~~(22) “Handler”, for the purposes of this Chapter, has the same meaning as a universal waste handler or CRT material handler, as applicable, as defined in Section 66273.9 of Title 22 of the California Code of Regulations.~~

~~(23) “Illegal Disposal” means, for the purposes of this Chapter, the disposal or placement of CEWs on a property without the permission of the owner(s) of, or responsible party(ies) for, the property.~~

(23) “Initial Destination” means, for the purposes of this Chapter, the location(s) to which treatment residuals are initially shipped by an approved recycler.

(24) “Load” means a single transfer (a pick up or delivery) of CEWs, such as from a California source to a collector or from a collector to a recycler.

(25) “Load Check Activities” means, for the purposes of this Chapter, the efforts made to identify, retrieve and divert from the disposed solid waste stream those CEWs that have been illegally discarded by generators. “Load Check Activities” do not include the rejection or acceptance of CEWs due to the lack of source documentation.

(26) “Manufacturer Payment” or “Manufacturer Take Back Payment” means a payment made by CalRecycle to a registered manufacturer that takes back covered electronic wastes (CEWs) from a California source for the purposes of recycling the CEW pursuant to Section 42476(g) of the Public Resources Code.

(27) “Manufacturer Payment Claim” means a registered manufacturer's request submitted to CalRecycle with all required documentation for a manufacturer payment.

(28) “Manufacturer Take Back” means a program administered by a registered manufacturer that accepts CEWs from California sources for the purposes of recycling.

(29) “PBBs” mean Polybrominated Biphenyls

(30) “Processing log” means a record maintained by an approved recycler that records CEW activities associated with CEW cancellation, such as but not limited to weighing, dismantling, documenting ~~crushing, shredding~~, etc., as specified in Section 18660.21(b) of this Chapter.

(31) “Product Category” means the types of covered electronic devices as defined in Section 42463(e) of the Public Resources Code. These categories include, but are not limited to, the following:

(A) Cathode Ray Tubes (CRTs) devices used in televisions,

(B) CRTs devices used in monitors,

(C) Liquid Crystal Display (LCD) monitors,

(D) Laptop computers containing LCD screens,

(E) LCD televisions,

(F) ~~Gas p~~ Plasma display televisions, and

(G) Other video display devices as specified by the DTSC pursuant to Section 25214.10.1(b) of the Health and Safety Code.

(32) “Proof of Approval” means the status of an approved collector or approved recycler, as portrayed on the CalRecycle website, that is associated with the unique identification number and expiration date, issued by CalRecycle ~~that identifies a collector or recycler as being approved pursuant to this Chapter.~~

(33) “Proof of Designation” means a document issued by a California Local Government to a Designated Approved Collector in accordance with Article 7 of this Chapter.

(34) “Receiving log” means a record maintained by an approved recycler that documents CEW transfers from approved collectors to the approved recycler.

(35) “Recovery payment” means the payment made by an approved recycler to an approved collector in exchange for the transfer of CEWs pursuant to Section 42477 of the Public Resources Code.

(36) “Recovery payment request” means an approved collector's request for recovery payment made to an approved recycler accompanying the transfer of CEWs.

(37) “Recycling payment” means the payment made by CalRecycle to an approved recycler that includes a recovery component related to recycler payments to collectors pursuant to Section 42477 of the Public Resources Code and a recycling component for CEW cancellation pursuant to Section 42478 of the Public Resources Code.

(38) “Recycling payment claim” means an approved recycler's claim that includes all required documentation submitted to CalRecycle for recycling payments for cancelled CEWs.

(39) “Registered Manufacturer” means a manufacturer as defined in Section 42463(m) of the Public Resources Code who registers with CalRecycle pursuant to this Chapter and therefore may be eligible for manufacturer payments from CalRecycle.

(40) “Source-anonymous CEWs” means CEWs whose originating California source cannot be identified in collection log information required pursuant to Section 18660.20(j)(1)(B) of this Chapter.

(41) “Source documentation” means collection logs and other information developed, maintained and transferred pursuant to Section 18660.20(h) of this Chapter that demonstrates the eligibility, originating generator ~~and/or~~ intermediate handlers of collected CEWs as applicable.

(42) “Standard Statewide Recovery Payment Rate” means the amount paid to an approved collector per pound of CEWs transferred to an approved recycler to cover the cost of collection, consolidation and transportation of CEWs as established pursuant to Section 42477 of the Public Resources code.

(43) “Standard Statewide Combined Recycling and Recovery Payment Rate” means the amount paid to an approved recycler per pound of CEWs cancelled and claimed to cover the cost of receiving, processing and recycling CEWs as established pursuant to Section 42478 of the Public Resources Code, and making recovery payments to approved collectors.

(44) “Transfer” or “Transferred” means physically changing possession of CEWs, such as a transfer from a California source to a collector or from a collector to a recycler.

(45) “Transfer documentation” means, for the purposes of this Chapter, records ~~and/or~~ receipts that record the transfer of CEWs from an approved collector to an approved recycler, which include the weight, number, and source of the transferred CEWs, and the date(s) of transfer.

(46) “Treatment ~~Residuals~~” means any material resulting from the dismantling or treatment of a CEW. Treatment residuals are not considered CEWs and are not eligible for recovery or recycling payment, however the costs or revenues associated with managing treatment residuals shall be factored into the net cost of recycling CEW. Treatment residuals may be used to demonstrate the ~~prior~~ processing of CEWs, and documentation demonstrating the subsequent movement or ultimate disposition of the treatment residuals may be required as part of the claim for payment submitted by an approved recycler.

(47) “Ultimate disposition” means, for the purposes of this Chapter, the consumption of a treatment residual into a manufacturing process or the disposal of a treatment residual at a permitted disposal facility. Storage of a treatment residual at a site of generation or at an intermediate facility, or

**Proposed Electronic Waste Regulations—Title 14 CCR Division 7 Chapter 8.2 Section 18660.5 et seq.**

**Administration of the Electronic Waste Recycling Act of 2003; Public Resources Code 42460 et seq.**

**Edited and Amended to Address:**

**Definitions, Program Participation, Treatment Residual Management, Cancellation, Claims, Administrative Civil Liabilities, and General Clean-up**

accumulation of a treatment residual at a location prior to consuming or disposing, is not ultimate disposition.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463, 42465.2, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, records, Audits and Net Cost Report**

### **§ 18660.6. Applicability and Limitations.**

(a) Limitations on the types of CEWs eligible for payments:

- (1) An approved collector may request recovery payment only for the types of CEWs specified by DTSC that are transferred to an approved recycler by the collector.
- (2) An approved recycler may claim recycling payment only for the types of CEWs specified by DTSC that are received from an approved collector and are cancelled by the recycler.
- (3) A registered manufacturer may claim manufacturer payment only for the types of CEWs specified by DTSC that the manufacturer takes back for recycling.

(b) Limitations on the timeframes eligible for payments:

- (1) An approved collector, an approved recycler, or a registered manufacturer shall not receive payment for any CEWs transferred from a California source before January 1, 2005.
- (2) An approved collector shall not request recovery payments from recyclers for transfers that occur prior to the approval of the collector's application by CalRecycle.
- (3) An approved recycler shall not claim recycling payments from CalRecycle for CEWs cancelled prior to the approval of the recycler's application by CalRecycle.
- (4) A registered manufacturer shall not claim manufacturer payments from CalRecycle for recycling that occurs prior to the manufacturer's registration with CalRecycle.

(c) Limitations on the Sources of CEWs and CEWs eligible for payments:

- (1) Only CEWs resulting from a California source are eligible for recovery, recycling, or manufacturer payments.
- (2) CEWs owned by a person in California, but used entirely outside of California are not eligible for payments.
- (3) Source-anonymous CEWs, documented pursuant to Section 18660.20(j)(1)(E) of this Chapter, are eligible for recovery and recycling payments if:
  - (A) The source-anonymous CEWs result from load check activities as defined in Section 18660.5(a)(25) conducted at permitted solid waste facilities whose operator is an approved collector or, if not an approved collector, the source-anonymous CEWs are directly transferred from the permitted solid waste facility to an approved collector; or
  - (B) The source-anonymous CEWs result from illegal disposal clean-up activities conducted by an approved collector who is a local government or its designated approved collector; or
  - (C) The source-anonymous CEWs result from illegal disposal on property owned or managed by an approved collector.
- (4) CEWs are transferred to a designated approved collector are not eligible for payments unless the CEWs are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(d) Limitations on the ability of collectors and recyclers to charge a fee:

- (1) If the recovery payment from a recycler does not fully cover the net cost of CEW recovery, and the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector, then an approved collector may charge a fee for CEW recovery.
- (2) If the recovery payment from a recycler fully covers the net cost of CEW recovery, an approved collector shall provide CEW recovery at no charge to California sources or CalRecycle may revoke approval and direct recyclers to deny recovery payments to the collector.
- (3) If the recycling payment from CalRecycle does not fully cover the net cost of CEW recycling, an approved recycler may charge a fee for CEW recycling.

(4) If the recycling payment from CalRecycle fully covers the net cost of CEW recycling, an approved recycler shall provide CEW recycling at no charge to approved collectors or CalRecycle may revoke approval and deny recycling payments to the recycler.

(e) Limitations on recovery payments:

(1) An approved recycler shall make recovery payments at the rate specified in Section 18660.33 of this Chapter to approved collectors for all CEWs transferred to the recycler and that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(2) CalRecycle shall revoke a recycler's approval and deny recycling payments to a recycler that fails to make recovery payments to approved collectors as specified in this Chapter.

(3) An approved recycler shall not make the recovery payments as specified in this Chapter to collectors who are not approved pursuant to this Chapter.

(4) An approved recycler may make other types of payments, not provided for under this Chapter, to a collector regardless of the collector's approval status.

(5) An approved recycler shall not provide recovery payments to a collector other than the approved collector that transfers the CEWs to the recycler, but nothing limits the collectors involved in prior transfers from negotiating payments among themselves unrelated to the recovery payment provisions of this Chapter.

(6) An approved collector is eligible for recovery payments only if the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector.

(7) An approved collector is entitled for recovery payments only for CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(8) The approved collector shall repay the approved recycler the amount of recovery payment that was paid if an approved collector has received recovery payment from an approved recycler for which the approved collector was not entitled.

(f) Limitations on recycling payments:

(1) CalRecycle shall make recycling payments only to approved recyclers who:

(A) Cancel CEWs using cancellation methods as specified in Section 18660.32 of this Chapter.

(B) Document cancellation and meet the other requirements of this Chapter.

(2) CalRecycle shall not make recycling payments to a recycler other than the approved recycler that cancels the CEWs, but nothing limits the recyclers involved in subsequent transfers from negotiating payments among themselves unrelated to the recycling payment provisions of this Chapter.

(3) CalRecycle shall not make recycling payments for reuse of either a whole CEW or of a partially disassembled CEW, such as a CRT with an attached yoke.

(g) Limitations in relation to current business practices:

(1) CalRecycle shall not limit the ability of approved collectors and approved recyclers to transfer or not transfer CEWs to or from any party.

(2) CalRecycle shall not limit the ability of approved collectors and approved recyclers from entering into contracts with each other or other parties.

(3) CalRecycle shall not limit the ability of collectors to recover CEWs or recyclers to recycle CEWs without participating in the system described in this Chapter.

(4) If collectors wish to receive recovery payments or recyclers wish to receive recycling payments, then they must meet the requirements in this Chapter.

(h) Limitations on the disposition of treatment residuals:

(1) Approved recyclers are not eligible for CEW recycling payments if treatment residuals are managed in a manner noncompliant or nonconforming with applicable law.

(2) Treatment residuals shall be managed for recycling to the extent economically feasible.

(A) Economic feasibility shall be determined by an approved recycler based on current market conditions for legal management options.

(B) CalRecycle may demand demonstration of economic infeasibility in accordance with Public Resources Code section 42479.

(3) Approved recyclers that ship treatment residual CRTs or CRT glass ~~for the purposes of recycling~~ shall be capable of demonstrating to CalRecycle or its designee upon demand that the CRT or CRT glass material has reached an ultimate disposition within one year of the initial shipment, unless the approved recycler is exempt from such demonstration pursuant to Article 7 of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(4) If treatment residuals are disposed, an approved recycler shall ensure and be able to demonstrate that the disposal is compliant with all applicable laws and conforms to any conditions of authorization or approval under which the approved recycler managed the CEW from which the treatment residuals were derived.

(5) CalRecycle may demand demonstration of compliance or conformance with all ~~applicable~~ laws associated with treatment residual shipment, initial destination, or ultimate disposition.

(i) Limitations on the manufacturer payment system:

(1) CalRecycle shall not register any entity other than a manufacturer as defined in Section 42463~~(am)~~ of the Public Resources Code to be a registered manufacturer.

(2) CalRecycle shall not make manufacturer payments to any entity other than a registered manufacturer.

(3) A registered manufacturer shall only claim payment for, and CalRecycle shall only make manufacturer payments for, CEWs received from California sources that are processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(4) A registered manufacturer shall not claim payment for, and CalRecycle shall not make manufacturer payments for, CEWs that are reused, repaired, refurbished or otherwise returned to use.

(j) Limitations on recycling payments on exported CEWs:

(1) CalRecycle shall not approve recyclers located outside the state of California.

(2) CEWs sent to and cancelled by unapproved recyclers are not eligible for recycling payments pursuant to this Chapter regardless of the location of the unapproved recycler.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42472(b), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.7. Document Submittals.**

(a) A collector, a recycler, or a manufacturer shall prepare and submit applications, registrations, claims ~~and/or~~ reports required pursuant to this Chapter in the manner designated by CalRecycle.

(b) CalRecycle shall only accept collector, recycler or dual entity applications, claims and reports containing all the required information and bearing an original signature of the primary applicant, or all persons with signature authority as designated by the primary applicant pursuant to Section 18660.11 of this Chapter.

(c) CalRecycle shall only accept manufacturer registrations, claims and reports containing all the required information and bearing an original signature of the primary registrant, or a person with signature authority as designated by the primary registrant pursuant to Section 18660.35 of this Chapter.

(d) CalRecycle shall provide forms upon request that may be used to meet the requirements for the applications, registrations, and payment claims specified in this Chapter.

(e) A collector, a recycler, or manufacturer shall ensure that applications, registrations, claims, reports and all applicable supporting documentation are accurate, complete, and typed or legibly handwritten in English using permanent ink. A collector or a recycler may void errors only by using a single line through the error. A collector or a recycler shall not use correction fluid, correction tape or erasures for correcting errors on any document required by or submitted to CalRecycle.

(f) Any person, including but not limited to a handler, who provides documentation or information to an approved collector or an approved recycler that may be used by the approved collector or approved recycler pursuant to this Chapter shall not make a false statement or representation in the information or documentation provided.

Authority cited: Sections 40502, 42474, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(d), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.8. Records.**

(a) An approved collector, an approved recycler, or a registered manufacturer shall send written notice to CalRecycle regarding any change in location, or intent to establish a new location, of records required by this Chapter no less than 10 days prior to the change. In the written notice, an approved collector or an approved recycler shall include its name and the unique identification number from the proof of approval, the complete present and potential future address of the location of the records, if applicable, ~~and the names and telephone numbers of the individuals responsible for such records.~~

(b) All records maintained pursuant to this Chapter must include the books of account that are ordinarily maintained by a prudent business person engaged in the same activity, together with all bills, receipts, invoices, manifests, cash register tapes, or other documents of original entry supporting the entries in the books of account.

(c) An electronic data processing system must have built into its program a method of producing visible and legible records that will provide the necessary information to determine compliance with the requirements of this Chapter.

(d) An approved collector, an approved recycler, or a registered manufacturer shall maintain records for at least three years.

(e) An approved collector, an approved recycler, or a registered manufacturer shall maintain records that are originals, and typed or legibly handwritten in English.

(f) An approved collector, an approved recycler, or a registered manufacturer shall not store records in an unprotected area, in an outside location, in a motor vehicle or in a location where the records are likely to become contaminated, damaged or stolen.

(g) An approved collector, an approved recycler, or a registered manufacturer shall maintain records suitable for examination prepared and retained in accordance with generally accepted accounting principles and good business practice.

(h) If CalRecycle determines that records do not meet the conditions in this Section, CalRecycle may revoke approval ~~and/or~~ deny payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.9. Audits.**

- (a) CalRecycle, or persons authorized by CalRecycle, may conduct audits of approved collectors, approved recyclers, and registered manufacturers to determine compliance with the requirements of this Chapter.
- (b) As part of an audit, CalRecycle may do any one or all of the following in relation to CEW recovery or recycling:
- (1) Review, examine or investigate any books, records, accounts, ~~and~~/or documentation.
  - (2) Observe, review, examine or investigate any on-site activities, operations, processes, CEWs, treatment residuals or other materials.
  - (3) Observe and inspect transactions.
  - (4) Verify measurements, counts, weights, and calculations.
  - (5) Examine and verify revenue, cost and net cost information and calculations.
  - (6) Use other examination procedures to investigate recovery payments, recycling payments, manufacturer payments, transfers of CEWs or treatment residuals, costs, revenue, net costs, or other activities related to determining compliance with this Chapter.
- (c) An approved collector, an approved recycler, or a registered manufacturer shall provide CalRecycle staff, or persons authorized by CalRecycle, access to location(s) ~~and~~/or records for the purpose of audits related to the requirements of this Chapter, and for any or all of the following purposes in relation to CEW recovery or recycling:
- (1) To determine compliance with CalRecycle's regulations and with the provisions of the Act.
  - (2) To determine the accuracy of the information provided in the application for approval or registration.
  - (3) To determine the accuracy of the information, calculations, weights, counts, and other data upon which claims for payments or payments are based.
  - (4) For the investigation of complaints related to recovery payments to collectors.
  - (5) For the investigation of complaints related to the geographic origin of CEWs.
  - (6) To obtain cost data, revenue data and net cost calculations required for CalRecycle to set and adjust the Standard Statewide recovery payment rate, recycler payment rate and consumer fees.
  - (7) To obtain sample data to calculate component weight to device weight conversion factors.
  - (8) To inspect any records required by this Chapter or the Act.
- (d) If an approved collector, an approved recycler, or a registered manufacturer fails to provide reasonable access for audits pursuant to this Section, CalRecycle shall do one or more of the following:
- (1) Deny approval or registration if a renewal is pending.
  - (2) Revoke an existing approval or registration.
  - (3) Recoup monies previously paid by CalRecycle, which were the subject of the audit, accumulated interest, and any associated penalties.
  - (4) Deny current and future claims for payments.
- (e) An approved collector, an approved recycler or a registered manufacturer that must repay monies to CalRecycle based on the results of a CalRecycle audit shall pay the entire amount, including the original amount, accumulated interest, and any associated penalties.
- (f) An approved collector, an approved recycler or a registered manufacturer shall make any payments, repayments or recoupments in U.S. dollars by check, draft, money order or cashier's check payable to the State of California, Department of Resources Recycling and Recovery, or to a designee selected by CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.10. Net Cost Report.**

(a) To adjust the statewide recovery and recycling payment rates, establish future payment schedules and adjust the consumer fees, CalRecycle shall periodically update information concerning the net costs of CEW recovery and CEW recycling.

(b) An approved collector or an approved recycler shall maintain records and provide information for use by CalRecycle in the update on their actual net costs to operate.

(c) An approved collector or an approved recycler shall use the following allowable revenues and costs for use in the calculation of net costs:

(1) Revenues in relation to CEW recovery or recycling, other than the payments required pursuant to this Chapter, including but not limited to:

(A) Up-front revenues received, such as from fees charged.

(B) ~~End-use~~ Treatment residual revenues, such as from commodity values.

(2) Costs in relation to CEW recovery or recycling including, but not limited to:

(A) The actual costs of receiving, handling, processing, storing, transferring and transporting CEWs.

(B) The actual costs of canceling CEWs.

(C) Labor.

(D) Property taxes.

(E) Depreciation.

(F) Utilities.

(G) Supplies.

(H) Fuel.

(I) Insurance.

(J) Interest.

(K) General overhead.

(L) Facilities and equipment rent or lease.

(M) Maintenance.

(N) Transportation.

(O) Handling costs.

(P) Disposition costs.

(Q) A reasonable rate of profit or return on investment.

(R) Marketing, promotion and public education.

(d) An approved collector and approved recycler shall submit to CalRecycle a report on the net costs of recovery ~~and/or~~ recycling for the prior calendar year, including:

(1) An annualized summary of the revenues, costs, and net cost (costs minus revenues) of CEW recovery ~~and/or~~ CEW recycling based on the records maintained pursuant to Sections 18660.20(j)(3) and 18660.21(l)(5) of this Chapter.

(2) Name, identification number and mailing address.

(3) The name and phone number of a contact person for purposes of the report.

(4) The reporting year and date of preparation of the report.

(5) The total annualized revenues excluding recovery and recycling payments received from CalRecycle, plus a list of the types of revenues included in the revenue calculation.

(6) The total annualized costs, plus a list of the types of costs included in the cost calculation.

(7) The total annualized net costs (annualized costs minus annualized revenues).

(8) The net cost per pound of CEW recovery and the net cost per pound of CEW recycling.

(9) Provide a description of the types of targeted consumers, and the methods of collection used to obtain CEWs from the California sources, including but not limited to:

(A) Drop-off at permanent location,

- (B) Temporary event drop off,
- (C) Pick up at source,
- (D) Pick up at handler location,
- (E) Curbside collection,
- (F) Landfill drop off and or load check.

(10) The signature and title of a person with signature authority for net cost reports as designated pursuant to Section 18660.11 of this Chapter.

(11) The signature block shall state and certify the following statement: "I hereby declare under penalty of perjury that this net cost report, including any and all figures, calculations and accompanying documents has been examined by me and is true, correct and complete."

(12) The date and place of the signing of the report.

(e) An approved collector or an approved recycler shall convert any data captured on a per unit basis to a per pound basis for the purposes of determining revenues, costs and net costs.

(f) CalRecycle may revoke approval ~~and/or~~ deny recycling payments for failure to submit a net cost report, or for the submission of a fraudulent report.

(g) The net cost report shall be submitted to CalRecycle on or before March 1, 2006, and each year thereafter.

(1) The requirement to submit a net cost report subsequent to March 1, 2007, shall be determined by CalRecycle at a public hearing.

(2) Notice of the requirement to submit a net cost report subsequent to March 1, 2007, shall be issued by CalRecycle on or before December 31 of the year proceeding the year in which the report is next due.

(h) In addition to the net cost report described by this Section, an approved collector or an approved recycler may submit test results, studies or other information for CalRecycle to consider when the Standard Statewide Recovery Payment Rate ~~and/or~~ the Standard Statewide Combined Recovery and Recycling Payment Rate is reviewed and, if necessary, adjusted pursuant to Sections 18660.33 and 18660.34 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42464, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.1. Electronic Waste Payment System – Applications for Approval**

### **§ 18660.12. Additional Application Requirements for Collectors.**

(a) In addition to the general application information required in Section 18660.11 of this Chapter, a collector shall also include the following information:

(1) The date and the name under which the collector notified DTSC as a CRT ~~and/or~~ universal waste handler.

(2) A description of the existing or proposed collection operation, including but not limited to:

(A) The types of California sources from which the collector may recover CEWs, including but not limited to households, businesses, ~~and/or~~ other collectors.

(B) The type(s) of CEWs that may be recovered by the collector.

(C) Whether the collector may recover CEWs from outside of the State of California.

(D) The cost-free opportunity(ies) established by the collector for a California source to transfer CEWs to the collector as required by Section 42476(f)(~~23~~) of the Public Resources Code.

(3) Certification statements by the collector as follows:

(A) "The undersigned collector agrees under penalty of immediate revocation of approval and denial of recovery payments that as an approved collector:"

1. "I shall make reasonable efforts to ensure that any CEWs for which payment is claimed originate from a California source."

2. "I shall provide free CEW collection to California sources if the payments I receive from recyclers fully covers the net cost of collection, transportation and charges paid to the recycler."

3. "I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions."

4. "I shall establish a cost-free CEW collection opportunity for California sources."

5. "I have read and understand the requirements set forth in the statutes and regulations governing this program."

(B) "The undersigned collector certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct."

(4) The name and signature of the primary applicant who has the authority to sign and bind the collector to this application.

(5) The date and location of application.

(b) A collector shall maintain a physical location within the state of California at which:

(1) CEWs can be handled.

(2) All records required by this Chapter shall be maintained.

(c) CalRecycle shall not approve a collector located outside the United States, unless required to by treaty. If CalRecycle must approve a collector outside the United States, the collector must comply with the requirements of Section 42476.5 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42476.5, 42477, 42478 and 42479, Public Resources Code.

### § 18660.13. Additional Application Requirements for Recyclers.

(a) In addition to the general information required in Section 18660.11 of this Chapter, a recycler shall also include the following information:

(1) Documentation that the recycler has fulfilled DTSC notification and authorization requirements regarding the handling and processing of CEWs.

(2) A description of the recycling operation, including:

(A) The method(s) of cancellation used by the recycler.

(B) The types of CEWs cancelled by the recycler, pursuant to Section 18660.32 of this Chapter.

(C) Estimated percentages of cancelled CEWs expected to originate from inside of and from outside of the State of California annually.

(3) An explanation and documentation showing how the demonstrations in Public Resources Code Section 42479(b) have been satisfied, including but not limited to the following:

(A) The recycler is in compliance with applicable requirements of ~~Chapter 23 of~~ Division 4.5 of Title 22 of the California Code of Regulations.

(B) The recycler demonstrates to CalRecycle that the recycler's facility meets all of the following standards:

1. The facility has been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A). If a DTSC inspection has been requested but not yet completed, then CalRecycle will review the remainder of the application but withhold approval until the DTSC inspection is completed and the facility found to be in conformance.

2. The facility is accessible during normal business hours for unannounced inspections by state or local agencies.

3. The facility has health and safety, employee training, and environmental compliance plans and certifies compliance with the plans.

4. The facility meets or exceeds the standards specified in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300), of the Labor Code or, if all or part of the work is to be performed in another state, the equivalent requirements of that state.

(4) Unless the recycler is applying as a dual entity, the name, address, contact person's name and telephone number of at least one (1) collector from which the recycler has accepted, has contracted to accept or intends to contract to accept CEWs for cancellation with a letter from the collector certifying under penalty of perjury that California CEWs from that collector will be transferred to the recycler for recycling.

(5) A completed "Payee Data Record" STD. 204 form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.

(6) Certification statements by the recycler as follows:

(A) "The undersigned recycler agrees under penalty of perjury and of immediate revocation of approval and denial of recycling payments that as an approved recycler:"

1. "I shall fully reimburse an approved collector for all CEWs ~~and/or CEWs~~ transferred at the rate specified in this Chapter within 90 days"

2. "Notwithstanding the allowances contained in Section 18660.6(d) of this Chapter, I shall not adjust fees, charges or other contract provisions upward for the purpose of negating the recovery payment to approved collectors."

3. "I shall provide free CEW recycling by accepting without charge CEWs from approved collectors if the payment from CalRecycle fully covers the net cost of CEW recycling."

4. "I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions."

5. "I have read and understand the requirements set forth in the statutes and regulations governing this program."

(B) "The undersigned certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct."

(7) The name and signature of the primary applicant who has the authority to sign and bind the recycler to this application.

(8) The date and location of application.

(b) CalRecycle shall not approve a recycler located outside California.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.15. CalRecycle Review of Applications.**

(a) Upon receipt of the application, CalRecycle will notify the applicant within 30 calendar days if the application is complete or incomplete.

(b) If CalRecycle determines the application is incomplete, with exception of a pending inspection by DTSC, CalRecycle notification will list the missing information, and the applicant will have 30 calendar days from the notification to provide the missing information or CalRecycle will deny the application.

(c) After CalRecycle determines that an application is complete, CalRecycle will notify the applicant within 30 calendar days whether the application has been:

(1) Approved, and if so, ~~issue a proof of approval bearing a unique approval identification number will be provided~~ stating the type of approval granted:

(A) Approved collector, ~~and/or~~

(B) Approved recycler.

(2) Denied, and if so, the cause(s) for denial will be listed. After denial, an application to become approved may be resubmitted at any time after the causes for denial have been corrected.

(d) CalRecycle shall not charge collector or recyclers to process an application.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### § 18660.16. Approval Term and Applications for Renewal.

(a) An approved collector's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the collector continues to meet and fulfill the requirements of this Chapter, and the collector continues to operate in conformance with DTSC requirements.

(b) An approved recycler's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the recycler continues to meet and fulfill the requirements of this Chapter, and the recycler continues to operate in conformance with DTSC requirements and submit to inspections by DTSC.

(c) To renew approval, a collector or recycler shall ~~re-apply~~ reapply to CalRecycle on a biennial basis at least 90 calendar days prior to the expiration date of approval.

(d) If a collector or recycler fails to ~~renew~~ reapply for approval, after the expiration date all of the following conditions apply:

(1) The approval is expired and invalid.

(2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.

(3) The collector or recycler shall immediately cease using the issued unique identification number.  
return any issued proof of approval to CalRecycle.

(e) An approved collector or an approved recycler may withdraw their approved application at any time via written notice to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### § 18660.17. Prohibited Activities.

(a) CalRecycle may deny a ~~renewal~~ an application or revoke or suspend the approval of a collector or recycler for any of the following prohibited activities:

(1) Failure by a collector or recycler to operate in conformance with DTSC requirements.

(2) Failure by a recycler to submit to a DTSC inspection within any 12-month period.

(3) Failure by a recycler to provide recovery payments to approved collectors as specified in this Chapter.

(4) Failure to submit to CalRecycle audits as specified by this Chapter.

(5) Failure to submit a net cost report as specified in Section 18660.10.

(6) Transferring an approval or proof of approval to any other person.

(7) ~~Altering the proof of~~ Misrepresenting an approval status.

- (8) A material breach of any of the certification statements contained in the approved application.
  - (9) Fraudulently requesting a recovery payment.
  - (10) Fraudulently claiming a recycling payment.
  - (11) Submitting a fraudulent net cost report.
  - (12) Failure to secure, maintain ~~and/or~~ transfer documentation as specified by this Chapter.
  - (13) Failure to notify CalRecycle of changes to information contained in the approved application.
  - (14) Making a false statement or representation in a document filed, submitted, maintained or used for purposes of compliance with this chapter or Division 30, Part 3, Chapter 8.5 of the Public Resources Code.
- (b) If CalRecycle denies an application renewal or revokes an approval for prohibited activities, all of the following conditions apply:
- (1) The approval is immediately invalid.
  - (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.
  - (3) The collector or recycler shall immediately cease using the issued unique identification number.  
~~return any issued proof of approval to CalRecycle.~~
- (c) A collector or recycler may not reapply for approval until 180 calendar days after denial or revocation for prohibited activities.
- (d) If CalRecycle suspends an approval for prohibited activities, all the following conditions apply until CalRecycle determines that the cause for suspension has been remedied:
- (1) The approval is temporarily invalid.
  - (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter for recovery ~~and/or~~ recycling activities conducted during the suspension of approval.
- (e) An application for approval or renewal from a collector or recycler or an individual identified in the application who has a history demonstrating a pattern of operation in conflict with the requirements of this chapter and Division 30, Part 3, Chapter 8.5 of the Public Resources Code may be denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.18. Changes to Information Contained in an Approved Application.**

- (a) An approved collector or an approved recycler shall ~~reapply~~ notify to CalRecycle ~~for approval in writing of changes to information contained in an approved application at least 90 30~~ calendar days prior to the effective date of any proposed changes. ~~change taking effect, if one of the following changes may occur:~~
- (1) ~~A change in recovery, recycling or business practices that will prevent the approved collector or approved recycler from meeting the requirements of this Chapter.~~
  - (2) ~~A change in recovery, recycling or business practices that will result in the breach of a certified statement on the application or in a prohibited activity as specified in Section 18660.17 of this Chapter.~~
- (b) If an unforeseen change occurs an approved collector or an approved recycler shall notify CalRecycle in writing of the change within ten calendar days after the unforeseen change. ~~In cases of notification after a change specified in subsections (1) or (2) in part (a) of this Section, CalRecycle may revoke the approval immediately or may require the collector or recycler to reapply for approval.~~

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.19. Appeal of Denial, Suspension or Revocation of Approval.**

- (a) If CalRecycle denies an application for approval or suspends or revokes an approval, the collector or recycler shall appeal that decision and request a hearing within 30 calendar days after the date of the denial, suspension or revocation. Any appeal received by CalRecycle after 30 calendar days from the date of the denial, suspension or revocation shall be denied without a hearing or consideration of the appeal.
- (b) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.
- (c) The collector or recycler requesting a hearing must submit the appeal in writing and ensure that it is received by CalRecycle's main business office, to the attention of the Legal Office. The collector or recycler shall clearly mark the outside of the package containing the appeal with: "~~e-Waste~~ Covered Electronic Waste Application Appeal Enclosed".
- (d) In an appeal, a collector or recycler shall include, at a minimum, all of the following:
- (1) The collector's or recycler's name, mailing address, contact name and daytime telephone number.
  - (2) The type of approval: collector, recycler or both.
  - (3) The location and street address.
  - (4) The date on the notification from CalRecycle and the stated reasons for denial, suspension or revocation.
  - (5) A statement of the basis for objecting to the denial, suspension or revocation.
- (e) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.
- (f) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the application, the reasons for denial, suspension or revocation, and any additional relevant information presented by the applicant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.
- (g) CalRecycle will notify the collector or recycler of the determination in writing within 20 calendar days from the date of the decision.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463(b), 42474(e)(3) and 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

## **Article 2.2. Electronic Waste Payment System – Business Requirements**

### **§ 18660.20. Requirements for an Approved Collector.**

- (a) Upon CalRecycle approval of its application, an approved collector may begin requesting recovery payments for CEWs documented and transferred to approved recyclers pursuant to the requirements of this Chapter after the approval.
- (b) An approved collector shall comply with the requirements of this Chapter, including:
- (1) Begin collection activities from California sources within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to begin collection activities within 180 days.
  - (2) Transfer at least one (1) load of CEWs to an approved recycler within 180 calendar days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to transfer at least one load of CEWs within 180 calendar days of approval.

(c) An approved collector shall make reasonable efforts to determine if CEWs it collects are from California sources or from non-California sources and shall keep track of those materials separately. Reasonable efforts may include any of the following, but are not limited to:

- (1) Posting signs and asking California sources.
- (2) Conducting spot checks and/or surveys.
- (3) Checking for a valid California identification of a person, a California license plate on a vehicle, and/or a bill of lading showing a California origin.
- (4) Requiring additional documentation from California sources or collectors delivering large numbers of CEWs.
- (5) Instituting measures to prevent CEWs from being dropped-off anonymously or illegally disposed at the approved collector's facilities or operations.

(d) An approved collector shall not request recovery payment for non-California CEWs.

(e) An approved collector shall determine if CEWs they transfer to recyclers have already been cancelled, and shall keep track of those materials separately.

(f) An approved collector shall not request recovery payment for previously cancelled CEWs.

(g) An approved collector shall provide the CalRecycle-issued proof of approval identification number when transferring CEWs to or requesting recovery payments from an approved recycler. If an approved collector, or its agent, fails to provide the unique identification number from the proof of approval, the approved recycler may deny recovery payment.

(h) An approved collector shall provide to any approved collector or approved recycler to whom it transfers CEWs information on the origin (California or non-California) and cancellation status of CEWs transferred, including but not limited to the following:

- (1) Signed statement listing the sources(s) of the transferred CEWs as recorded pursuant to subsection (j) of this section.
- (2) A copy(ies) of the applicable portions of the collection log specified in subsection (j) of this section that describe the collection activities that resulted in the transferred CEWs.
- (3) Written description of any activity, such as storage, repair, refurbishment, resale, reuse, transfer, packaging and/or consolidation, that explains any discrepancy between the CEWs transferred and the CEWs collected as recorded in a log specified in subsection (j) of this section.
- (4) A copy of any applicable Proof of Designation, issued pursuant to and used in accordance with Article 7 of this Chapter, associated with CEWs collected while acting as a designated approved collector for a local government.

(i) An approved collector shall operate in accordance with all Federal, State and local laws and regulations.

(j) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved collector shall maintain the following records:

- (1) A collection log containing:
  - (A) For each collection activity or event that results in CEWs transferred to the approved collector, a brief written description of the collection activity or event, including the type of California sources targeted for collection, the date and location the activity or event occurred, the number of CRT CEWs or non-CRT CEWs collected, and an estimate of the weight of CEWs collected.
  - (B) Approved collectors that are not California local governments, nor entities acting as the Designated Approved Collector for a California local government, shall maintain a list of all California sources who discarded the CEWs transferred to the approved collector, including the name and address of the California source and the number and type(s) of CEWs discarded by the California source.

(C) When receiving five (5) or more CEWs units discarded from a non-residential California source, an approved collector shall record the name of the non-residential organization, an address, a contact person and a telephone number.

(D) A list of other handlers and approved collectors who transferred CEWs to the approved collector in any month, including the name and address of the other handler and approved collector and the number of CEWs transferred and the sources of those CEWs as recorded pursuant to parts (A) and (B) of this Section.

(E) When collecting source-anonymous CEWs, all approved collectors shall:

1. Log the source-anonymous CEW collection activity separately.
2. Provide a brief written description of the activity or incident that resulted in the source-anonymous CEWs.
3. Record the date and location of the activity or incident, the number and an estimate of the weight of source-anonymous CEWs collected from the location of the activity or incident.
4. Record the name, organizational affiliation, address and phone number of a person responsible for the site of the activity or incident.

(2) Records of transfers by load to, and recovery payments from, approved recyclers, including:

(A) Inventory records that document the relationship between the CEWs received from all sources and the CEWs transferred to the approved recycler or to other handlers.

(B) Signed and dated receipts showing the number and weight of CEWs transferred. The approved collector shall identify and record each approved recycler using the name and identification number from the recycler's "proof of approval."

(3) Records on the costs, revenues and net costs associated with the collection, transportation and disposition of all CEWs handled as specified in Section 18660.10 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.21. Requirements for an Approved Recycler.**

(a) Upon CalRecycle approval of its application, an approved recycler may begin claiming recycling payments for CEWs received from an approved collector and cancelled after the approval.

(b) An approved recycler shall comply with the requirements of this Chapter, including:

(1) Begin CEW cancellation activities within 180 calendar days of approval. CalRecycle may revoke approval if a recycler fails to begin CEW cancellation within 180 days.

(2) Accept transfer of and cancel at least one (1) load of CEWs from an approved collector within 180 days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 days of approval. CalRecycle may revoke approval if a recycler fails to cancel at least one load within 180 days of approval.

(3) Record each approved collector's proof of approval identification number and provide a receipt showing the weight and number of CEWs transferred and the amount of the corresponding recovery payment due to the collector.

(4) Make recovery payments to approved collectors, or their agents, for all CEWs transferred, in accordance with this Chapter, at the time of transfer of CEWs, or at a later time specified in a written contract between the approved collector and approved recycler, but not more than 90 days from the date of transfer.

(5) Cancel CEWs by one or more of the manners prescribed in Section 18660.32 of this Chapter.

(A) An approved recycler shall maintain a processing log that records the date, method of cancellation, and quantity in pounds of CEWs cancelled.

(B) An approved recycler shall maintain inventory records that document the relationship between CEWs received from approved collectors, CEWs processed and cancelled by the approved recycler, and treatment residuals shipped to ~~end-use~~ initial destinations or ultimate dispositions, as applicable.

(6) Submit recycling payment claims to CalRecycle as specified in Sections 18660.22 through 18660.31 of this Chapter.

(7) Submit to and obtain a DTSC inspection, within any 12-month period.

(c) Based on information supplied by approved collectors, an approved recycler shall, at a minimum, keep track of the weight of CEWs from both California and non-California sources transferred from approved collectors and ensure that recycling payments are not claimed for non-California source materials.

(d) An approved recycler shall not provide recovery payment to approved collectors for CEWs from non-California sources, or to approved collectors that fail to provide complete and applicable source documentation on CEW origin pursuant to Section 18660.20(h) of this Chapter.

(e) An approved recycler shall not claim recycling payments for non-California CEWs.

(f) Approved recyclers shall determine if CEWs they accept from collectors have already been cancelled and shall keep track of the weight of those materials and ensure that recycling payments are not claimed for these materials.

(g) An approved recycler shall not provide recovery payment to approved collectors for previously cancelled material.

(h) An approved recycler shall not claim recycling payments for previously cancelled material.

(i) An approved recycler may deny recovery payments for commingled loads in which CEWs cannot be distinguished from other materials.

(j) An approved recycler shall operate in accordance with all Federal, State and local laws and regulations.

(k) An approved recycler shall:

(1) Be equipped with scales and be a weighmaster in accordance with Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.

(2) Measure, record and report weights in pounds and issue certified weights.

(3) Weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 (commencing with Section 12500) of the Business and Professions Code.

(l) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved recycler shall maintain the following records:

(1) A receiving log containing a brief written description of CEW transfers by load from approved collectors, the certified number of units and the certified weight of CEWs transferred, and the dates the transfers from collectors occurred.

(2) Records of CEW transfers, including all documentation received from an approved collector as specified in Section 18660.20(h), and recovery payments made ~~and/or~~ owed to approved collectors, including signed and dated receipts showing the certified number of units and the certified weight of CEWs transferred.

(A) The approved recycler shall identify and record each approved collector using the name and identification number from the collector's "proof of approval."

(B) The approved recycler shall record separately the number of units and sum of estimated weights of source-anonymous CEWs reported by and transferred from an approved collector.

(3) A processing log showing the definitive cancellation of CEWs by weight, date and cancellation method, as specified in Section 18660.32 of this Chapter, upon which a payment claim is based.

(4) Applicable records for all shipments of treatment residuals, including but not limited to weight certificates, packing lists, bills of lading, manifests, destination receipts, invoices, and payments. Applicable records shall be maintained pursuant to Section 18660.8 of this Chapter and be capable of demonstrating the following information:

- (A) Date of shipment.
- (B) Quantity and material type in shipment.
- (C) The full name and address of shipping service.
- (D) The full name and address of the buyer or other transferee, and destination name and address if different.
- (E) Identification and description of the initial destinations or ultimate disposition of the treatment residuals, as applicable.

(5) Records on the net costs associated with the disposition of all CEWs handled, the net costs of accepting the transfer of CEWs, the net costs of each cancellation method used, and any additional administrative costs of providing recovery payments to approved collectors.

(6) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **Article 2.3. Electronic Waste Payment System – Recycling Payment Claims**

#### **§ 18660.22. General Requirements for Recycling Payment Claims.**

(a) An approved recycler shall submit all of the following general information in a claim for recycling payments from CalRecycle:

- (1) The full name, mailing address, and federal tax identification number of the recycler preparing the report.
- (2) The name and phone number of a contact person for purposes of the report.
- (3) The reporting month (calendar month and year) and date of preparation of the report.
- (4) The claim activity period, listing the start and end dates.
- (5) The total weight of CEW claimed, as calculated in Sections ~~18660.23~~, 18660.24, and 18660.25 of this Chapter.
- (6) The total monetary amount being claimed.
- (7) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.11 of this Chapter. The signature block shall include the following certification statements:

(A) "I hereby declare under penalty of perjury that:"

- 1. "The approved recycler whom I represent is currently in compliance with all Federal, State and local requirements, including compliance with the requirements of the Act and this Chapter."
- 2. "All claimed CEWs have been cancelled as specified in Section 18660.32 and are unable to re-enter the payment system, and all treatment residuals specified in Section 18660.22(c) derived from the claimed CEWs have been shipped off-site to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of those treatment residuals."
- 3. "I have certified the weights and verified the calculations, including the adjustments for CEWs from non-California sources and for prior cancellation."

4. "This payment claim, including any and all accompanying documents has been examined by me and is true and correct."

5. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"

6. "I further understand that fraud could result in revocation of the recycler's approval."

(8) The date and place of the signing of the claim.

(b) For each cancellation method used, an approved recycler shall submit no more than one recycling payment claim per calendar month and may only include one reporting month, as specified by Sections ~~18660.23~~, 18660.24 and 18660.25 of this Chapter, in a single recycling payment claim. An approved recycler shall prepare payment claims for different cancellation methods separately, but may submit a package containing all the claims for a reporting month.

(c) Prior to submitting a payment claim for cancelled CEWs, an approved recycler shall:

(1) Ship off-site all the following treatment residuals derived from the cancelled and claimed CEWs to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of the treatment residual:

~~(A) CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through crushing or shredding.~~

~~(B) (A) Bare CRTs or CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~

(B) CRT glass cullet.

1. CRT glass, CRT funnel glass, and CRT panel glass, as defined in Section 66273.9 of Chapter 23 of Title 22 of the California Code of Regulations, shall be accounted for separately, as applicable.

2. The shipped CRT glass cullet shall account for the amount derived from the cancelled and claimed CEW.

~~(C) Gas plasma display glass cullet if conducting non-CRT-containing CEW cancellation through crushing or shredding.~~

~~(D) Bare gas plasma display panels if conducting non-CRT-containing CEW cancellation through dismantling to a bare panel.~~

(2) For each claimed ~~cancelled~~ non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and scale weight of each device prior to cancellation.

(A) If the non-CRT-containing CEWs contain a plasma display, records relating to quantity of the bare panel(s) and ultimate disposition shall be maintained.

(B) If the non-CRT-containing CEWs contain cold cathode fluorescent lamps, records relating to quantity of the lamps and ultimate disposition shall be maintained.

(C) Records maintained pursuant to (A) and (B) above shall be made available upon request by CalRecycle or its designee.

(3) Only those CEWs that have been processed and documented pursuant to the applicable requirements of subsections (c)(1) and (c)(2) of this section shall be claimed for payment.

(d) An approved recycler shall attach all of the following to the payment claim:

(1) For all CEWs received from collectors during the claim activity period that are cancelled and included in the current claim, a report that includes:

(A) A list of approved collectors from which the transfers of CEWs were accepted with the name and proof of approval identification number of each.

(B) The total weight of CEWs in all loads transferred from each approved collector. Note that this weight may not equal the weight claimed for recycling payment because recovery payments

are made on the weight of all CEWs transferred while recycling payments are made on the weight of only those CEWs cancelled.

(C) Signed and dated receipts documenting all CEW transfers from approved collectors.

(D) A copy(ies) of the applicable records specified in Section 18660.21(l)(1)-(4) pertaining to the collection, transfer, and processing activities involving the CEWs cancelled and being claimed for payment.

1. Source documentation not associated with the claimed CEWs shall not be included in the report.

2. Transfer documentation not associated with the claimed CEWs shall not be included in the report.

(E) A sum of the estimated weight of source-anonymous CEWs as reported by and transferred from approved collectors.

(2) For all CEWs cancelled during the claim activity period and that are included in the current claim, a description of cancellation activities that includes:

(A) The type(s) of cancellation method used.

(B) The date(s) when cancellation occurred.

(C) The amount of CEWs processed by dismantling, ~~crushing or shredding~~ by date in pounds.

(D) The dates and destinations of all treatment residual shipments required prior to submitting a claim as specified in subsection (c) of this section.

(3) For all CEWs received from collectors during the claim activity period that are not included in a prior claim and that are not cancelled, a description and quantification of those activities including but not limited to storage, repair, refurbishment, resale, reuse, transfer ~~and/or~~ export.

(e) An approved recycler shall deliver recycling payment claims to CalRecycle's main business office, to the attention of the Accounting Section. An approved recycler shall mark the outside of the package containing the claims clearly with "~~e-Waste~~ Covered Electronic Waste Claim Enclosed."

(f) An approved recycler shall submit timely recycling payment claims so that CalRecycle receives each claim within 45 days of the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle may return without payment any claim received more than 45 days after the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.

(g) CalRecycle may reject a claim if it fails to comply with the general requirements of this Section, or the additional requirements in the applicable provisions regarding cancellation methods in Sections ~~18660.23~~, 18660.24 ~~and/or~~ 18660.25 of this Chapter.

(h) CalRecycle's rejection of a recycling payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**~~§ 18660.23. RESERVED Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT Containing CEWs through Crushing or Shredding.~~**

~~(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT-containing CEWs through crushing or shredding as specified in Section 18660.32 of this Chapter.~~

~~(b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.~~

~~(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of CRT glass cullet were sent to an end use destination.~~

~~(d) The reporting month for a recycling payment claim pursuant to this Section is the month in which shipment(s) of CRT glass cullet were made.~~

~~(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT containing CEWs through crushing or shredding as follows:~~

~~(1) The total weight of CRT containing CEWs cancelled for the reporting month from which all treatment residuals specified in Section 18660.22(c)(1) of this Chapter have been shipped off site to an end use destination authorized to receive and further treat or legally dispose of those treatment residuals.~~

~~(2) The total payment claimed, calculated by multiplying the weight of CRT containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.~~

~~(3) If the amount in subsection (e)(1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.~~

~~(f) An example calculation for canceling CRT containing CEWs through crushing or shredding is included for illustration purposes as follows:~~

~~The weight of CRT containing CEWs cancelled: \_\_\_\_\_ 1000 pounds  
Times the per pound Standard Statewide combined  
—recovery and recycling payment rate: \_\_\_\_\_ X \$0.49  
Equals the payment claim for the reporting period: \_\_\_\_\_ = \$490.00 Total Claim~~

~~(g) An approved recycler shall attach to the payment claim the following documentation from all shipments of CRT glass cullet made during the reporting period of a calendar month:~~

~~(1) Shipping reports to end use destinations, including the names of the shipping recycler and the receiving end use destination.~~

~~(2) The date of the shipment and the weight of the CRT glass cullet.~~

~~(3) Weight tickets of individual shipments of CRT glass cullet.~~

~~(4) Verification of post cancellation disposition, including:~~

~~(A) For shipments by sea, the proof of disposition to an end use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.~~

~~(B) For other shipments, the proof of disposition to an end use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.~~

~~(C) For all shipments of CRT glass cullet, information pertaining to the ultimate disposition of the material shipped demonstrating that the disposition is compliant with applicable law and conformant with the recycler's conditions of authorization.~~

~~1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.~~

~~2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.~~

~~(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and quantification of the disposition of other treatment residuals derived from cancellation of the CRT containing CEWs, including but not limited to metals, plastics, fibers and wood.~~

Reference: Sections ~~42475(a), 42476, 42477, 42478, and 42479, Public Resources Code.~~

**§ 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum.**

- (a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum as specified in Section 18660.32 of this Chapter.
- (b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a ~~calendar reporting month in which one or more shipments of bare CRTs or CRT glass cullet were sent to an end use destination.~~
- (d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first makes shipment(s) to an initial destination of bare CRTs or CRT glass cullet derived from the claimed CEWs were made.
- (e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through dismantling to a bare CRT as follows:
- (1) The total weight of CRT-containing CEWs cancelled from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use initial destination authorized to receive and further treat or legally dispose of those treatment residuals.
  - (2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.
  - (3) If the amount in subsection (1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.
- (f) An example calculation for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum is included for illustration purposes as follows:

<i>The weight of CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

- (g) An approved recycler shall attach the following documentation for all shipments of bare CRTs or CRT glass cullet made during the reporting claim activity period of a calendar month:
- (1) Shipping reports to end-use initial destinations, including the names of the shipping recycler and the receiving end-use initial destination.
  - (2) The date of the shipment and the weight of the bare CRTs or CRT glass cullet.
  - (3) Certified Wweights tickets of individual shipments of bare CRTs or CRT glass cullet.
  - (4) Verification of post cancellation disposition, including:
    - (A) For shipments by sea, the proof of disposition transfer to an end-use initial destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.

(B) For other shipments, the proof of ~~disposition transfer~~ to an end-use initial destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading, manifest, etc.

(C) For all shipments of bare CRTs or CRT glass cullet, information pertaining to the ~~ultimate initial destination or the ultimate disposition of the material shipped demonstrating that the disposition is compliant with applicable law and conformant with the recycler's conditions of authorization.~~

1. All documentation necessary to demonstrate compliant material ~~disposition handling and shipment~~ shall be included in the ~~discussion claim~~.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of shipped material disposition status.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b), and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478, and 42479, Public Resources Code.

#### **§ 18660.25. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of Non-CRT-Containing CEWs.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of the cancelled non-CRT-containing CEWs.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a ~~calendar reporting month in which it cancels non-CRT-containing CEWs.~~

(d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first cancels any of the non-CRT CEW being claimed cancellation occurs.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as follows:

(1) The total weight of cancelled non-CRT-containing CEWs for the reporting month for which records specified in Section 18660.22(c)(2) of this Chapter have been established and maintained from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped to an end-use destination authorized to receive and further treat those treatment residuals. Note that non-CRT-containing CEWs commingled with other material are ineligible for recycling payment.

(2) The total payment claimed, calculated by multiplying the weight of non-CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(4) For each cancelled non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and the scale weight of each device prior to cancellation.

(f) An example calculation for canceling non-CRT-containing CEWs through dismantling to a bare panel or ~~crushing/shredding of the entire CEW~~ is included for illustration purposes as follows:

<i>The weight of non-CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

(g) An approved recycler shall attach the following documentation for all ~~shipments of circuit boards bare plasma panels and lamps derived~~ from non-CRT-containing CEWs ~~made~~ during the reporting claim activity period of a calendar month:

- (1) Shipping reports to ~~end-use initial~~ destinations, including the names of the shipping recycler and the receiving ~~end-use initial~~ destination.
- (2) The accumulation start date(s) of the bare plasma panels or lamps shipped or stored shipment and the weight of the circuit boards.
- (3) ~~W~~ Certified weights tickets of individual shipments of the circuit boards.
- (4) Verification of post cancellation disposition, including:
  - (A) For shipments by sea, the proof of disposition transfer to an ~~end-use initial~~ destination shall be the on-board bill of lading or manifest, as applicable.
  - (B) For other shipments, the proof of disposition transfer to an ~~end-use initial~~ destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading or manifest.
  - (C) For all shipments of bare plasma panels and lamps derived from non-CRT-containing CEWs circuit boards, a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is not disposal to land, water or air compliant with applicable law and conforms with the approved recycler's conditions of authorization.
    1. All documentation necessary to demonstrate compliant material handling and shipment shall be included in the claim.
    2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of shipped material status.
- (5) The quantities of treatment residuals recorded pursuant to section 18660.22(c)(2)(A) and (B) shall be included in the claim.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals derived from cancellation of the non-CRT-containing CEWs, including but not limited to circuit boards, other video display panels, metals, plastics, and fibers.

Authority cited: Sections 40502, 42475(b), and 42475.2, Public Resources Code.  
Reference: Sections 42475(a), 42476, 42477, 42478, and 42479, Public Resources Code.

### **§ 18660.30. CalRecycle Review of Recycling Payment Claims.**

(a) CalRecycle shall review a recycling payment claim and determine if a recycling payment is due pursuant to this Chapter. If CalRecycle has cause to investigate any aspect of a claim, the review may be extended until resolution of all issues aspects under investigation.

(b) CalRecycle may deny or adjust payment for any of the following reasons:

- (1) CalRecycle determines that:

- (A) The signature on the claim is not that of a person with signature authority for recycling payment claims as designated pursuant to Section 18660.11 of this Chapter.
- (B) The recycler did not have current approval for the reporting period and/or the cancellation period in the claim.
- (C) The approved recycler failed to meet the requirements in this Chapter or committed an activity prohibited in this Chapter.
- (D) The payment claim contains a numerical discrepancy between values or calculations reported on the claim and CalRecycle verified values and calculations.
- (E) The facility has not been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A) of the Public Resources Code.
- (F) The recycler is ineligible for payment pursuant to Section 42479(b)(1) of the Public Resources Code.
- (G) The payment claim is deficient with regard to any of the following:
  - 1. CEW source documentation
  - 2. CEW transfer documentation
  - 3. CEW processing documentation
  - 4. Treatment residual disposition documentation
  - 5. Any other documentation required as part of a payment claim as specified in Sections 18660.22 through 18660.25 of this Chapter.

(2) CalRecycle has prevailed against the claimant in a civil or administrative action and money is owed to CalRecycle as a result of the action.

(3) CalRecycle discovers, as part of an application review, claim review or an audit, significant inconsistencies or fraud.

(c) If CalRecycle adjusts or denies a payment claim based on deficiencies in documentation specified in subsection (b)(1)(G) of this section, an approved recycler shall not resubmit as part of a future claim that same documentation, or any revised form of that documentation, seeking payment for those CEWs for which payment had been denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.31. Appeal of Denied or Adjusted Recycling Payment Claims.**

(a) An approved recycler shall submit an appeal in writing and ensure that it is received by the CalRecycle main business office, to the attention of the Legal Office, file a formal appeal by writing to CalRecycle within 30 calendar days of the date of the notice denying or adjusting the claim. The recycler shall clearly mark the outside of the package containing the appeal with: "Covered Electronic Waste Claim Appeal Enclosed".

(b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice letter from CalRecycle ~~on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.

(c) An approved recycler shall include all of the following information in a written appeal:

- (1) The recycler's name and identification number from its proof of approval.
- (2) The month(s) and year(s) in question.
- (3) A copy of the recycling payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
- (4) An explanation of why the adjustment or denial was in error.
- (5) Any other documentation that supports the appeal.

(d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(f) CalRecycle will notify the recycler of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e)(3), 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

**Article 2.4. Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**  
**§ 18660.32. Cancellation Methods.**

(a) CalRecycle shall not pay recycling payment claims unless the cancellation method used meets the requirements of this Section.

(b) An approved recycler shall not use or propose cancellation methods that are inconsistent with any DTSC requirements for handling or otherwise processing CEWs.

(c) An approved recycler may use the following standard CEW cancellation methods that qualify for recycling payments as specified in the requirements of this Chapter:

~~(1) CRT or CRT-containing CEW cancellation through crushing or shredding.~~

~~(2) CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~

~~(3) Cancellation of non-CRT-containing CEWs through crushing/shredding of the entire CEW.~~

~~(4) (2) Cancellation of non-CRT-containing CEWs through dismantling to a bare panel.~~

(d) An approved recycler may submit proposals for alternative cancellation methods to CalRecycle for review on a case-by-case basis. CalRecycle, in consultation with DTSC, shall act within ~~180~~ 90 calendar days to disapprove an alternative method, approve an alternative method for use only by the requesting recycler, or approve an alternative method for use by all recyclers.

(e) An approved recycler shall not claim, and CalRecycle shall not pay, recycling payments for CEWs “cancelled” with an alternative method unless CalRecycle has previously approved the alternative method. CalRecycle shall deny payment on any CEWs “cancelled” with an alternative method prior to CalRecycle approval.

(f) Reuse of either an intact CEW or of a partially disassembled CEW, such as a CRT with an attached yoke, is not cancellation and is not eligible for recycling payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.33. Standard Statewide Recovery Payment Rate.**

- (a) An approved recycler shall pay an approved collector the Standard Statewide ~~Combined~~ Recovery Payment Rate for all CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter regardless of the real or anticipated disposition of the CEWs.
- (b) Beginning July 1, 2016, the Standard Statewide Recovery Payment Rate is \$0.19 per pound.
- (c) CalRecycle shall review the Standard Statewide Recovery Payment Rate at a public meeting ~~of the Board~~ and establish the rate pursuant to Section 42477 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.5. Electronic Waste Payment System – Manufacturer Payments**

### **§ 18660.35. Manufacturer Registration.**

- (a) A manufacturer may apply to become registered, to renew an existing registration, or to revise an existing registration at any time by submitting a complete application.
- (b) In an application for registration, manufacturers shall provide the following general information:
- (1) Name of manufacturer.
  - (2) Mailing address and physical address.
  - (3) Name of the employee or officer of the manufacturer who is the contact person.
  - (4) Telephone number(s) of the contact person.
  - (5) An e-mail address of the contact person.
  - (6) Name of the employee or officer of the manufacturer who is the primary applicant authorized to sign:
    - (A) Payment claims.
    - (B) Reports.
    - (C) Other payment-related documentation ~~and/or~~ correspondence required by CalRecycle.
  - (7) Name of the employee or officer of the manufacturer (if any), in addition to the primary applicant, who is authorized to sign:
    - (A) Payment claims.
    - (B) Reports.
    - (C) Other-payment related documentation ~~and/or~~ correspondence required by CalRecycle.
  - (8) An indication of whether the manufacturer wishes to be included in an on-line registry.
  - (9) The location in which the records required by this Chapter will be maintained.
- (c) In an application for registration, a manufacturer shall also include the following information about its take back program or activities, including but not limited to:
- (1) The types of California sources from which the manufacturer may take back CEWs, including but not limited to households, businesses, ~~and/or~~ other collectors.
  - (2) The type(s) of CEWs that the manufacturer may take back for recycling.
  - (3) The mechanism(s) by which the manufacturer will accept CEWs into the take back program, such as mail-in, drop-off, trade-in, or pick-up.
  - (4) Any conditions the manufacturer may place on accepting CEWs.
  - (5) Whether the manufacturer may recover for the purposes of recycling discarded electronic devices similar to CEWs from outside of the State of California.
- (d) In an application for registration, a manufacturer shall also include the following information regarding the recycling of the CEWs received into its take back program:
- (1) The name and address of the recycling facility(ies) used by the manufacturer.

- (2) A description of the recycling operation used by the manufacturer, including the recycling process that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (e) In an application for registration, a manufacturer shall make the following certification statements:
- (1) “The undersigned manufacturer agrees under penalty of immediate revocation of registration and denial of manufacturer payments that as an registered manufacturer:”
- (A) “I shall ensure that any CEWs for which payment is claimed originate from a California source.”
- (B) “I shall only claim payment for those CEWs that I take back and process for recycling.”
- (C) “I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions.”
- (2) “The undersigned manufacturer certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct.”
- (A) The name and signature of the primary applicant who has the authority to sign and bind the manufacturer to this application.
- (B) The date and location of application execution.
- (f) In an application for registration, a manufacturer shall submit a completed “Payee Data Record” STD. 204 Form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.
- (g) Within 30 calendar days upon receipt of the application for registration, CalRecycle will notify the manufacturer if the applicant is a registered manufacturer and provide a registration number to be used in all correspondence and claims.
- (h) A registered manufacturer's registration remains valid for 2 years following the date of registration provided that the information in the original application remains unchanged and the manufacturer continues to meet and fulfill the requirements of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a) and 42476, Public Resources Code.

### **§ 18660.36. Requirements for a Registered Manufacturer.**

- (a) Upon registration with CalRecycle, a registered manufacturer may claim manufacturer payments for those CEWs received by the manufacturer's take back program after the effective date of registration and processed for recycling as specified in Section 18660.6(i)(3) of this Chapter.
- (b) A registered manufacturer shall determine if CEWs received by the manufacturer's take back program and processed for recycling are from California sources or from non-California sources and shall keep track of those materials separately.
- (c) A registered manufacturer shall not request payment for non-California CEWs.
- (d) A registered manufacturer shall not request payment for previously cancelled CEWs.
- (e) A registered manufacturer shall ensure that any CEW on which the manufacturer has claimed manufacturer payment does not enter the recovery and recycling payment system.
- (f) The recycling operation used by a registered manufacturer shall operate in accordance with all Federal, State and local laws and regulations.
- (g) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, a registered manufacturer shall obtain and maintain the following records:
- (1) A written description of the take back program, including the type of consumers from whom CEWs are accepted for take back.

- (2) A record of the number of CEWs collected by the product categories defined in Section 18660.5(a)(31) of this Chapter.
- (3) Records of transfers by load to the recycling operation used by the registered manufacturer, including signed and dated receipts showing the weight and number of CEWs transferred.
- (4) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the recycling operation used by the manufacturer.
- (5) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
- (6) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
- (7) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (8) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

(h) A registered manufacturer shall measure, record and report weights in pounds. A registered manufacturer shall weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 of the Business and Professions Code (Weights and Measures) or in accordance with comparable standards of the state in which the registered manufacturer is located.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

### **§ 18660.37. Manufacturer Payment Claims.**

(a) A registered manufacturer shall base a manufacturer payment claim on the number of CEWs processed for recycling by screen size(s) as listed in Section 42464(a) of the Public Resources Code.

(b) A registered manufacturer shall submit all of the following general information in a claim for manufacturer payments from CalRecycle:

- (1) The full name, mailing address, registration number, and federal tax identification number of the registered manufacturer preparing the claim.
- (2) The name and phone number of a contact person for purposes of the claim.
- (3) The period of time covered by the claim and date of preparation of the claim.
- (4) The number of CEW devices claimed:
  - (A) In each product category as defined in Section 18660.5(a)(31).
  - (B) By screen size as listed in Section 42464(a) of the Public Resources Code.
- (5) The total monetary amount being claimed, as calculated in subsection (f) of this Section.
- (6) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.35(b)(6) or (7) of this Article. The signature block shall include the following certification statements:

(A) "I hereby declare under penalty of perjury that:"

1. "All claimed CEWs were received from California sources through the manufacture take back program described in the manufacturer registration."
2. "All claimed CEWs have been processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result."

Edited and Amended to Address:

Definitions, Program Participation, Treatment Residual Management, Cancellation, Claims, Administrative Civil Liabilities, and General Clean-up

3. "No claimed CEWs were transferred into the recovery and recycling payment system."
4. "I have certified the number of devices and verified the calculations."
5. "This payment claim, including any and all accompanying documents, has been examined by me and is true, correct and complete."
6. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
7. "I further understand that fraud could result in revocation of the manufacturer registration."

(7) The date and place the claim was signed.

(c) A registered manufacturer shall submit no more than one payment claim per calendar month.

(d) The claim period for a manufacturer payment claim pursuant to this Section is the time period within which processing occurs and may not exceed three (3) months.

(e) A registered manufacturer shall attach all of the following to the payment claim:

- (1) A written description of take back program that collected the CEWs for which payment is being claimed, including the type of consumers from whom CEWs were accepted, and a record of the number of CEWs collected by the product categories as defined in Section 18660.5(a)(31) of this Chapter.
- (2) Records of transfers by load to the registered manufacturer's recycling operation, including signed and dated receipts showing the weight and number of CEWs transferred.
- (3) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the manufacturer's recycling operation.
- (4) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
- (5) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
- (6) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(f) A registered manufacturer shall calculate the payment and include the calculation in a manufacturer payment claim as follows:

- (1) The total number of CEWs, by screen size as specified in Section 42464(a) of the Public Resources Code, that are processed for recycling during the claim period.
- (2) The total payment claimed, calculated by:
  - (A) Multiplying the number of CEWs in each screen size category by the value of the covered electronic waste recycling fee that applies to that category.
  - (B) Adding the calculations in (A) above for each screen size category calculation together.

(g) An example calculation for a manufacturer claim is included for illustration purposes as follows:

*The number CEWs processed for recycling by screen size:*

*100 devices with less than 15 inch screen size  
Times the covered electronic waste recycling  
fee for category*

*100 devices  
  
X ~~\$6.00~~ \$5.00  
=~~\$600.00~~ \$500.00*

*200 devices greater than or equal to 15 inch*

<i>screen size but less than 35 inch screen size</i>	<i>200 devices</i>
<i>Times the covered electronic waste recycling</i>	
<i>fee for category</i>	<i>X <del>\$8.00</del> \$6.00</i>
	<i><del>\$1600.00</del> <u>\$1200.00</u></i>

*Equals the payment claim for the claim period: (\$~~6500.00~~+\$~~161200.00~~) = \$~~221700.00~~ Total Claim*

- (h) A registered manufacturer shall deliver manufacturer payment claims to CalRecycle’s main business office, to the attention of the Accounting Section. A registered manufacturer shall mark the outside of the package containing the claims clearly with “Electronic Manufacturer e-Waste Claim Enclosed.”
- (i) A registered manufacturer shall submit timely manufacturer payment claims so that CalRecycle receives each claim within 45 days of the end of the claim period. CalRecycle may return without payment any claim received more than 45 days after the end of the claim period. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.
- (j) CalRecycle may reject a claim if it fails to comply with the requirements of this Section.
- (k) CalRecycle’s rejection of a manufacturer payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
 Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

**§ 18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims.**

- (a) A registered manufacturer may submit an appeal in writing and ensure that it is received by the CalRecycle main business office, to the attention of the Legal Office, file a formal appeal by writing to CalRecycle within 30 calendar days of the date of the notice denying or adjusting the claim. The registered manufacturer shall clearly mark the outside of the package containing the appeal with: “Electronic Manufacturer Claim Appeal Enclosed”.
- (b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice letter from CalRecycle ~~on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.
- (c) A registered manufacturer shall include all of the following information in a written appeal:
  - (1) The registered manufacturer's name and registration.
  - (2) The month(s) and year(s) in question.
  - (3) A copy of the manufacturer payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
  - (4) An explanation of why the adjustment or denial was in error.
  - (5) Any other documentation that supports the appeal.
- (d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.
- (e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.
- (f) CalRecycle will notify the registered manufacturer of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

### **Article 3. Manufacturer Reporting**

#### **§ 18660.41. Reporting Requirements.**

Each manufacturer as defined by Section 42463(m) of the Public Resources Code shall submit an annual report to CalRecycle on or before July 1, 2005, and annually thereafter, for the period of the previous calendar year. Each manufacturer shall report information by brand name of covered electronic devices sold in the state.

(a) The report shall include the following:

(1) Name and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer.

(2) The information elements, as described in Section 42465.2 of the Public Resources Code and specified in Sections 18660.41(b) through (f), below.

(b) The sales reporting shall include:

(1) Data on the number of covered electronic devices sold in the state by product category.

(2) An explanation of the methodology used to estimate data.

(c) The materials reporting shall include:

(1) An estimated average amount in milligrams for mercury, cadmium, lead, hexavalent chromium, including their alloys and compounds, and PBBs used in covered electronic devices, and all their component parts by product category.

(2) Estimates may be based on either physical testing or maximum tolerance levels of the material in product design specifications.

(3) An explanation of the methodology used to estimate data.

(d) Recyclable content reporting shall include:

(1) Estimates on the amount in tons of recyclable content materials (e.g., plastics, glass, and metals) contained in covered electronic devices;

(2) The increase from the previous year in the use of recyclable content materials; and

(3) An explanation of the methodology used to estimate recyclable content.

(e) Design for recycling reporting shall include:

(1) Information on current activities and future plans related to the design of covered electronic devices, including but not limited to, the following:

(A) Ease of disassembly of covered electronic devices;

(B) Identification of resin types; and

(C) Improved materials efficiency through reduction in hazardous materials use or other approaches.

(f) List of retailers noticed pursuant to Section 42465.2(a)(1)(E) of the Public Resources Code shall include:

(1) The contact information used by the manufacturer to perform the notice, such as the name, address, contact person, phone number and ~~or~~ email address of the retailer to which the notice was made.

(2) The list of covered products contained in the notice.

(g) Manufacturers shall individually submit to CalRecycle samples of the consumer information and description of all methods used to comply with Section 18660.42 of this Chapter. Manufacturers shall submit this information at the same time they comply with Section 18660.41(a) through (e), above.

(h) Each manufacturer shall maintain the report and all supporting documentation for three years after the report is submitted. If CalRecycle or DTSC requests a copy of the supporting documentation the manufacturer shall submit the supporting documentation within 10 days of the request.

(i) Each manufacturer shall provide a certification under penalty of perjury that the information is true and correct.

(j) Collective reporting - Compliance with the reporting required in Sections 18660.41(b) through (f), above, is the individual responsibility of each manufacturer. A manufacturer may comply with the reporting requirements in subsections (b) and (c), above, by submitting a collective report for the subsections containing sales and materials information, if the following conditions are met:

(1) A collective report must contain all of the information required in Sections 18660.41(b) and (c), above, but may combine the information for those manufacturers submitting information for the collective report;

(2) The collective report shall contain a list of all manufacturers whose reports are included in the collective report. This list shall include the name of the manufacturer and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer;

(3) Each manufacturer shall provide a certification under penalty of perjury that the information provided for the collective report is true and correct; and

(4) Notwithstanding Section 18660.41(j)(1) through (3), above, CalRecycle may request, on a case-by-case basis, a manufacturer to submit an individual report with the information required in Sections 18660.41(b) and (c), above, and all supporting documentation of the information contained in the report. In response to CalRecycle's request, the manufacturer shall submit an individual report and supporting documentation within ten days of receiving CalRecycle's request.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Section 42465.2, Public Resources Code.

## **Article 6. Administrative Civil Penalties**

### **§ 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

(a) Administrative civil penalties authorized by Public Resources Code Section 42474(d) shall be assessed in accordance with the procedures set forth in this Section.

(b) The penalties shall be assessed as follows:

(1) A "Minor" violation means first-time violations where the gravity of the violation is severe. The penalties for this type of violation would be no less than five hundred dollars (\$500) and no more than four thousand dollars (\$4,000).

(2) A "Moderate" violation means subsequent or multiple violations. The penalties for this type of violation would be no less than four thousand dollars (\$4,000) and no more than fifteen thousand dollars (\$15,000).

(3) A "Major" violation means violations that indicate a pattern and practice of noncompliance, or intentional violations. The penalties for this type of violation would be no less than fifteen thousand dollars (\$15,000) and no more than twenty-five thousand dollars (\$25,000).

(c) CalRecycle may consider any or all of the following when imposing an administrative civil penalty:

(1) The nature, circumstances, extent, and/or gravity of the violation;

(2) The value of the actual or potential economic benefit to the violator associated with the violation;

- (3) The amount of actual or potential harm to CalRecycle, financial or otherwise;
- (4) Any prior history of noncompliance with this Chapter, including but not limited to any prior violations of a similar nature;
- (5) Truthful and forthright cooperation during any relevant investigation, including but not limited to any measures taken by the violator to remedy the current violation or prevent future violations;
- (6) The violator's ability to pay the proposed penalty;
- (7) The deterrent effect that the imposition of the proposed penalty would have on the community as a whole and the violator; and
- (8) Any other matters that justice may require.

(d) In any case in which it is determined that more than one person or entity is responsible and liable for a violation, each such person may be held jointly and severally liable for an administrative civil penalty.

(e) Prior to the issuance of an accusation, CalRecycle may issue a ~~prior~~ written notice of violation (NOV). ~~alleging with specificity:~~

(1) The NOV shall allege with specificity the following:

- ~~(A1)~~ A description of the violation or violations;
- ~~(B2)~~ The ~~proposed potential~~ penalty amount, ~~if any~~; ~~(b)~~
- ~~(C3)~~ The facts considered in determining the type of violation and potential penalty amount;
- ~~(D4)~~ A list of The corrective action(s) to be taken by the violator; and
- ~~(E5)~~ An acknowledgement of receipt and review to be executed by the violator.

(2) The NOV and all accompanying documents may be served by certified mail.

(f) CalRecycle shall issue an accusation, as defined in Government Code Section 11503, seeking an administrative penalty or penalties pursuant to this Section. The accusation and all accompanying documents may be served by personal service or registered mail.

(g) Within fifteen (15) days after service upon the respondent of the accusation seeking any administrative civil penalty, respondent may request a hearing by filing a Notice of Defense pursuant to Government Code Sections 11505 and 11506. The request for hearing may be made by delivering or mailing the Notice of Defense to CalRecycle. Failure to file a Notice of Defense within fifteen (15) days of service of the accusation shall constitute a waiver of the respondent's right to a hearing and CalRecycle may proceed upon the accusation without a hearing.

(h) CalRecycle shall provide a hearing before the director or his or her designee, who shall act as hearing officer. At any time during the proceeding, before a decision is issued, CalRecycle and the respondent(s) may engage in settlement of the matter.

(i) The hearing officer shall consider the notice of violation (if applicable), the accusation, the Notice of Defense, and all other relevant evidence presented by CalRecycle and the respondent. The hearing officer shall specify relevant procedures to be conducted during the proceeding, which include but are not limited to, informing the parties as to whether the hearing officer will consider witness testimony, and whether there shall be written ~~and/or~~ oral arguments. The hearing officer shall issue a written decision stating the factual and legal basis for the decision within thirty (30) days of the hearing. If the hearing officer determines that any penalties are owed, the hearing officer shall include in the written decision the date payment of the assessed penalties shall be due and paid.

(j) The respondent's failure to comply with the hearing officer's written decision may be grounds for suspension or revocation of their status as an approved collector ~~and/or~~ approved recycler.

(k) Except as otherwise specified herein, the hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. The hearing shall take place in Sacramento, California unless a location is otherwise specified by the hearing officer. If respondent wishes to request an alternate location, the respondent must make that request in the Notice of Defense and provide a justification of undue burden.

(f) Penalties assessed in a hearing officer’s decision may be in addition to any adjustments made pursuant to Section 18660.30 and may be offset by CalRecycle against any other amounts that are otherwise due to the respondent(s) for payment claims. In the event of settlement, the parties may agree to offset provisions in the settlement agreement.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

(a) The administrative procedure set forth in Section 18660.44(c)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(a).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.**

(a) The administrative procedure set forth in Section 18660.44(b)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(c).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2017-0801-05</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
RECEIVED DATE		PUBLICATION DATE	
<b>AUG 01 '17</b>		<b>AUG 11 '17</b>	
<b>Office of Administrative Law</b>			
NOTICE		REGULATIONS	

AGENCY WITH RULEMAKING AUTHORITY

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE Electronic Waste Recovery and Recycling		TITLE(S) 14	FIRST SECTION AFFECTED 18660.5	2. REQUESTED PUBLICATION DATE Upon filing
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Andrew Hurst	TELEPHONE NUMBER 916-323-2872	FAX NUMBER (Optional)
<b>OAL USE ONLY</b> <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S)		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)		
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)				
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT			
	AMEND			
	REPEAL			
3. TYPE OF FILING				
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only				
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)				
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)				
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____				
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY				
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____				
7. CONTACT PERSON Meagan Wilson		TELEPHONE NUMBER 916-341-6077	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) meagan.wilson@calrecycle.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Elliot W. Block</i>	DATE 7/31/17
TYPED NAME AND TITLE OF SIGNATORY Elliot Block, Chief Counsel	

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 01-2013) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code §11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

**CHANGES WITHOUT REGULATORY EFFECT**

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

**ABBREVIATIONS**

Cal. Code Regs. - California Code of Regulations  
Gov. Code - Government Code  
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME <b>Dept Resources Recycling and Recovery</b>	CONTACT PERSON <b>Elliot Block, Chief Counsel</b>	EMAIL ADDRESS <b>elliott.block@calrecycle.ca.gov</b>	TELEPHONE NUMBER <b>916-341-6080</b>
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 <b>Electronic Waste Recovery and Recycling</b>			NOTICE FILE NUMBER <b>Z</b>

**A. ESTIMATED PRIVATE SECTOR COST IMPACTS** *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- |  |   |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees  | <input type="checkbox"/> e. Imposes reporting requirements                |
| <input type="checkbox"/> b. Impacts small businesses           | <input type="checkbox"/> f. Imposes prescriptive instead of performance   |
| <input type="checkbox"/> c. Impacts jobs or occupations        | <input type="checkbox"/> g. Impacts individuals                           |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

See Attachment 1(A)(1)(h)***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***CalRecycle2. The \_\_\_\_\_ estimates that the economic impact of this regulation (which includes the fiscal impact) is:  
(Agency/Department)

- Below \$10 million
- Between \$10 and \$25 million
- Between \$25 and \$50 million
- Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: Attach. 1(A)(3)Describe the types of businesses (Include nonprofits): See Attachment 1(A)(3)Enter the number or percentage of total  
businesses impacted that are small businesses: 75% -Att.1(A)(3)4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: See Attachment 1(A)(4)5. Indicate the geographic extent of impacts:  Statewide  
 Local or regional (List areas): \_\_\_\_\_6. Enter the number of jobs created: 0 and eliminated: 0Describe the types of jobs or occupations impacted: See Attachment 1(A)(6)7. Will the regulation affect the ability of California businesses to compete with  
other states by making it more costly to produce goods or services here?  YES  NO

If YES, explain briefly: \_\_\_\_\_

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT (CONTINUED)**

**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0
- a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: 0
- b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: 0
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 0
- d. Describe other economic costs that may occur: See Attachment 1(B)(1)

2. If multiple industries are impacted, enter the share of total costs for each industry: N/A

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ N/A

4. Will this regulation directly impact housing costs?  YES  NO  
If YES, enter the annual dollar cost per housing unit: \$ \_\_\_\_\_  
Number of units: \_\_\_\_\_

5. Are there comparable Federal regulations?  YES  NO  
Explain the need for State regulation given the existence or absence of Federal regulations: See Attachment 1(B)(5)

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

**C. ESTIMATED BENEFITS** *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: See Attachment 1(C)(1)

2. Are the benefits the result of:  specific statutory requirements, or  goals developed by the agency based on broad statutory authority?  
Explain: See Attachment 1(C)(2)

3. What are the total statewide benefits from this regulation over its lifetime? \$ Not estimated.

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: None.

**D. ALTERNATIVES TO THE REGULATION** *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: See Attachment 1(D)(1)

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT (CONTINUED)**

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ 0 Cost: \$ 0

Alternative 1: Benefit: \$ 0 Cost: \$ 0

Alternative 2: Benefit: \$ N/A Cost: \$ N/A

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

N/A

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

YES  NO

Explain: See Attachment 1(D)(4)

**E. MAJOR REGULATIONS** Include calculations and assumptions in the rulemaking record.

*California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million?  YES  NO

*If YES, complete E2. and E3  
If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: \_\_\_\_\_

Alternative 2: \_\_\_\_\_

*(Attach additional pages for other alternatives)*

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 1: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 2: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

YES  NO

*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: No change expected.

The incentive for innovation in products, materials or processes: No change expected.

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: \_\_\_\_\_

No change expected.

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**FISCAL IMPACT STATEMENT**

**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

a. Funding provided in \_\_\_\_\_

Budget Act of \_\_\_\_\_ or Chapter \_\_\_\_\_, Statutes of \_\_\_\_\_

b. Funding will be requested in the Governor's Budget Act of \_\_\_\_\_

Fiscal Year: \_\_\_\_\_

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

*Check reason(s) this regulation is not reimbursable and provide the appropriate information:*

a. Implements the Federal mandate contained in \_\_\_\_\_

b. Implements the court mandate set forth by the \_\_\_\_\_ Court.

Case of: \_\_\_\_\_ vs. \_\_\_\_\_

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. \_\_\_\_\_

Date of Election: \_\_\_\_\_

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: \_\_\_\_\_

e. Will be fully financed from the fees, revenue, etc. from: \_\_\_\_\_

Authorized by Section: \_\_\_\_\_ of the \_\_\_\_\_ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in \_\_\_\_\_

3. Annual Savings. (approximate)

\$ \_\_\_\_\_

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain \_\_\_\_\_

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**FISCAL IMPACT STATEMENT (CONTINUED)**

**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

*It is anticipated that State agencies will:*

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the \_\_\_\_\_ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain \_\_\_\_\_

**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain \_\_\_\_\_

FISCAL OFFICER SIGNATURE



DATE

9 June 2017

*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY



DATE

6/27/17

*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE



## ATTACHMENT 1 - ECONOMIC AND FISCAL IMPACT STATEMENT

### *Electronic Waste Recovery and Recycling*

#### ECONOMIC IMPACT STATEMENT

##### A. ESTIMATED PRIVATE SECTOR COST IMPACTS

###### 1. Check the appropriate box(es) below to indicate whether this regulation:

**h. None of the above.** CalRecycle is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new or separate costs incurred to participate in or comply with the covered electronic waste (CEW) program. The CEW program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already require recordkeeping and claim submission. The proposed regulations clarify those records and allow for additional options for managing treatment residuals within otherwise compliant practices to fulfill claim criteria.

The proposed regulations also include procedures for the statutorily authorized penalties. The procedures set forth how CalRecycle can impose administrative civil penalties but do not increase costs of compliance for the regulated businesses.

###### 3. Enter the total number of businesses impacted:

There are currently 410 approved collectors in the CEW recycling program, of which approximately 30 are also approved recyclers. Both approved collectors and approved recyclers must apply to participate by submitting certain documents that demonstrate eligibility. Subsequently, approved collectors and approved recyclers conduct and document CEW recovery and recycling activities. Recyclers generate treatment residuals such as cathode ray tubes (CRT) and other regulated materials as a result of dismantling CEW.

###### Describe the types of businesses (Include nonprofits):

Program participants include collectors and recyclers of electronic waste that are approved participants in the CEW recycling program. Other actors such as non-participating handlers, transporters, or downstream entities interface with the CEW program by providing material management services. The CEW recycling program, including the associated payment system, is a voluntary program intended to relieve the costs of managing certain electronic wastes and businesses are not required to participate. However, participants must comply with applicable laws and regulations, including State hazardous waste rules that govern the handling of CEW and the compliant management of treatment residual.

**Enter the number or percentage of total businesses impacted that are small businesses:**

The majority of potentially affected businesses are small businesses. Only approved collectors and approved recyclers would be directly affected by these rules, and approximately 75 percent of these are small businesses.

**4. Creation or Elimination of Businesses within the State of California:**

The requirements and options in the regulations will not create or eliminate businesses within the State of California. The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including cathode ray tubes (CRT) and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

**6. Creation or Elimination of Jobs within the State of California:**

The requirements and options in the regulations will not create or eliminate jobs within the State of California. The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including CRT and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

**B. ESTIMATED COSTS**

**1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime?**

There are no new or separate costs incurred to participate in or comply with the CEW program. The CEW program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already require recordkeeping and claim submission. The proposed regulations clarify those records and allow for additional options for managing treatment residuals within otherwise compliant practices to fulfill claim criteria.

The proposed regulations also include procedures for the statutorily authorized penalties. The procedures set forth how CalRecycle can impose administrative civil penalties but do not increase costs of compliance for the regulated businesses.

**5. Are there comparable Federal regulations? Explain the need for State regulation given the existence or absence of Federal regulations:**

There are no comparable Federal regulations. To maintain the integrity of California's CEW program, certain documentation requirements and timeframes must be established so that the State can be confident that beneficiaries of the CEW recycling program have operated compliantly.

Additionally, there are no comparable Federal regulations relating the authority to impose civil liabilities within the scope of a State administered program. Implementing State statutory authority to protect the integrity of public fund and maintain a fair business climate through the administration of civil penalties is of great benefit to the State and the public.

**C. ESTIMATED BENEFITS**

**1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment:**

Existing regulations already require recordkeeping and prescribe claim submission. The proposed regulations clarify those records and allow for additional options for managing treatment residuals within otherwise compliant practices to fulfill claim criteria. This allows participating businesses to select the most economically feasible practices within otherwise compliant options.

Additionally, the proposed rules provide procedures for implementing and administering civil liabilities authorized by statute, which may result from false statements or representations made in documents used to comply with the Electronic Waste Recycling Act. This benefits the health and welfare of the residents of California by acting as a deterrent to discourage non-compliant behavior, reducing the likelihood of claims being submitted containing false statements or representations, promoting a level playing field between program participants, and fostering fair business practices.

**2. Are the benefits the result of specific statutory requirements, or goals developed by the agency based on broad statutory authority?**

Both.

The civil penalties portion of the proposed rules are authorized by statute and address false statements in documents submitted to the Department. Public Resources Code (PRC) section 42474(d) states that CalRecycle may administratively impose civil liability (penalties) on a person "... that makes a false statement or representation in any document filed, submitted, maintained or used for purposes of compliance..." with the Electronic Waste Recycling Act and associated regulations.

Separately, the Department has recognized evolving business practices within the electronic waste recycling industry and material market conditions. The proposed rules address limitations in the recyclability of CRT glass and compliance options for other residual materials and provide additional disposition methods where recycling is economically infeasible. This ensures that those materials are still handled safely and in an environmentally protective way.

#### **D. ALTERNATIVES TO THE REGULATION**

**1. List alternatives considered and describe them below. If no alternatives were considered, explain why not:**

Alternatives to the proposed rules have been considered.

CalRecycle considered alternatives to the proposed rules and determined that: 1) no alternative would be more effective in carrying out the purpose for which the action is proposed; 2) no alternative would be as effective and less burdensome to affected private persons, while at the same time protecting human health, safety, and the environment, and the integrity of public funds; and 3) no alternative would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

CalRecycle staff has attempted to incorporate documentation requirements that already exist under other regulatory frameworks to minimize any impact on small businesses while still collecting the information necessary to fulfill the intent of statute.

**4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?**

The regulations do not mandate the use of specific technologies or equipment. The regulations do not prescribe any new specific actions. The regulations do allow recyclers to demonstrate economic infeasibility of recycling options based on market conditions, but do not prescribe how to do so. (14 CCR section 18660.6(h)).

**REQUEST FOR APPROVAL**

**To:** Scott Smithline  
Director

**From:** Jeff Hunts  
Manager, Electronic Waste Recycling Program

**Request Date:** January 18, 2017

**Decision Subject:** Regulations Amending the Covered Electronic Waste Recycling Program and Finalizing Existing Emergency Regulations

**Action By:** January 24, 2017

---

**Summary of Request**

Staff seeks approval to file proposed regulations with the Office of Administrative Law that would amend aspects of current regulations governing the covered electronic waste (CEW) recycling payment program as well as finalize related emergency rules adopted in 2015. The proposed regulations establish and clarify requirements related to participating in the CEW program and CalRecycle's oversight and administrative responsibilities.

The proposed regulations apply to Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations. They will serve to finalize two existing emergency regulation packages that address: 1) the assessing of civil liabilities pursuant to the authority granted under Public Resources Code (PRC) section 42474, and 2) the management of treatment residuals derived from the dismantling of CEW. In addition to other general edits, the proposed rules will also amend and clarify definitions, applicability and limitations, documents and records, net cost reports, applications, prohibited activities, appeals, requirements for collectors and recyclers, claims, cancellation, and manufacturer payments.

**Recommendation**

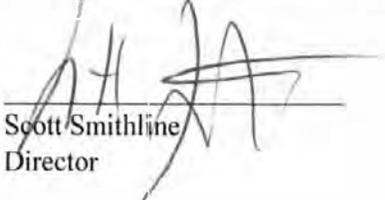
Staff recommends approval of the proposed regulations that would modify areas within Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations. The proposed regulatory language can be found as Attachment 1 to this Request for Approval.

Upon approval of this request, staff will work with the Legal Office to engage with Agency and the Department of Finance to complete required fiscal and economic analyses prior to filing documents with the Office of Administrative Law to initiate the formal rulemaking process prescribed through the Administrative Procedures Act.

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**Director Action**

Based on the information contained in this Request for Approval, I hereby approve the staff recommendation and direct staff to prepare documents necessary to perform required analyses and file the proposed regulations with the Office of Administrative Law in accordance with the Administrative Procedures Act and pursuant to the authority contained in PRC section 42475.

  
\_\_\_\_\_  
Scott Smithline  
Director

1-24-17  
\_\_\_\_\_  
Date Signed

## **Attachments**

1. Proposed Regulatory Language Editing and Amending Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations including portion of Articles 1, 2, 2.1, 2.2, 2.3, 2.4, 2.5, and 6.

## **Background and Analysis**

### Statutory Authority

The authority to adopt regulations to implement and administer the Electronic Waste Recycling Act of 2003 is found in PRC § 42475. Portions of the proposed regulations were previously adopted in late 2015 under emergency authority established by PRC § 42475.2.

### Program Background

The Electronic Waste Recycling Act of 2003 (PRC § 42460, *et seq.*) establishes a funding mechanism to provide for convenient collection opportunities and waste processing capabilities for certain electronic products discarded in California. Covered electronic devices (CED) are video display devices with screen sizes greater than four inches that the Department of Toxic Substances Control (DTSC) has determined to be hazardous when discarded. When CED are discarded, they become covered electronic waste (CEW). Under the CEW recovery and recycling payment program administered by CalRecycle, approved collectors document the recovery of eligible CEW before transferring that material to an approved recycler. Approved recyclers receive and dismantle (cancel) the CEW, compliantly manage derived residuals, and subsequently submit claims for payment.

The CEW recovery and recycling payment program has been operating largely under the same regulations since its inception in 2005. Initial emergency rules were finalized in October 2006. Subsequent print filings associated with recovery and recycling payment rate changes, emergency rules to enact electronic waste recycling fee changes, and Section 100 rule changes necessary to conform to statutory developments have left the overall requirements of the program unchanged for a dozen years. In that time, more than 2 billion pounds of CEW was recovered and claimed for payments through the program. Along the way, program staff have noted both nagging flaws within the rules and the applicability drift that occurs due to changes in real-world circumstances relative to static regulations.

In August 2015, CalRecycle filed emergency rules to address the evolution on global markets for treatments residuals, specifically cathode ray tube (CRT) glass. Historically, a key criterion for CEW recycling claims was that treatment residual CRTs or CRT glass be shipped with the purpose of recycling. Markets for CRT glass had been eroding with the demise of CRT use in video technology, and substantial uncertainty existed about the oversea destinations receiving California-generated glass. To address this concern, the emergency rules created additional disposition options for CRTs and CRT glass, including disposal, along with improved documentation requirements. Similar documentation enhancements were established for other treatment residual as well.

In September 2015, CalRecycle filed emergency rules to better implement and administer a civil liabilities (penalties) authority that had been vested with CalRecycle via 2012 Budget Act trailer bill language. The rules establish a framework to impose civil liabilities for the failure to pay the CEW recycling fee, manufacturer non-compliance, and false statements or representations. The process and procedures set forth in the rules ensure CalRecycle has the ability to exercise its authority and impose civil liabilities.

### General Intent of Proposed Rules

In addition to finalizing regulations adopted as emergency rules in late 2015, the intent of this rulemaking is to clarify requirements and allowances relative to the CEW program. The rules will establish better documentation practices aimed at ensuring compliant handling of hazardous electronic waste, and increase the integrity of the program and protect the associated tens of millions of dollars in public funds paid annually to participating CEW collectors and recyclers.

### **Stakeholder Input / Staff Discussions**

Over the course of several years, program staff have had several opportunities to engage with stakeholders on topics addressed in the proposed regulations. In addition to administering the CEW recovery and recycling program from a dozen year, program staff have hosted over three dozen stakeholder workshops apart from departmental considerations and determinations. These have been for the purpose of informing program participants as well as being informed by program participants. An informal workshop specific to the entirety of this rulemaking was held December 20, 2016.

Specific to the issues addressed in the two emergency rule packages:

#### CRT/Residuals

- Staff held many workshops since 2010, including several in collaboration with DTSC, on the subject of CRT management and diminishing CRT markets. Stakeholder engagement informed the evolution of treatment residual CRT glass management allowances that are embodied in the existing emergency rules.
- Staff recognized through experience that similar constraints facing CRT glass management also affect recyclers when handling other regulated residual materials, such as plasma panel glass and mercury containing lamps.
- Staff have proposed documentation approaches that ensure compliance while reducing unnecessary burden.

#### Administrative Civil Penalties

- Staff held an informal stakeholder workshop on the subject of administrative civil liabilities prior to seeking formal approval to file emergency rules in 2015.
- Staff identified minor issues of clarity that are being addressed between the existing emergency rules and the proposed final rules.



## INITIAL STATEMENT OF REASONS 2017

**TITLE 14: NATURAL RESOURCES**  
**DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**  
**CHAPTER 8.2 ELECTRONIC WASTE RECOVERY AND RECYCLING**  
**Articles/Sections: Article 1.0, § 18660.5; Article 2.0, §§ 18660.6, 18660.7, 18660.8, 18660.9, 18660.10; Article 2.1, §§ 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19; Article 2.2, §§ 18660.20, 18660.21; Article 2.3, §§ 18660.22, 18660.23, 18660.24, 18660.25, 18660.30, 18660.31; Article 2.4, §§ 18660.32, 18660.33; Article 2.5, §§ 18660.35, 18660.36, 18660.37, 18660.39; Article 3.0, § 18660.41; Article 6, §§ 18660.44, 18660.45, 18660.46**

### STATUTORY AND REGULATORY BACKGROUND

The Electronic Waste Recycling Act of 2003 (“the Act”), established through SB 20, Sher, Chapter 526 (Public Resources Code Section 42460, *et seq.*), was intended to address the growing amounts of electronic discards entering California’s waste stream and the associated cost burden placed on responsible parties, such as local governments and non-profit organizations, to divert that waste toward proper management.

In enacting SB 20, the Legislature determined the following:

- The purpose of the Act was to enact a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of covered electronic devices, and to provide incentives to design electronic devices that are less toxic, more recyclable, and that use recycled materials.
- A further purpose of the Act was to enact a law that establishes a program that is cost free and convenient for consumers and the public to return, recycle, and ensure the safe and environmentally-sound disposal of covered electronic devices.
- The Legislature’s intent is that the cost associated with the handling, recycling, and disposal of covered electronic devices is the responsibility of the producers and consumers of covered electronic devices, and not local government or their service providers, state government, or taxpayers.
- In order to reduce the likelihood of illegal disposal of these hazardous materials, the intent of the Act is to ensure that any cost associated with the proper management of covered electronic devices be internalized by the producers and consumers of covered electronic devices at or before the point of purchase, and not at the point of discard.

*See* Public Resources Code Sections 42461(a)-(d).

The Act established a funding system that places a fee on consumers at the point of retail purchases of “covered electronic devices”; specifically, video display devices with screen sizes of four inches or larger that have been determined to exhibit hazardous characteristics when

discarded. The Act tasked the Department of Resources Recycling and Recovery (CalRecycle) with administering a program that pays authorized collectors and recyclers a standard rate to recover and process “covered electronic waste” in compliance with applicable rules, including rules administered by the Department of Toxic Substances Control (DTSC). In general, DTSC regulates the physical management of hazardous waste in California, including hazardous electronic waste, which also includes covered electronic waste (CEW).

In a complementary role, CalRecycle administers most of the financial aspects of the CEW program to ensure that public funds are paid only when warranted and only to participants that operate in compliance with applicable laws. To implement and administer the program, CalRecycle adopted initial emergency rules in April 2004, and readopted amendment rules in August 2004 to conform with changes to the Act introduced via SB 50, Sher, Chapter 863. CalRecycle last adopted formal rules in 2006.

Existing sets of emergency regulations aimed at managing residual material derived from processed CEW, particularly cathode ray tube (CRT) glass, and administering a civil penalty facet to the CEW recovery and recycling payment system, address the fundamental problems of overseeing an environmental program and dispensing public funds. *See* attached Office of Administrative Law Notices of Approval for File Nos. 2015-0812-01E and 2015-0925-02E (**Attachments 1 and 2**). CalRecycle is seeking to make these emergency regulations permanent pursuant to Public Resources Codes section 42475.2(b).

## **PROBLEM STATEMENT**

The regulations that CalRecycle has previously adopted, as well as those proposed in this rulemaking, address the problems of implementing, administering, and evolving a payment system that disburses public funds to an industry engaged in the management of regulated wastes in order to achieve the intent of the Act. Problems include eligibility, documentation, compliance, and accountability.

The core purpose of the CEW recovery and recycling program is to facilitate and ensure the environmentally sound and legally compliant management and disposition of CEW and derived residual materials. Among other challenges, participating recyclers must be able to demonstrate that derived regulated materials have been properly handled before the recycler can file a claim for payment. Changing material markets, evolving technologies, and hazardous waste regulation have altered or eliminated traditional options for residual material disposition, requiring changes in regulatory requirements and allowances, while safeguarding the environment and maintaining the integrity of the program. Emergency rules approved August 21, 2015 (2015-0182-01E), began the work to remedy this problem. CalRecycle proposes to make those rules, in addition to associated similar adjustments in the proposed text, permanent.

CalRecycle has detected inaccuracies as well as false statements or representations in payment claims and associated documentation used for the purpose of compliance with the Act and the CEW program regulations, which represents another challenge to the integrity of the program. Over the past few years, CalRecycle has concentrated on claim adjustments and payment disallowances as one of the tools to ensure compliance with the program’s rules and regulations.

In order to safeguard the integrity of the program, CalRecycle proposed to implement procedures for imposing civil penalties, which offers CalRecycle an additional tool to deter non-compliant behavior. CalRecycle was granted statutory authority to administratively impose civil penalties in 2012, as codified in Public Resources Code (PRC) Section 42474. Emergency rules approved October 5, 2015 (2015-0925-02E) implemented a civil liability facet to the CEW recycling payment system, and established a process for administering civil penalties for the failure to pay the CEW recycling fee, manufacturer non-compliance, and false statements or representations. CalRecycle proposes to make these regulations permanent.

In addition to the finalization of the emergency rules, the CEW program must respond to a dynamic industry, a changing cast of participants, new technologies and business practices, and associated documentation management requirements. This requires updating recordkeeping and information tracking, creating allowances and establishing limitation, and clarifying the terms and terminology used to administer the CEW program.

### **STATEMENT OF BENEFITS**

The proposed rules benefit the State by ensuring that only authorized entities receive public funding for the compliant management of specified wastes. The rules do so without placing excess burden on the voluntarily participating recycling industry by primarily relying on documents and demonstrations already required pursuant to a range of other State laws, such as hazardous waste rules and weighmaster rules.

The existing and proposed rules also ensure that only eligible CEW generated in California enters the program and that the funds derived from fees paid by California consumers are expended only on activities conducted in compliance with applicable law. This benefits the State by protecting the environment and public funds. The emergency rules strengthened the documentation requirements for CRT glass management while providing management options. The proposed rules expand the allowable methods for managing, in general, residual materials derived from CEW, which allows participating businesses to select the most economically feasible practices within otherwise compliant options, while maintaining reasonable and effective regulatory oversight.

Additionally, the proposed rules establish the mechanisms to hold accountable anyone making false statements or representations in documents used for the purpose of compliance with the Act and the CEW program regulations, via the imposition of administrative civil penalties. The process and procedures set forth ensure CalRecycle has the ability to exercise its statutory authority and impose civil liabilities. The proposed rules benefit the State through safeguarding the integrity of the CEW program and promoting compliance with the CEW program's rules and regulations by acting as a deterrent to non-compliant behavior. Additionally, the proposed rules benefit the State through promoting a level playing field between program participants and fostering fair business practices.

## **GENERAL COMMENTS APPLICABLE TO STATEMENT OF REASONS**

The Act created the covered electronic waste recovery and recycling program (Program), which disburses funds to approved participants in the program after reviewing submitted claims to ensure eligibility and compliance. In order to implement and administer the Program, CalRecycle previously adopted regulations, and, more recently adopted emergency rules to better administer its obligations under the Act. The emergency rules (2015-0812-01E and 2015-0925-02) addressed primarily two issues: 1) those associated with compliant residual material management, particularly the management of CRT glass, and 2) the imposition of administrative civil penalties as the consequence of false representations.

CalRecycle is now seeking to make the emergency regulations permanent, as well as edit and amend other existing regulations spanning portions of Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations. The proposed rules intend to clarify terminology (definitions), to provide better structure to participation in the program, to scope the recordkeeping and documentation necessary to determine operational compliance, to establish sound processes for claiming public funds, and to hold persons accountable for the (mis)representations made relative to complying with the Act and the Program.

## **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION**

This paragraph applies to each section below unless otherwise indicated:

CalRecycle considered alternatives to the proposed rules and determined that: 1) no alternative would be more effective in carrying out the purpose for which the action is proposed; 2) no alternative would be as effective and less burdensome to affected private persons, while at the same time protecting human health, safety, and the environment, and the integrity of public funds; and 3) no alternative would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

CalRecycle staff attempted to incorporate documentation requirements that already exist under other regulatory frameworks to minimize any impact on small businesses while still collecting the information necessary to fulfill the intent of statute.

CalRecycle staff hosted several stakeholder workshops on topics relating to this rulemaking and received comments and suggestions on a range of subjects within the covered electronic waste program. These are largely categorized into the subjects of administrative civil liabilities (penalties) and the disposition of residual cathode ray tubes (CRT) and associated glass. The following summarizes major comments that CalRecycle received at its stakeholder workshops prior to the submission of the emergency regulations packages to the Office of Administrative Law, and provides CalRecycle staff's response to these comments.

## Administrative Civil Liabilities

In general, stakeholders favored the issuance of Notice of Violations (NOVs) or imposition of penalties as it provides a good deterrent to discourage non-compliant behavior and protects fair business practices.

- 1) **Recycler Responsibility:** Several stakeholders expressed concerns that the responsibility would fall on the recycler for accepting material and associated records from collectors and/or handlers that contains false documentation.

Response: Staff explained that the assigning of responsibility will be determined on a case by case basis that would assess the totality of circumstances.

- 2) **Penalty Provisions:** Several commenters suggested to clarify the “Minor” penalty and feared that clerical errors could fall under “unintentional” violations. Comments were also received on the same subject. One comment expressed concerns that penalties might be assessed for something that was not intentional highlighting that inaccuracies in recording consumer information could happen occasionally. Furthermore, it called for defining all violations for which penalties could be imposed. Another comment expressed support for adopting a schedule to assess civil penalties but emphasized that the three-tiered system needs to be more specific and hence proposed incorporating a point system to identify the severity of various violations.

Response: In response to these comments and prior to the submission of the emergency regulations to OAL, CalRecycle staff modified the “Minor” category to include first-time violations where the gravity of the violation is severe (instead of “first-time or multiple unintentional violations”). The “Moderate” category penalty was also revised to include subsequent or multiple violations and penalties for this category could be assessed without prior issuance of notice. The “Major” category includes violations that indicate a pattern and practice of noncompliance or intentional violations. CalRecycle staff believes these changes bring more clarity to distinguish between the three types of violations and provide a more specific assessment.

- 3) **Site of Hearings:** Another commenter asked if the hearings will be held only in Sacramento and called for the possibility to conduct hearings in Southern California, especially if it involves small participants.

Response: CalRecycle staff added another provision to the emergency rules package prior to submission to OAL, specifying that the hearing will take place in Sacramento unless otherwise determined by the hearing officer. The Respondent can request an alternate location by providing a justification of undue burden when filing the Notice of Defense.

- 4) **Public Record:** Several commenters asked if the NOVs and/or Accusations could be made public.

Response: CalRecycle staff has been looking into this option and believes that once filed, the Accusations and the hearing officer’s final decisions could be posted on the CalRecycle website.

The NOV's will not be published as those are intended to serve as warnings and an opportunity to take corrective action by the violator(s).

5) Retroactive Penalties: One comment received inquired if the new penalties would be applied retroactively.

Response: Staff believes CalRecycle has the authority to retroactively assess civil liabilities for the past three years, which is the statute of limitations for fraud, given that it had the authority to impose civil penalties since the statute was enacted in June 2012.

6) Emergency Regulations: Another comment received prior to OAL's adoption of the emergency rules package did not favor the adoption of regulations under emergency rulemaking stating that there was "no emergency" and that stakeholders would not be able to comment on for a period of up to two years.

Response: Per PRC section 42475.2, CalRecycle has the authority to adopt regulations to implement and enforce the Electronic Waste Recycling Act on an emergency basis, as necessary for the immediate preservation of the public peace, health, safety, and general welfare. The proposed regulations implementing civil liabilities are intended to be established under the emergency authority to protect both the environment as well as the integrity of public funds. CalRecycle aimed to involve stakeholders in the civil liabilities regulatory development and hosted a dedicated stakeholder workshop seeking comments. Moreover, CalRecycle now seeks to make these emergency rules permanent thereby providing the requisite written comment period, as well as a public hearing on October 11, 2017, to allow for additional comments and feedback from the public.

7) Hearing Process: Another comment requested that the hearings be conducted as formal hearings pursuant to Government Code section 11500 to provide for protections and guarantees, instead of using the proposed informal hearing specified in Government Code section 11400. The stakeholder argued that the informal hearing is an inappropriate venue given that the civil penalties could exceed the capitalization of the business and that these hearings are never heard by the Director.

Response: CalRecycle staff believes that the informal hearing provides the same due process as a formal hearing. The hearing officer is a third-party neutral who would have no involvement with the CEW program regarding the matter. Furthermore, the violator's ability to pay is one of the factors that CalRecycle might consider when imposing a civil penalty.

#### Residual CRT Glass Disposition

A range of perspectives have been expressed over the two-year course of considering this topic in public settings and in written communication. Typically, stakeholders favor recycling of residuals if and when markets exist. However, there is increasing consensus that traditional markets have been fading and anticipated new markets have been slow to materialize. Outright opposition to the prospects of recyclers exercising access to all legal CRT glass disposition options has diminished with the increased understanding of challenging market conditions.

Additionally, the proposed limitations on disposition timeliness was generally supported by interested parties.

- 1) **Limitation on Length of Rules:** One commenter asked about placing a “sunset” on the proposed regulations, presumably to revisit the regulations if market conditions change.

Response: Since the regulations were adopted as emergency regulations, there is a default maximum two-year longevity, requiring CalRecycle to re-analyze the subject prior to finalization or re-adoption. CalRecycle now seeks to make these emergency regulations permanent.

- 2) **Limitations on Location of Disposal:** Another comment suggested that any disposal options, including potential Class 1 disposal of RCRA hazardous leaded or mixed CRT glass, be limited to in-state, along with the previously proposed Class 2 and Class 3 limits for panel glass.

Response: It has been determined that adding such a limitation for panel glass is not necessary, as the regulation already requires handling in conformance with all applicable laws. DTSC’s universal waste rules for CRT glass would not apply nor exempt these materials from RCRA Sub C in other states.

- 3) **Determining Feasibility:** CalRecycle received comments on the subject of “economic feasibility” relative to whether a recycler must manage residual CRT glass for the purposes of recycling or pursue other options, including disposal. Commenters suggested incorporating concepts of health and safety, environmental protection, and reasonable access to markets into required recycler decision-making.

Response: Staff believe that all of these concepts are embodied in the physical material management rules administered by DTSC (e.g. health, safety, and the environment), as well as market dynamics evaluated on an ongoing basis in the business world that factor into determining “economic feasibility”.

## **SPECIFIC PURPOSE AND NECESSITY OF REGULATIONS**

### **Title 14**

### **Division 7**

### **Chapter 8.2 Electronic Waste Recovery and Recycling**

#### **Global Changes in Proposed Regulations**

The following changes were made throughout the regulation:

1. All references to the term “End-Use Destination” were deleted and replaced by the term “Initial Destination” or “Ultimate Disposition”, as applicable. This is necessary to better reflect the downstream movement of Treatment Residuals derived from the dismantling and processing of covered electronic waste.
2. All use of the unclear conjunctive “and/or” was edited to use either “and” or “or”, as appropriate, which is necessary for better clarity.

## **Article 1. General Provisions and Definitions**

### **Section 18660.5 Definitions.**

Definition numbering was adjusted throughout the section to accommodate deletions and additions.

Subsection (6): the definition for “Bare Panel” was edited to remove the word “gas” from “gas plasma.” This is necessary to conform with common technology terminology and wording in Title 22, Division 4.5 of the California Code of Regulations. The definition was amended to allow lamps to remain affixed to the bare panel in case they cannot be removed without breaking. This is necessary to account for a circumstance encountered by recyclers during dismantling and to avoid the release of a hazardous material.

Subsection (8): the definition of “Claim Activity Period” was amended to clarify that the end of an activity period is determined by the shipment of treatment residuals only if those treatment residuals are required to be shipped off-site prior to submitting a payment claim. This is necessary to conform with the elimination of the requirement to ship plasma panel glass derived from the dismantling (cancellation) of non-CRT devices prior to submitting a claim in Section 18660.22(c)(1)(C) and (D).

The definition of “End-Use Destination” was deleted in Subsection (20) and the following definition numbers are edited accordingly. This is necessary to avoid confusion caused when Treatment Residuals are shipped to an Initial Destination that is not an Ultimate Disposition (the final status, when the Treatment Residuals are consumed into a manufacturing process or disposed of).

The definition of “Further Treat” was edited and amended to specify the purpose of treatment activities. This is necessary to clarify what treatment means and reflect that treatment does not necessarily result in increased marketability.

The definition of “Initial Destination” was added in Subsection (23) to replace “End-Use Destination” and to clarify and distinguish a certain location in the flow of residual material management. This is necessary to better reflect the downstream movement of Treatment Residuals derived from the dismantling and processing of covered electronic waste.

Subsection (30): the definition of “Processing Log” was edited to remove crushing and shredding. This is necessary to conform with the elimination of crushing and shredding as an allowable cancellation method from Section 18660.32.

Subsection (31)(F): the word “gas” was removed from “gas plasma” to conform with common technology terminology and wording in Title 22, Division 4.5 of the California Code of Regulations.

Subsection (32): the definition of “Proof of Approval” was edited to indicate that the Proof of Approval means the status of an approved collector or approved recycler. This is necessary to

better reflect how the status of approval is used by both participants and CalRecycle, and where that status is maintained.

Subsection (46): the definition of “Treatment Residuals” was edited and amended in the emergency regulations (2015-0182-01E) to factor the costs or revenues associated with Treatment Residuals management into the net cost of recycling. The definition was also amended in the emergency regulations to state that documentation demonstrating the subsequent movement of Treatment Residuals may be required as part of the claim for payment that is submitted by recyclers. This language is necessary to clarify net cost reporting requirements related to Treatment Residuals, as well as how documents associated with Treatment Residuals may be used. The proposed regulations propose an additional amendment to clarify the type of payment for which Treatment Residuals are not eligible. Also, the current text is being edited to remove “prior” to avoid redundancy.

Subsection (47): the definition of “Ultimate Disposition” was added in the emergency regulations (2015-0182-01E) to describe the final status of Treatment Residuals, when the Treatment Residuals are consumed into a manufacturing process or disposed of. This is necessary to clarify and distinguish that from interim statuses that may occur in the course of material management. No additional changes are proposed in the current text.

## **Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, records, Audits and Net Cost Report**

### **Section 18660.6. Applicability and Limitations.**

Subsection (h)(1) was moved to a new Subsection (j) in the emergency regulations (2015-0182-01E) to allow for the revisions put forth in the emergency regulations and to provide clarity.

The new Subsections (h)(1)-(5) were added to the emergency regulations (2015-0182-01E) to place new limitations and allowances on the management of treatment residuals relative to the requirements of the CEW recycling program and associated payment system. The emergency regulations amendments were necessary to encourage recycling to the extent economically feasible, allow for disposal as necessary, and establish the authority for CalRecycle to require certain demonstrations through documentation to ensure compliance with applicable law. The emergency regulation amendments were proposed out of recognition that there are not always viable or legal markets for every recovered material or associated residual. If recyclers are not afforded disposition options, they will cease operating and the intent of the Act will be thwarted.

Additional edits and amendments are being proposed in the current text:

Subsection (h)(3) was edited to clarify that the ultimate disposition demonstration requirement applies to shipments of CRT or CRT glass and is necessary to reflect processing practices. In addition, this Subsection was amended to provide for an exemption pursuant to Article 7 of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations, which relieves a

Californian dismantler that ships CRTs to an authorized Californian processor of this demonstration obligation.

Subsection (h)(4) was amended to include the obligation for an approved recycler to be able to demonstrate that the disposition is compliant with all applicable laws. This is necessary to ensure CalRecycle has the ability to verify compliant disposition.

Subsection (h)(5) was amended to better reflect the downstream movement of treatment residuals.

The revision to Subsection (i)(1) fixes a typo to an existing statutory citation which is necessary to provide for the proper reference to the applicable statutory definition of “manufacturer.”

Subsection (j) was added in the emergency regulations (2015-0182-01E) as a place to move a portion of the original subsection (h) relating to the export of CEW. This is necessary to provide clarity to associated limitations.

#### **Section 18660.7. Document Submittals.**

Subsection (b) was edited to reflect that more than one person may have specified authorities within an approved collector or approved recycler application or operation. This is necessary to allow more persons to have signatory authority.

Subsection (f) was added in the emergency regulations (2015-0925-02E) to clarify the scope of liability associated with the use of documents that contain false statements or representations. This relates to Article 6 of this Chapter, Administrative Civil Penalties and is necessary to implement a civil liability facet to the CEW program and ensure CalRecycle has the ability to hold persons accountable for the representations relative to complying with the Act and the program.

Public Resources Code section 42474 has been added to the Reference section to reflect statutory authority to impose civil penalties for false statements or representations, as stated in PRC 42474(d). This addition is necessary is necessary for statutory reference purposes.

#### **Section 18660.8. Records.**

Subsection (a) was edited to clarify what unique identifier number is required and to remove extraneous information management requirements. This is necessary to avoid duplication of requirements. In this case, the responsible parties are the approved participants; hence, the names and telephone numbers are not required to be provided separately from application information.

#### **Section 18660.10. Net Cost Report.**

Subsection (c)(1)(B) was edited to specify that approved participants shall use revenues from treatment residuals when calculating the net costs. This is necessary to clarify that the value lies

with the material (Treatment Residuals) itself rather than a location to which the material may be shipped (End-use).

## **Article 2.1. Electronic Waste Payment System – Applications for Approval**

### **Section 18660.12. Additional Application Requirements for Collectors**

The revision to Subsection (a)(2)(D) ) fixes a typo to an existing statutory citation which is necessary to provide for the proper reference to applicable statutory law.

### **Section 18660.13. Additional Application Requirements for Recyclers.**

Subsection (a)(3)(A) was edited to expand the scope of applicable regulations to fully include those associated with the management of electronic waste. This edit is necessary as Chapter 23 of Title 22 of the California Code of Regulations only addresses the management of universal waste. The management of CEW and derived residuals may involve activities conducted in the larger realm of regulated hazardous waste (Division 4.5. Environmental Health Standards for the Management of Hazardous Waste) and thus be applicable law to the CEW program and subject to compliance consideration.

Subsection (a)(6)(A)1. was edited to delete a typographic duplication error. This is necessary to avoid confusion.

Subsection (a)(6)(A)2. was amended to clarify the apparent conflict between this certification statement relating to recyclers not charging fees to collectors and the allowance in Section 18660.6(d) to charge fees under certain circumstances. This is necessary to ensure that collectors receive the recovery payment from recyclers.

### **Section 18660.15. CalRecycle Review of Applications.**

Subsection (c)(1) was edited to clarify the issuance of a Proof of Approval, which will be the approval status as reflected on the CalRecycle website and associated with an unique identification number, moving away from a suggestion that the Proof of Approval will be a physical document bearing an unique identification number. This is necessary to allow for future electronic management of this approval status and conforms with edits to the definition of “Proof of Approval” in Section 18660.5(a)(32).

### **Section 18660.16. Approval Term and Applications for Renewal.**

Subsections (a) and (b) were edited to reflect that the conditions of the approval apply to the current approved application and not just the original application. This is necessary to clarify that the conditions of approval for original applications and current applications are the same.

Subsection (c) was edited to remove a hyphen typographical error (“re-apply”). This is necessary to ensure consistency throughout the rules.

Subsection (d) was edited to use the term “reapply” instead of “renew”. This change is necessary to allow for the receipt and processing of applications without exposing an approval status to unwarranted termination in the case of a delayed renewal. Subpart (3) was edited to comport with the use of the Proof of Approval, which is the approval status as reflected on the CalRecycle website and associated with a unique identification number rather than a physical document bearing a unique identification number.

Subsection (e) was added to clarify that a participant can withdraw from the program at any time via a written notice. This is necessary to allow participants to withdraw from the program at their discretion.

### **Section 18660.17. Prohibited Activities.**

Subsection (a) was edited to clarify that the consequences of a prohibited activity extend to all applications and not just renewals. This is necessary to protect the integrity of the CEW program from any entity with a negative track record by enabling CalRecycle to exclude both approved participants as well as new applicants that have a history demonstrating a pattern of non-compliance, and conforms with Public Resources Code Section 42474(e)(2), which provides CalRecycle with this authority. Subpart (7) of Subsection (a) was edited to reflect that the prohibited activity will be misrepresenting an approval status and not altering a Proof of Approval. This is necessary to conform with the evolving use of the Proof of Approval, which is the approval status as reflected on the CalRecycle website and associated with a unique identification number rather than a physical document bearing a unique identification number.

Subpart (8) of Subsection (a) was amended to clarify its applicability to approved applications. This is necessary to conform with edits regarding conditions of approval in Section 18660.16(a) and (b).

Subpart (13) of Subsection (a) was edited to clarify its applicability to approved applications. This is necessary to conform with edits regarding conditions of approval in Section 18660.16(a) and (b).

Subsection (b) was edited to clarify its applicability to all applications. This is necessary to conform with edits regarding conditions of approval in Section 18660.16(a) and (b).

Subpart (3) of Subsection (b) was edited to comport with the use of the Proof of Approval, which is the approval status as reflected on the CalRecycle website and associated with a unique identification number rather than a physical document bearing a unique identification number.

### **Section 18660.18. Changes to Information Contained in an Approved Application.**

The title of Section 18660.18 was amended to reflect its applicability to information contained in the application and not to the application itself. This is necessary to clarify that requirements in this section apply to changes in information contained in an approved application. Subsections (a) and (b) were edited to streamline the requirements and methods by which an approved participant shall update information contained in an application. The notice requirement has been shortened to 30 days as this is considered a reasonable time to inform CalRecycle of changes to information contained in an application. In addition, approved participants are required to notify CalRecycle in writing of changes. These edits are necessary to better reflect existing practices as well as ensure CalRecycle avoids any lapses in program information.

### **Section 18660.19. Appeal of Denial, Suspension or Revocation of Approval.**

Subsection (c) was edited and amended to clarify what shall be marked on the package containing the appeal. This is necessary to ensure consistency with Sections 18660.31 and 18660.39.

## **Article 2.2. Electronic Waste Payment System – Business Requirements**

### **Section 18660.20. Requirements for an Approved Collector.**

Subsection (g) was amended to clarify which information from the Proof of Approval is required to be transferred to a recycler. This is necessary to conform with the amended definition of “Proof of Approval”.

Subsection (j)(1)(A) was amended to clarify that the number of CRT CEWs and non-CRT CEWs collected are required to be recorded separately. This is necessary to reconcile the types or categories of CEW with the amount of each type or category subsequently transferred, processed, and claimed.

It was also edited and is necessary to fix a typographic error (“an” instead of “a”).

Subsection (j)(1)(B) was amended to clarify that the types of CEWs discarded are required to be recorded and associated with the California source. This is necessary to reconcile the types or categories of CEW discarded by sources and recorded in logs with the amount of each type or category subsequently transferred, processed, and claimed.

### **Section 18660.21. Requirements for an Approved Recycler.**

Subsection (b)(5)(B) was edited and amended to clarify the scope of required recordkeeping. This is necessary to address the deletion of the term “End-Use Destination” and to conform with amendments placing new allowances on the management of treatment residuals in Section 18660.6.

Subsection (l)(1) was amended to clarify that certified unit counts and weights are required. This is necessary to conform with existing requirements in the preceding Subsection (k).

Subsection (l)(2) was amended to clarify that certified unit counts and weights are required. This is necessary to conform with existing requirements in the preceding Subsection (k).

Subsection (l)(2)(B) was amended to clarify and distinguish between information established by the recycler and that provided by the collector. This is necessary to determine that the source documentations provided by the collector reconciles with the material transferred to the recycler.

Subsection (l)(4) was edited and amended in the emergency regulations (2015-0812-01E) to clarify the scope of applicable records that shall be established or maintained. This is necessary to demonstrate compliant management and disposition of treatment residuals. An additional amendment is proposed in the current text requiring the identification and description of the initial destination, if applicable. This is necessary to better reflect the downstream movement of Treatment Residuals derived from the dismantling and processing of CEW.

### **Article 2.3. Electronic Waste Payment System – Recycling Payment Claims**

#### **Section 18660.22. General Requirements for Recycling Payment Claims.**

Subsection (a)(5) was edited to remove reference to Section 18660.23. This is necessary to conform with the deletion of Section 18660.23, which is now held in reserve.

Subsection (a)(7)(A)(2) was edited and amended in the emergency regulations (2015-0812-01E) to clarify that shipment means moving material off-site, and that legal disposal may be a destination. This is necessary to conform with amendments placing new allowances on the management of treatment residuals in Section 18660.6(h), which allows disposal as an ultimate disposition option. An additional amendment is being proposed in the current text to conform with the elimination of “end-use” and addition of “initial” destination.

Subsection (a)(7)(A)(4) was edited in the emergency regulation (2015-0812-01E) to remove “complete” from the statement certifying that the payment claim and all documents are true and correct. This is necessary to avoid instances when recyclers might violate the certification statement by inadvertently submitting incomplete claims due to administrative error. In addition, the certification statement in Subpart (A)(5) acknowledges that omissions on the recycler part may result in CalRecycle delaying or denying the claim, hence the removal of “complete” in the previous Subpart also avoids duplication between Subparts 4 and 5. No additional changes are being proposed in the current text.

Subsection (b) was edited to remove reference to Section 18660.23. This is necessary to conform with the deletion of Section 18660.23, which is now held in reserve.

Subsection (c)(1) was edited and amended in the emergency regulations (2015-0812-01E) to clarify that shipment means moving material off-site, and that legal disposal may be a destination. This is necessary to conform with amendments placing new allowances on the

management of treatment residuals in Section 18660.6(h), which allows disposal as an ultimate disposition option. Additional amendments are being proposed in the current text to conform with the elimination of “end-use” and addition of “initial” destination, and clarify that the shipping requirement applies to the treatment residuals derived from the claimed CEW. This is necessary to ensure that recyclers can claim payment for CEW only if all derived treatment residuals are shipped off-site compliantly prior to submitting a payment claim.

Subparts (A) and (B) of Subsection (c)(1) were edited to remove reference to crushing and shredding. This is necessary to conform with the elimination of crushing and shredding as an allowable cancellation method from Section 18660.32. Subpart (B) was edited to become Subpart (A).

Subparts (B)(1) and (B)(2) of Subsection (c)(1) were added to clarify that all types of CRT glass, as defined in Chapter 23 of Title 22 of the California Code of Regulations shall be accounted for when fulfilling the requirements of this section. This is necessary to ensure the ability to demonstrate compliant disposition.

Subpart (C) and (D) of Subsection (c)(1) were edited to eliminate the requirement to ship plasma panel glass derived from the dismantling (cancellation) of non-CRT devices prior to submitting a payment claim. This is necessary as this requirement was determined to be overly burdensome given that many recyclers that dismantle plasma devices generate residual plasma panel glass in small quantities, hence shipping loads that are not full increase the cost of properly managing this fully regulated residual. The elimination of this requirement does not pose risks to the integrity of the CEW program as CalRecycle maintains the ability to subsequently seek disposition documentation.

Subsection (c)(2) was edited to remove a certain information item requirement that is problematic to comply with in practice due to conditions of discarded devices and instances when the serial number is not accessible. The elimination of this requirement is necessary to better reflect operational practices and allow recyclers to be compliant in case they claim non-CRT devices that no longer have the serial number. In addition, Subsection (c)(2) was edited and amended to clarify that the information item requirements apply to each claimed non-CRT device. This is necessary to ensure the ability to verify that the claimed devices have been cancelled.

Subparts (A), (B) and (C) of Subsection (c)(2) were added to expand the scope of tracking treatment residual that remain regulated material, which complements the elimination of the plasma panel shipping requirement in (c)(1). This is necessary to ensure the ability to confirm compliant disposition.

Subsection (d)(1)(D) was amended to include transfer records. This is necessary to clarify the scope of applicable documents maintained by a recycler that must be included in a payment claim.

Subsection (d)(2)(C) was edited to remove reference to crushing and shredding. This is necessary to conform with the elimination of crushing and shredding as an allowable cancellation method from Section 18660.32.

Subsection (e) was edited to clarify what shall be marked on the package containing the claim. This is necessary to ensure consistency with sections 18660.19 and 18660.31.

Subsection (f) was edited to remove reference to Section 18660.23. This is necessary to conform with the deletion of Section 18660.23, which is now held in reserve.

Subsection (g) was edited to remove reference to Section 18660.23. This is necessary to conform with the deletion of Section 18660.23, which is now held in reserve.

**Section 18660.23. RESERVED ~~Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Crushing or Shredding.~~**

This section was deleted and placed in reserve. This is necessary as the section pertained to an operational practice (crushing and shredding) that is no longer used to cancel CRT-containing CEW. The method has been edited from Section 18660.32 as well.

**Section 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum.**

Subsection (c) was edited and amended to clarify the time in which the recycler has to submit a payment claim. This is necessary to provide clarity and relates to amendments pertaining to the reporting month in subsection (d).

Subsection (d) was amended in the emergency regulations (2015-0812-01E) to include the possibility that a recycler may ship CRT glass cullet in addition to bare CRTs, which is necessary to reflect subsequent processing practices. Additional edits and amendments are being proposed in the current text to conform with the “end-use” vs. “initial” destination changes and clarify that a claim reporting month is established by the first shipment of CRTs or CRT glass cullet derived from the claimed CEW. This has important connections to the amount of time the recycler has to submit a claim (45 days from the end of claim reporting month) and is necessary to avoid untimely claims.

Subsection (e)(1) was amended in the emergency regulations (2015-0812-01E) to clarify that shipment means moving material off-site, and that legal disposal may be a destination. This is necessary to conform with amendments placing new allowances on the management of treatment residuals in Section 18660.6, which allows disposal as an ultimate disposition option. Additional amendments are being proposed in the current text to conform with the “end-use” vs. “initial” destination changes.

Subsection (g) and Subparts (2) and (3) were amended in the emergency regulations (2015-0812-01E) to include the possibility that a recycler may ship CRT glass cullet in addition to bare CRTs, which is necessary to reflect subsequent processing practices. An additional edit is proposed in Subsection (g) in the current text replacing reporting period with claim activity period. This is necessary to clarify the span of time to which this requirement applies. Subpart (3) was edited to clarify the requirement to establish certified weights for individual shipments. This is necessary to assist CalRecycle with its determination of compliant material management.

Subparts (4)(A), (B) and (C)(1) and (2) were edited and amended to clarify the scope of material covered by required documentation. This is necessary to better reflect the downstream flow of shipped CRTs or CRT glass treatment residuals, as well as assist CalRecycle with its determination of compliant material management.

Subsection (h) was edited in the emergency regulations (2015-0812-01E) to change “qualification” to “quantification.” This is necessary to correct a typographic error. No additional changes are proposed in the current text.

### **Section 18660.25. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of Non-CRT-Containing CEWs.**

Subsection (a) was edited to remove reference to crushing and shredding. This is necessary to conform with the elimination of crushing and shredding as an allowable cancellation method from Section 18660.32.

Subsection (c) was edited and amended to clarify the time in which the recycler has to submit a payment claim. This is necessary to provide clarity and relates to amendments pertaining to the reporting month in Subsection (d).

Subsection (d) was amended to clarify that a claim reporting month is established by the first cancellation of non-CRTs derived from the claimed CEW. This has important connections to the amount of time the recycler has to submit a claim (45 days from the end of claim reporting month) and is necessary to avoid untimely claims.

Subsection (e) was edited to remove reference to crushing and shredding. This is necessary to conform with the elimination of crushing and shredding as an allowable cancellation method from Section 18660.32.

Subsection (e)(1) was edited to remove the requirement to ship certain treatment residuals. This is necessary to conform with the elimination of the requirement to ship plasma panel glass prior to submitting a non-CRT CEW recycling claim in section 18660.22(c)(1). It was also amended to reflect that records specified in section 18660.22(c)(2) are required to be established and maintained for cancelled non-CRT CEW. This conforms with amendments in 18660.22(c)(2) and is necessary to assist CalRecycle with its determination of compliant material management.

Subsection (e)(4) was edited to remove a requirement to record and report the serial number for each cancelled non-CRT CEW. This is necessary as this requirement is unrealistic to perfectly

conform with in practice due to condition of discarded devices and access to the serial numbers. The subsection was also amended to clarify the individual weight requirement. This is necessary to ensure that each non-CRT CEW device is weighed individually prior to cancellation.

Subsection (f) was edited to eliminate reference to crushing and shredding. This is necessary to conform with the elimination of crushing and shredding as an allowable cancellation method from Section 18660.32.

Subsection (g) was edited and amended to change the scope of required documentation from circuit boards to bare plasma panels and lamps. This is necessary because circuit boards typically cease being regulated material and are instead managed as scrap metal. Bare plasma panels and lamps typically continue to be regulated as a hazardous or universal waste and there remains a compelling interest to ensure compliant management and disposition. In addition, the subsection was edited to replace reporting period with claim activity period. This is necessary to clarify the span of time to which this requirement applies.

Subpart (2) was edited and amended to include the requirement to provide accumulation start dates for bare plasma panels or lamps. This conforms with amendments in Subsection (g) and is necessary to assist CalRecycle with its determination of compliant material management.

Subpart (3) was edited to clarify the requirement to establish certified weights for individual shipments. This is necessary to ensure to assist CalRecycle with its determination of compliant material management.

Subpart (4)(A) and (B) were edited and amended to clarify the scope of required documents. This is necessary to better reflect the downstream flow of shipped treatment residuals, as well as to assist CalRecycle with its determination of compliant material management.

Subpart (4)(C) and .1 and .2 were edited and amended to include the requirement to provide ultimate disposition documentation as well as allow CalRecycle to request additional documentation. This is necessary to assist CalRecycle with its determination of compliant material management.

Subpart (5) was added to include the requirement to provide the quantities of bare plasma panels and lamps generated. This conforms with amendments in 18660.22(c)(2)(A) and (B) and is necessary to assist CalRecycle with its determination of compliant material management.

Subsection (h) was edited, changing “qualification” to “quantification.” This is necessary to correct a typographic error. It was also amended to include additional treatment residuals (circuit boards and other video display panels) in claim documentation requirements. As the requirement to provide various documentation for all shipment of circuit boards was eliminated, this allows CalRecycle the ability to be provided with information pertaining to the disposition of circuit boards in order to assist CalRecycle with its determination of compliant material management.

### **Section 18660.31. Appeal of Denied or Adjusted Recycling Payment Claims.**

Subsections (a) and (b) were edited and amended to clarify to whom an appeal shall be addressed, what shall be marked on the package containing the appeal, and to clarify when an appeal would be considered timely. This is necessary to ensure consistency with Sections 18660.19 and 18660.39.

Subsection (g) was added to specify the procedures governing the appeal mechanisms. This is necessary to correlate with the appeal mechanisms afforded in Sections 18660.19 (denied applications) and 18660.39 (denied manufacturer claims).

## **Article 2.4. Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

### **Section 18660.32. Cancellation Methods.**

Subsections (c)(1) and (3) were deleted to remove reference to cancellation methods involving crushing or shredding. This is necessary to better reflect current operational practices. While these types of actions may be conducted to further treat residuals, these methods are not currently practices used to cancel CEW. These types of actions may be conducted to further treat residuals. The subsections were renumbered accordingly.

### **Section 18660.33. Standard Statewide Recovery Payment Rate.**

Subsection (a) was edited to remove a typographical error. This is necessary to reflect that there is no such thing as a “*Combined*” Recovery Payment Rate.

The revision to Subsection(c) deletes an existing reference to the Integrated Waste Management Board which is necessary because the Board no longer exists.

## **Article 2.5. Electronic Waste Payment System – Manufacturer Payments**

### **Section 18660.37. Manufacturer Payment Claims.**

Subsection (g) was edited to update the fee levels. This is necessary to better reflect current electronic waste recycling fee levels used for the purposes of example calculations.

Subsection (h) was edited to clarify what shall be marked on the package containing the manufacturer payment claim. This is necessary to conform to the term used for “Electronic Manufacturer Claim” in Section 18660.39(a).

### **Section 18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims.**

This section was edited and amended and is necessary to clarify and conform with the administrative appeals afforded in other areas of this Chapter, specifically 18660.19 and 18660.31

Subsections (a) and (b) were edited and amended to clarify to whom an appeal shall be addressed, what shall be marked on the package containing the appeal, and to clarify when an appeal would be considered timely. This is necessary to ensure consistency with Sections 18660.19 (denied applications) and 18660.31 (denied recycling payment claims).

Subsection (g) was added to specify the procedures governing the appeal mechanisms. This is necessary to correlate with the appeal mechanisms afforded in Sections 18660.19 and 18660.31.

## **Article 6. Administrative Civil Penalties**

### **Section 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

The emergency regulations 2015-0925-02E provide procedures for implementing civil liabilities for false statements or representations. PRC Section 42474(d) states that CalRecycle may administratively impose civil liability (penalties) on a person "... that makes a false statement or representation in any document filed, submitted, maintained or used for purposes of compliance..." with the Electronic Waste Recycling Act and associated regulations, including those related to the CEW program.

The emergency regulations set forth requirements on how those penalties can be imposed by CalRecycle, such as: criteria and additional factors for assessing penalties, steps to implement civil penalties (notice of violation and accusation), service requirements, and hearing process. This is necessary to ensure CalRecycle has the ability to hold persons accountable for the representations relative to complying with the Act and the program.

Subsections (a) through (c) describe the criteria and additional factors that CalRecycle may take into consideration when determining the amount of a civil penalty. This is necessary to inform the public of what elements CalRecycle may take into consideration when it assesses penalty amounts. No additional changes are being proposed in the current text.

Subsection (d) outlines the provision to hold responsible multiple individuals/entities through joint and several liability. This is necessary to ensure CalRecycle has the ability to hold responsible multiple individuals/entities at the same time in instances where more than one entity or person is involved in a situation where violation(s) were committed. No additional changes are being proposed in the current text.

The emergency regulations propose two steps to implement civil penalties: (1) notice of violation (NOV), and (2) the accusation.

Subsection (e) describes the first step to impose civil penalties: the issuance of a NOV prior to the imposition of penalties. The NOV is intended as a warning mechanism that provides an opportunity for violators to take corrective actions. CalRecycle has the discretion to refrain from issuing an accusation, especially in instances where the violation is addressed and there are no other subsequent violations.

Additional edits and amendments are proposed in the current text to clarify various aspects. These are necessary to address a few minor issues encountered in the process of administering civil penalties. Specifically, Subsection (e) was edited to remove “prior” before “written notice of violation” and is necessary to avoid duplication. In addition, the abbreviation for NOV was added in parentheses and is necessary given the term is used multiple times in this subsection. In addition, “alleging with specificity” was moved to a new Subpart.

Subpart (1) was added to describe the elements required to be included in a NOV and its various subparts were restructured (the numbered list was edited).

Subpart (2) was added to describe service requirements and is necessary as this information was not included in the emergency regulations.

The additions/restructuring of Subparts (1) and (2) are necessary to clarify the process of issuing a NOV, and distinguish between the part addressing required elements and the one addressing service requirements.

Subpart (1)(B) and (C) were edited and amended to clarify that the penalty amount referenced in a NOV is potential. This clarification is necessary to reflect the intent of a NOV, which serves as a warning mechanism that does not seek to impose penalties. Hence, the penalties referenced in a NOV are intended to inform the violators of the amount CalRecycle may seek to impose in future if the violation is not corrected. In addition, Subpart (1)(C) was amended to clarify that the NOV would also determine the type of violation (if the violation would be considered minor, moderate, or major). This is necessary to inform the violators of the gravity of the violation(s).

Subpart (1)(E) was amended to request an acknowledgement of review from the part of the violator. This is necessary to ensure that the violator reviewed the NOV.

Subsection (f) describes the issuance of an accusation seeking penalties. The accusation can be issued following the issuance of a NOV or may be issued without prior warning if warranted. No additional changes are proposed in the current text.

Subsection (g) describes the procedures the respondent must follow to respond to an accusation and request a hearing. This is necessary to inform the public of the due process procedures that CalRecycle will follow. No additional changes are proposed in the current text.

Subsection (h) outlines that the respondent is entitled to a hearing held in front of a hearing officer and that CalRecycle and the respondent can engage in a settlement at any time before a decision is issued. This is necessary to inform the public of the due process procedures that CalRecycle will follow. No additional changes are proposed in the current text.

Subsection (i) describes the evidence the hearing officer shall take into consideration, how the proceedings shall be conducted and the timeline within which a final decision shall be issued. This is necessary to inform the public of the due process procedures that CalRecycle will follow. No additional changes are proposed in the current text.

Subsection (j) describes the potential consequences associated with the failure to comply with the hearing officer's decision. This is necessary to inform the public of the due process procedures that CalRecycle will follow. No additional changes are proposed in the current text.

Subsection (k) explains that the hearing will be conducted pursuant to the informal administrative hearing procedures outlined in the California Administrative Procedure Act. This section also determines the venue of the hearing, which shall take place in Sacramento, California, unless otherwise specified by the hearing officer. The respondent may request an alternate location if that request is made in the Notice of Defense and a justification of undue burden has been provided. This is necessary to inform the public of the due process procedures that CalRecycle will follow. No additional changes are proposed in the current text.

Subsection (l) outlines that CalRecycle might impose penalties in addition to claim adjustments or payment disallowances and can seek compensation from future claim payment for civil penalties allotted to a past/current claim. This is necessary to clarify that the imposition of civil penalties is a separate action that CalRecycle might take. The sub-section letter "l" was edited to replace an italicized "l" which is necessary to ensure consistency.

#### **Section 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

The emergency regulations provide procedures for implementing civil liabilities for failure to pay the CEW recycling fee pursuant to PRC Section 42474(a). The administrative procedures set forth in Section 18660.44(c)-(i) shall also apply to civil liabilities imposed pursuant to PRC Section 42474(a). This is necessary to inform the public of what elements CalRecycle may take into consideration when it assesses penalty amounts and of the due process that will be followed by CalRecycle. No additional changes are proposed in the current text.

#### **Section 18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.**

The emergency regulations provide procedures for implementing civil liabilities for failure to comply with requirements for manufacturers pursuant to PRC Section 42474(c). The administrative procedures set forth in Section 18660.44(b)-(i) shall also apply to civil liabilities imposed pursuant to PRC Section 42474(c). This is necessary to inform the public of what elements CalRecycle may take into consideration when it assesses penalty amounts and the due process procedures CalRecycle will follow. No additional changes are proposed in the current text.

## **TECHNICAL STUDIES, REPORTS OR DOCUMENTS**

CalRecycle relied upon the following information sources to edit and amend the regulations:

1. CalRecycle developed the proposed regulations based on over a decade of experience administering the existing CEW program.
2. CalRecycle held over 36 workshops apart from formal departmental considerations, determinations, or actions since the inception of the CEW program to obtain stakeholder input. The purpose of these stakeholder workshops was to inform program participants as well as obtain information from stakeholders and members of the public.
3. CalRecycle developed, presented, and received feedback on the proposed regulations through oral and written comments received from stakeholders at workshops held in:
  - a. December 2013  
<http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=1087&aiid=992>
  - b. May 2015  
<http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=1443&aiid=1311>
  - c. July 2015  
<http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=1523&aiid=1386>
  - d. December 2016  
<http://www.calrecycle.ca.gov/Actions/PublicNoticeDetail.aspx?id=1935&aiid=1770>
4. CalRecycle developed an issue paper entitled “Overview of CRT Issues and the CEW Program” to evaluate the market status and regulatory landscape impacting the management of cathode ray tubes (CRT):  
<http://www.calrecycle.ca.gov/Actions/Documents%5c77%5c20152015%5c1311%5cOverview%20of%20CRT%20Issues%20Relative%20to%20the%20CEW%20Program.pdf>
5. CalRecycle analyzed various statutes and regulations administered by other programs and agencies to evaluate different aspects required to implement a civil liability facet to the CEW program and establish mechanism to hold persons accountable for making false statements or representations:
  - a. Hazardous Waste Enforcement Statutes: Health and Safety Code, Division 20, Chapter 6.5, Sections 25187-25189

- b. Solid Waste Facility Permitting Enforcement Statutes: Public Resources Code, Division 30, Chapter 1, Sections 45010-45024
- c. Beverage Container Enforcement Statutes: Public Resources Code, Division 12.1, Chapter 8, Sections 14590-14594
- d. Tire Facility Enforcement Statutes: Public Resource Code, Division 30, Part 3, Chapter 16, Article 5. & 6, Sections 42840-42855
- e. Tire Hauler Enforcement Statutes: Public Resources Code, Division 30, Chapter 19, Sections 42962-42966
- f. Water Quality Control Enforcement Statutes: Water Code, Division 7, Chapter 4, Sections 13261-13328.

There were no other studies, reports or documents.

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

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

There are currently 410 approved collectors in the CEW recycling program, of which approximately 30 are also approved recyclers. Both approved collectors and approved recyclers must apply to participate by submitting certain documents that demonstrate eligibility. Subsequently, approved collectors and approved recyclers conduct and document CEW recovery and recycling activities. Recyclers generate treatment residuals such as cathode ray tubes (CRT) and other regulated materials as a result of dismantling CEW.

Program participants include collectors and recyclers of electronic waste that are approved participants in the CEW recycling program. Other actors such as non-participating handlers, transporters, or downstream entities interface with the CEW program by providing material management services. The CEW recycling program, including the associated payment system, is a voluntary program intended to relieve the costs of managing certain electronic wastes and businesses are not required to participate. However, participants must comply with applicable laws and regulations, including State hazardous waste rules that govern the handling of CEW and the compliant management of treatment residual.

The requirements and options in the regulations will not create or eliminate jobs within the State of California. The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including CRT and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic

Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

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

There are currently 410 approved collectors in the cover electronic waste (CEW) recycling program, of which approximately 30 are also approved recyclers. Both approved collectors and approved recyclers must apply to participate by submitting certain documents that demonstrate eligibility. Subsequently, approved collectors and approved recyclers conduct and document CEW recovery and recycling activities. Recyclers generate treatment residuals such as cathode ray tubes (CRT) and other regulated materials as a result of dismantling CEW.

Program participants include collectors and recyclers of electronic waste that are approved participants in the CEW recycling program. Other actors such as non-participating handlers, transporters, or downstream entities interface with the CEW program by providing material management services. The CEW recycling program, including the associated payment system, is a voluntary program intended to relieve the costs of managing certain electronic wastes and businesses are not required to participate. However, participants must comply with applicable laws and regulations, including State hazardous waste rules that govern the handling of CEW and the compliant management of treatment residual. The requirements and options in the regulations will not create or eliminate businesses within the State of California. The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including cathode ray tubes (CRT) and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

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

There are currently 410 approved collectors in the cover electronic waste (CEW) recycling program, of which approximately 30 are also approved recyclers. Both approved collectors and approved recyclers must apply to participate by submitting certain documents that demonstrate eligibility. Subsequently, approved collectors and approved recyclers conduct and document CEW recovery and recycling activities. Recyclers generate treatment residuals such as cathode ray tubes (CRT) and other regulated materials as a result of dismantling CEW.

Program participants include collectors and recyclers of electronic waste that are approved participants in the CEW recycling program. Other actors such as non-participating handlers, transporters, or downstream entities interface with the CEW program by providing material management services. The CEW recycling program, including the associated payment system, is a voluntary program intended to relieve the costs of managing certain electronic wastes and businesses are not required to participate. However, participants must comply with applicable laws and regulations, including State hazardous waste rules that govern the handling of CEW and the compliant management of treatment residual.

The proposed regulations revise allowances and limitations regarding the management of certain regulated residuals derived from the dismantling of CEW, including cathode ray tubes (CRT) and CRT glass. The rules establish criteria and thresholds that must be fulfilled and documented for participants in the CEW program to claim and receive payments pursuant to the Electronic Waste Recycling Act of 2003. However, the rules do not create new and separate material management standards.

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

The proposed rules ensure that only authorized entities receive public funding for the compliant management of specified wastes. The existing and proposed rules also ensure that only eligible CEW generated in California enters the program and that the funds derived from fees paid by California consumers are expended only on activities conducted in compliance with applicable law. This benefits the State by protecting the environment and public funds. The proposed rules expand the allowable methods for managing, in general, residual materials derived from CEW, which allows participating businesses to select the most economically feasible practices within otherwise compliant options, while maintaining reasonable and effective regulatory oversight.

Additionally, the proposed rules establish the mechanisms to hold accountable anyone making false statements or representations in documents used for the purpose of compliance with the Act and the CEW program regulations, via the imposition of administrative civil penalties. The process and procedures set forth ensure CalRecycle has the ability to exercise its statutory authority and impose civil liabilities. The proposed rules benefit the State through safeguarding the integrity of the CEW program and promoting compliance with the CEW program's rules and regulations by acting as a deterrent to non-compliant behavior. Additionally, the proposed rules benefit the State through promoting a level playing field between program participants and fostering fair business practices.

CalRecycle does not anticipate that the proposed regulations will affect worker safety.

### **DETERMINATION THAT THE ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESSES**

CalRecycle has determined that the proposed regulations will not have a significant adverse impact on businesses, nor will the proposed regulations affect the ability of California businesses to compete with businesses in other states. CalRecycle is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

There are no new or separate costs incurred to participate in or comply with the CEW program. The CEW program is a cost relief program established pursuant to the Electronic Waste Recycling Act of 2003. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already require recordkeeping and claim submission. The proposed regulations clarify those records and allow for additional options for managing treatment residuals within otherwise compliant practices to fulfill claim criteria.

The proposed regulations also include procedures for the statutorily authorized penalties. The procedures set forth how CalRecycle can impose administrative civil penalties but do not increase costs of compliance for the regulated businesses.

### **DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS**

CalRecycle has determined that no unnecessary duplication or conflicts exist between the proposed regulations and federal regulations because federal law or regulations do not contain comparable requirements. The rules establish better documentation practices aimed at verifying compliant management of specified wastes, and increase the integrity of the program and protect the public funds paid annually to participating CEW collectors and recyclers. In addition, the rules establish a framework for imposing civil liabilities aimed at holding accountable any person that makes a false statement or representation in the context of the Electronic Waste Management Act, which is unique to state law.

**ATTACHMENT 1 –**  
**OAL NOTICE OF APPROVAL OF EMERGENCY**  
**REGULATORY ACTION (2015-0812-01E)**



**State of California  
Office of Administrative Law**

**In re:**  
**Department of Resources Recycling and  
Recovery**

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections:**

**Amend sections:** 18660.5, 18660.6,  
18660.21, 18660.22,  
18660.23, 18660.24

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL Matter Number: 2015-0812-01**

**OAL Matter Type: Emergency (E)**

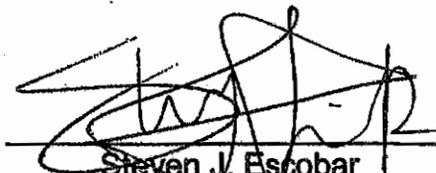
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This emergency rulemaking from the Department of Recycling, Resources, and Recovery ("CalRecycle") amends several sections in Title 14 of the California Code of Regulations to revise criteria and conditions regarding the disposition of cathode ray tube ("CRT") glass derived from the processing of certain covered electronic waste ("CEW"). Specifically, these amendments remove existing prohibitions on this disposal of treatment residual CRT glass and allow for all otherwise legal dispositions. These changes also improve documentation requirements and place certain time limits on the ultimate disposition of treatment residual CRT glass.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 8/21/2015 and will expire on 8/22/2017. The Certificate of Compliance for this action is due no later than 8/21/2017.

**Date:** August 21, 2015

  
\_\_\_\_\_  
Steven J. Escobar  
Attorney

**For:** DEBRA M. CORNEZ  
Director

**Original:** Scott Smithline  
**Copy:** Meagan Wilson

# EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2015-0812-01 E</b>
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For use by Office of Administrative Law (OAL) only

**2015 AUG 12 P 2:19**  
**OFFICE OF ADMINISTRATIVE LAW**

**ENDORSED - FILED**  
In the office of the Secretary of State of the State of California

**'AUG 21 2015**

**2:04 PM**

NOTICE

REGULATIONS

AGENCY FILE NUMBER (if any)

**AGENCY WITH RULEMAKING AUTHORITY**  
*Department of Resources Recycling and Recovery*

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	<b>ACTION ON PROPOSED NOTICE</b> <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) <b>CRT Glass Disposition</b>	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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#### 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT	
	AMEND	<b>18660.5, 18660.6, 18660.21, 18660.22, 18660.23, and 18660.24</b>
	REPEAL	
TITLE(S) <b>14</b>		<b>per agency request</b> <b>STE, 08-21-2015</b>

#### 3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		Other (Specify) <b>per agency request</b>	

#### 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs., title 1, §44 and Gov. Code §11347.1)

**STE, 08-21-2015**

#### 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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#### 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON <b>Meagan Wilson, Staff Counsel</b>	TELEPHONE NUMBER <b>916-341-6077</b>	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) <b>Meagan.Wilson@CalRecycle.ca.gov</b>
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Elliot Block</i>	DATE <b>8/12/15</b>
TYPED NAME AND TITLE OF SIGNATORY <b>Elliot Block, Chief Counsel</b>	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**AUG 21 2015**

Office of Administrative Law

For reference, this document shows proposed regulatory revisions via underline and ~~striketrough~~ in the following sections of Title 14 of the California Code of Regulations:

**Article 1. General**

**§ 18660.5. Definitions.**

(a) For the purposes of this Chapter, the following shall apply:

(1) "Act" or "the Act" means the Electronic Waste Recycling Act of 2003 (Senate Bill 20, Chapter 526, Statutes of 2003), as amended.

(2) "Approved Collector" means an authorized collector as defined in Section 42463(b) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recovery payments from approved recyclers.

(3) "Approved Dual Entity" means an entity that is both an "approved collector" and an "approved recycler" as defined in this Section.

(4) "Approved Recycler" means a "covered electronic waste recycler" as defined in Section 42463(h) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recycling payments from CalRecycle.

(5) "Bare CRT" means a Cathode Ray Tube with the vacuum relieved and the yoke removed that has been separated from the device housing and has had all circuit boards, wiring and other components detached from the tube.

(6) "Bare Panel" means an LCD, gas plasma, or other non-CRT video display panel that has been separated from the device housing and has had all circuit boards, lamps, wiring and other components detached from the panel.

(7) "Cancellation" means a processing or treatment method that qualifies CEWs for recycling payments, removes the CEWs from the payment system eliminating the possibility of double payments, dismantles or destroys the original CEW, and results in treatment residuals as specified in Section 18660.32 of this Chapter.

(8) "Claim Activity Period" means the span of time during which an approved recycler received CEWs from approved collectors, processed and cancelled CEWs, and shipped treatment residuals that results in a recycling payment claim being submitted to CalRecycle.

(9) "CRT" means a Cathode Ray Tube with the yoke still attached that has been separated from a CRT device.

(10) "CRT device" means a whole covered electronic device containing a Cathode Ray Tube.

(11) "California Source" means persons, as defined in Section 42463(n) of the Public Resources Code, located in California who generate CEWs after their own use of a CED. Persons who receive, accumulate, consolidate, store, or otherwise handle discarded, donated or collected CEWs are not the California sources of those CEWs.

(12) "CalRecycle" means the Department of Resources Recycling and Recovery.

(13) "Collection log" means a record maintained by an approved collector that records CEW collection activities as specified in Section 18660.20(j) of this Chapter.

(14) "Collective Report" means a report submitted to CalRecycle through a trade association, a group of associations, or other organization that represents more than one manufacturer.

(15) "Commingled" means mixed together and impossible to economically or practically separate.

- (16) "Covered Electronic Device" or "CED" has the same meaning, for the purposes of this Chapter, as a covered electronic device specified in Section 42463(e) of the Public Resources Code.
- (17) "Covered Electronic Waste" or "CEW" means a discarded device that DTSC has determined to be a covered electronic device, as specified by Section 42463(e) of the Public Resources Code.
- (18) "Designated Approved Collector" means an approved collector, as defined in subsection (a)(2) of this section, that has been designated by a California local government to provide CEW collection services for or on behalf of the local government and who, in the course of providing the services for the local government, would not be subject to the source documentation requirements pursuant to Section 18660.20(j)(1)(B) of this Chapter.
- (19) "DTSC" means the Department of Toxic Substances Control.
- (20) "End-Use Destination" means the location where the treatment residuals from the approved recycler are sent after cancellation.
- (21) "Further treat" means, for the purposes of this Chapter, activities such as crushing, size reduction, washing, cleaning, smelting, or similar steps taken to process the treatment residual rendering it more marketable. "Further treat" does not mean, for the purposes of this Chapter, receiving, storing, accumulating, consolidating, brokering, shipping, disposing or other similar activities that do not alter the form of the treatment residual.
- (22) "Handler", for the purposes of this Chapter, has the same meaning as a universal waste handler or CRT material handler, as applicable, as defined in Section 66273.9 of Title 22 of the California Code of Regulations.
- (23) "Illegal Disposal" means, for the purposes of this Chapter, the disposal or placement of CEWs on a property without the permission of the owner(s) of, or responsible party(ies) for, the property.
- (24) "Load" means a single transfer (a pick up or delivery) of CEWs, such as from a California source to a collector or from a collector to a recycler.
- (25) "Load Check Activities" means, for the purposes of this Chapter, the efforts made to identify, retrieve and divert from the disposed solid waste stream those CEWs that have been illegally discarded by generators. "Load Check Activities" do not include the rejection or acceptance of CEWs due to the lack of source documentation.
- (26) "Manufacturer Payment" or "Manufacturer Take Back Payment" means a payment made by CalRecycle to a registered manufacturer that takes back covered electronic wastes (CEWs) from a California source for the purposes of recycling the CEW pursuant to Section 42476(g) of the Public Resources Code.
- (27) "Manufacturer Payment Claim" means a registered manufacturer's request submitted to CalRecycle with all required documentation for a manufacturer payment.
- (28) "Manufacturer Take Back" means a program administered by a registered manufacturer that accepts CEWs from California sources for the purposes of recycling.
- (29) "PBBs" mean Polybrominated Biphenyls.
- (30) "Processing log" means a record maintained by an approved recycler that records CEW activities associated with CEW cancellation, such as but not limited to weighing, dismantling, crushing, shredding, etc., as specified in Section 18660.21(b) of this Chapter.
- (31) "Product Category" means the types of covered electronic devices as defined in Section 42463(e) of the Public Resources Code. These categories include, but are not limited to, the following:
- (A) Cathode Ray Tubes (CRTs) devices used in televisions,

- (B) CRTs devices used in monitors,
  - (C) Liquid Crystal Display (LCD) monitors,
  - (D) Laptop computers containing LCD screens,
  - (E) LCD televisions,
  - (F) Gas plasma display televisions, and
  - (G) Other video display devices as specified by the DTSC pursuant to Section 25214.10.1(b) of the Health and Safety Code.
- (32) "Proof of approval" means the unique identification number and expiration date, issued by CalRecycle that identifies a collector or recycler as being approved pursuant to this Chapter.
- (33) "Proof of designation" means a letter or other document that must be secured by a designated approved collector from a California local government that, at a minimum, specifies the following information:
- (A) The beginning and end dates of the designation,
  - (B) The geographic area within which the designated approved collector is providing CEW collection services for the local government and the location(s) at which the collection service is provided,
  - (C) The customer type to be served by the designated approved collector (i.e. residential, commercial, etc.),
  - (D) The nature of collections activities to be provided by the designated approved collector (i.e. drop-off receipt, curbside service, illegal disposal clean-up, etc.),
  - (E) Contact information for the designating authority,
  - (F) If the proof of designation secured by the designated approved collector is a document other than a letter from the local government, the proof must also include the designated approved collector's written notification to the local government that such other document has been used. The written notification provided to the local government must be accompanied by a copy of the document being used to demonstrate designation.
  - (G) If, after January 1, 2005, and before the effective date of this regulation, a designated approved collector has secured a document from a local government that does not meet the definition of proof of designation as specified in this Section, such document may be used by a designated approved collector to comply with applicable requirements of this Chapter through March 31, 2006.
- (34) "Receiving log" means a record maintained by an approved recycler that documents CEW transfers from approved collectors to the approved recycler.
- (35) "Recovery payment" means the payment made by an approved recycler to an approved collector in exchange for the transfer of CEWs pursuant to Section 42477 of the Public Resources Code.
- (36) "Recovery payment request" means an approved collector's request for recovery payment made to an approved recycler accompanying the transfer of CEWs.
- (37) "Recycling payment" means the payment made by CalRecycle to an approved recycler that includes a recovery component related to recycler payments to collectors pursuant to Section 42477 of the Public Resources Code and a recycling component for CEW cancellation pursuant to Section 42478 of the Public Resources Code.
- (38) "Recycling payment claim" means an approved recycler's claim that includes all required documentation submitted to CalRecycle for recycling payments for cancelled CEWs.

(39) "Registered Manufacturer" means a manufacturer as defined in Section 42463(m) of the Public Resources Code who registers with CalRecycle pursuant to this Chapter and therefore may be eligible for manufacturer payments from CalRecycle.

(40) "Source-anonymous CEWs" means CEWs whose originating California source cannot be identified in collection log information required pursuant to Section 18660.20(j)(1)(B) of this Chapter.

(41) "Source documentation" means collection logs and other information developed, maintained and transferred pursuant to Section 18660.20(h) of this Chapter that demonstrates the eligibility, originating generator and/or intermediate handlers of collected CEWs as applicable.

(42) "Standard Statewide Recovery Payment Rate" means the amount paid to an approved collector per pound of CEWs transferred to an approved recycler to cover the cost of collection, consolidation and transportation of CEWs as established pursuant to Section 42477 of the Public Resources Code.

(43) "Standard Statewide Combined Recycling and Recovery Payment Rate" means the amount paid to an approved recycler per pound of CEWs cancelled and claimed to cover the cost of receiving, processing and recycling CEWs as established pursuant to Section 42478 of the Public Resources Code, and making recovery payments to approved collectors.

(44) "Transfer" or "Transferred" means physically changing possession of CEWs, such as a transfer from a California source to a collector or from a collector to a recycler.

(45) "Transfer documentation" means, for the purposes of this Chapter, records and/or receipts that record the transfer of CEWs from an approved collector to an approved recycler, which include the weight, number, and source of the transferred CEWs, and the date(s) of transfer.

(46) "Treatment residuals" means any material resulting from the dismantling or treatment of a CEW. Treatment residuals are not considered CEWs and are not eligible for payment, however the costs or revenues associated with managing treatment residuals shall be factored into the net cost of recycling CEW. ~~In some cases, treatment residuals may be used to demonstrate the prior processing of CEWs, and bills of lading for documentation demonstrating the subsequent movement or ultimate disposition of the material.~~ Treatment residuals may be used to demonstrate the prior processing of CEWs, and bills of lading for documentation demonstrating the subsequent movement or ultimate disposition of the material. ~~treatment residuals may be required as part of the claim for payment submitted by an approved recycler.~~

(47) "Ultimate disposition" means, for the purposes of this Chapter, the consumption of a treatment residual into a manufacturing process or the disposal of a treatment residual at a permitted disposal facility. Storage of a treatment residual at a site of generation or at an intermediate facility, or accumulation of a treatment residual at a location prior to consuming or disposing, is not ultimate disposition.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463, 42465.2, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

**§ 18660.6. Applicability and Limitations.**

(a) Limitations on the types of CEWs eligible for payments:

- (1) An approved collector may request recovery payment only for the types of CEWs specified by DTSC that are transferred to an approved recycler by the collector.
  - (2) An approved recycler may claim recycling payment only for the types of CEWs specified by DTSC that are received from an approved collector and are cancelled by the recycler.
  - (3) A registered manufacturer may claim manufacturer payment only for the types of CEWs specified by DTSC that the manufacturer takes back for recycling.
- (b) Limitations on the timeframes eligible for payments:
- (1) An approved collector, an approved recycler, or a registered manufacturer shall not receive payment for any CEWs transferred from a California source before January 1, 2005.
  - (2) An approved collector shall not request recovery payments from recyclers for transfers that occur prior to the approval of the collector's application by CalRecycle.
  - (3) An approved recycler shall not claim recycling payments from CalRecycle for CEWs cancelled prior to the approval of the recycler's application by CalRecycle.
  - (4) A registered manufacturer shall not claim manufacturer payments from CalRecycle for recycling that occurs prior to the manufacturer's registration with CalRecycle.
- (c) Limitations on the Sources of CEWs and CEWs eligible for payments:
- (1) Only CEWs resulting from a California source are eligible for recovery, recycling, or manufacturer payments.
  - (2) CEWs owned by a person in California, but used entirely outside of California are not eligible for payments.
  - (3) Source-anonymous CEWs, documented pursuant to Section 18660.20(j)(1)(E) of this Chapter, are eligible for recovery and recycling payments if:
    - (A) The source-anonymous CEWs result from load check activities as defined in Section 18660.5(a)(25) conducted at permitted solid waste facilities whose operator is an approved collector or, if not an approved collector, the source-anonymous CEWs are directly transferred from the permitted solid waste facility to an approved collector; or
    - (B) The source-anonymous CEWs result from illegal disposal clean-up activities conducted by an approved collector who is a local government or its designated approved collector; or
    - (C) The source-anonymous CEWs result from illegal disposal on property owned or managed by an approved collector.
  - (4) CEWs are transferred to a designated approved collector are not eligible for payments unless the CEWs are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.
- (d) Limitations on the ability of collectors and recyclers to charge a fee:
- (1) If the recovery payment from a recycler does not fully cover the net cost of CEW recovery, and the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector, then an approved collector may charge a fee for CEW recovery.
  - (2) If the recovery payment from a recycler fully covers the net cost of CEW recovery, an approved collector shall provide CEW recovery at no charge to California sources or CalRecycle may revoke approval and direct recyclers to deny recovery payments to the collector.
  - (3) If the recycling payment from CalRecycle does not fully cover the net cost of CEW recycling, an approved recycler may charge a fee for CEW recycling.
  - (4) If the recycling payment from CalRecycle fully covers the net cost of CEW recycling, an approved recycler shall provide CEW recycling at no charge to approved collectors or CalRecycle may revoke approval and deny recycling payments to the recycler.

(e) Limitations on recovery payments:

- (1) An approved recycler shall make recovery payments at the rate specified in Section 18660.33 of this Chapter to approved collectors for all CEWs transferred to the recycler and that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.
- (2) CalRecycle shall revoke a recycler's approval and deny recycling payments to a recycler that fails to make recovery payments to approved collectors as specified in this Chapter.
- (3) An approved recycler shall not make the recovery payments as specified in this Chapter to collectors who are not approved pursuant to this Chapter.
- (4) An approved recycler may make other types of payments, not provided for under this Chapter, to a collector regardless of the collector's approval status.
- (5) An approved recycler shall not provide recovery payments to a collector other than the approved collector that transfers the CEWs to the recycler, but nothing limits the collectors involved in prior transfers from negotiating payments among themselves unrelated to the recovery payment provisions of this Chapter.
- (6) An approved collector is eligible for recovery payments only if the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector.
- (7) An approved collector is entitled for recovery payments only for CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.
- (8) The approved collector shall repay the approved recycler the amount of recovery payment that was paid if an approved collector has received recovery payment from an approved recycler for which the approved collector was not entitled.

(f) Limitations on recycling payments:

- (1) CalRecycle shall make recycling payments only to approved recyclers who:
  - (A) Cancel CEWs using cancellation methods as specified in Section 18660.32 of this Chapter.
  - (B) Document cancellation and meet the other requirements of this Chapter.
- (2) CalRecycle shall not make recycling payments to a recycler other than the approved recycler that cancels the CEWs, but nothing limits the recyclers involved in subsequent transfers from negotiating payments among themselves unrelated to the recycling payment provisions of this Chapter.
- (3) CalRecycle shall not make recycling payments for reuse of either a whole CEW or of a partially disassembled CEW, such as a CRT with an attached yoke.

(g) Limitations in relation to current business practices:

- (1) CalRecycle shall not limit the ability of approved collectors and approved recyclers to transfer or not transfer CEWs to or from any party.
- (2) CalRecycle shall not limit the ability of approved collectors and approved recyclers from entering into contracts with each other or other parties.
- (3) CalRecycle shall not limit the ability of collectors to recover CEWs or recyclers to recycle CEWs without participating in the system described in this Chapter.
- (4) If collectors wish to receive recovery payments or recyclers wish to receive recycling payments, then they must meet the requirements in this Chapter.

(h) Limitations on recycling payments on exported CEWs and the disposition of treatment residuals:

(1) CalRecycle shall not approve recyclers located outside the State. CEWs sent to and cancelled by unapproved recyclers are not eligible for payments pursuant to this Chapter regardless of the location of the unapproved recycler.

(2) If treatment residuals are disposed to land, water or air, then a recycler shall not be eligible for recycling payments for the original CEWs unless the treatment residual is not economically feasible to recycle and/or cannot be recycled because it would pose a hazard to public health, safety or the environment.

(1) Approved recyclers are not eligible for CEW recycling payments if treatment residuals are managed in a manner noncompliant or nonconforming with applicable law.

(2) Treatment residuals shall be managed for recycling to the extent economically feasible.

(A) Economic feasibility shall be determined by an approved recycler based on current market conditions for legal management options.

(B) CalRecycle may demand demonstration of economic infeasibility in accordance with Public Resources Code section 42479.

(3) Approved recyclers that ship treatment residual CRTs or CRT glass for the purposes of recycling shall be capable of demonstrating to CalRecycle or its designee upon demand that the material has reached an ultimate disposition within one year of the initial shipment.

(4) If treatment residuals are disposed, an approved recycler shall ensure that the disposal is compliant with all applicable laws and conforms to any conditions of authorization or approval under which the approved recycler managed the CEW from which the treatment residuals were derived.

(5) CalRecycle may demand demonstration of compliance or conformance with all applicable laws associated with treatment residual disposition.

**(i) Limitations on the manufacturer payment system:**

(1) CalRecycle shall not register any entity other than a manufacturer as defined in Section 42463(m) of the Public Resources Code to be a registered manufacturer.

(2) CalRecycle shall not make manufacturer payments to any entity other than a registered manufacturer.

(3) A registered manufacturer shall only claim payment for, and CalRecycle shall only make manufacturer payments for, CEWs received from California sources that are processed for recycling that in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(4) A registered manufacturer shall not claim payment for, and CalRecycle shall not make manufacturer payments for, CEWs that are reused, repaired, refurbished or otherwise returned to use.

**(j) Limitations on recycling payments on exported CEWs:**

(1) CalRecycle shall not approve recyclers located outside the state of California.

(2) CEWs sent to and cancelled by unapproved recyclers are not eligible for recycling payments pursuant to this Chapter regardless of the location of the unapproved recycler.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42472(b), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**Article 2.2. Electronic Waste Payment System – Business Requirements**

**§ 18660.21. Requirements for an Approved Recycler.**

- (a) Upon CalRecycle approval of its application, an approved recycler may begin claiming recycling payments for CEWs received from an approved collector and cancelled after the approval.
- (b) An approved recycler shall comply with the requirements of this Chapter, including:
- (1) Begin CEW cancellation activities within 180 calendar days of approval. CalRecycle may revoke approval if a recycler fails to begin CEW cancellation within 180 days.
  - (2) Accept transfer of and cancel at least one (1) load of CEWs from an approved collector within 180 days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 days of approval. CalRecycle may revoke approval if a recycler fails to cancel at least one load within 180 days of approval.
  - (3) Record each approved collector's proof of approval identification number and provide a receipt showing the weight and number of CEWs transferred and the amount of the corresponding recovery payment due to the collector.
  - (4) Make recovery payments to approved collectors, or their agents, for all CEWs transferred, in accordance with this Chapter, at the time of transfer of CEWs, or at a later time specified in a written contract between the approved collector and approved recycler, but not more than 90 days from the date of transfer.
  - (5) Cancel CEWs by one or more of the manners prescribed in Section 18660.32 of this Chapter.
    - (A) An approved recycler shall maintain a processing log that records the date, method of cancellation, and quantity in pounds of CEWs cancelled.
    - (B) An approved recycler shall maintain inventory records that document the relationship between CEWs received from approved collectors, CEWs processed and cancelled by the approved recycler, and treatment residuals shipped to end-use destinations.
  - (6) Submit recycling payment claims to CalRecycle as specified in Sections 18660.22 through 18660.31 of this Chapter.
  - (7) Submit to and obtain a DTSC inspection, within any 12-month period.
- (c) Based on information supplied by approved collectors, an approved recycler shall, at a minimum, keep track of the weight of CEWs from both California and non-California sources transferred from approved collectors and ensure that recycling payments are not claimed for non-California source materials.
- (d) An approved recycler shall not provide recovery payment to approved collectors for CEWs from non-California sources, or to approved collectors that fail to provide complete and applicable source documentation on CEW origin pursuant to Section 18660.20(h) of this Chapter.
- (e) An approved recycler shall not claim recycling payments for non-California CEWs.
- (f) Approved recyclers shall determine if CEWs they accept from collectors have already been cancelled and shall keep track of the weight of those materials and ensure that recycling payments are not claimed for these materials.
- (g) An approved recycler shall not provide recovery payment to approved collectors for previously cancelled material.
- (h) An approved recycler shall not claim recycling payments for previously cancelled material.
- (i) An approved recycler may deny recovery payments for commingled loads in which CEWs cannot be distinguished from other materials.
- (j) An approved recycler shall operate in accordance with all Federal, State and local laws and regulations.

(k) An approved recycler shall:

- (1) Be equipped with scales and be a weighmaster in accordance with Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.
- (2) Measure, record and report weights in pounds and issue certified weights.
- (3) Weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 (commencing with Section 12500) of the Business and Professions Code.

(l) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved recycler shall maintain the following records:

(1) A receiving log containing a brief written description of CEW transfers by load from approved collectors, the number and weight of CEWs transferred, and the dates the transfers from collectors occurred.

(2) Records of CEW transfers, including all documentation received from an approved collector as specified in Section 18660.20(h), and recovery payments made and/or owed to approved collectors, including signed and dated receipts showing the number and weight of CEWs transferred.

(A) The approved recycler shall identify and record each approved collector using the name and identification number from the collector's "proof of approval."

(B) The approved recycler shall record separately the sum of estimated weights of source-anonymous CEWs reported by and transferred from an approved collector.

(3) A processing log showing the definitive cancellation of CEWs by weight, date and cancellation method, as specified in Section 18660.32 of this Chapter, upon which a payment claim is based.

(4) Records for all bills of lading for treatment residuals including the following information:

(4) Applicable records for all shipments of treatment residuals, including but not limited to weight certificates, packing lists, bills of lading, manifests, destination receipts, invoices, and payments. Applicable records shall be maintained pursuant to Section 18660.8 of this Chapter and be capable of demonstrating the following information:

(A) Date of shipment.

(B) Quantity and material type in shipment.

(C) The full name and address of shipping service.

(D) The full name and address of the buyer or other transferee, and destination name and address if different.

(E) Identification and description of the ultimate disposition of the treatment residuals.

(5) Records on the net costs associated with the disposition of all CEWs handled, the net costs of accepting the transfer of CEWs, the net costs of each cancellation method used, and any additional administrative costs of providing recovery payments to approved collectors.

(6) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

Article 2.3. Electronic Waste Payment System – Recycling Payment Claims

§ 18660.22. General Requirements for Recycling Payment Claims.

(a) An approved recycler shall submit all of the following general information in a claim for recycling payments from CalRecycle:

- (1) The full name, mailing address, and federal tax identification number of the recycler preparing the report.
- (2) The name and phone number of a contact person for purposes of the report.
- (3) The reporting month (calendar month and year) and date of preparation of the report.
- (4) The claim activity period, listing the start and end dates.
- (5) The total weight of CEW claimed, as calculated in Sections 18660.23, 18660.24, and 18660.25 of this Chapter.
- (6) The total monetary amount being claimed.
- (7) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.11 of this Chapter. The signature block shall include the following certification statements:

(A) "I hereby declare under penalty of perjury that:"

1. "The approved recycler whom I represent is currently in compliance with all Federal, State and local requirements, including compliance with the requirements of the Act and this Chapter."
2. "All claimed CEWs have been cancelled as specified in Section 18660.32 and are unable to re-enter the payment system; and all treatment residuals specified in Section 18660.22(c) derived from the claimed CEWs have been shipped off-site to an end-use destination authorized to receive and further treat or legally dispose of those treatment residuals."
3. "I have certified the weights and verified the calculations, including the adjustments for CEWs from non-California sources and for prior cancellation."
4. "This payment claim, including any and all accompanying documents has been examined by me and is true, and correct and complete."
5. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
6. "I further understand that fraud could result in revocation of the recycler's approval."

(8) The date and place of the signing of the claim.

(b) For each cancellation method used, an approved recycler shall submit no more than one recycling payment claim per calendar month and may only include one reporting month, as specified by Sections 18660.23, 18660.24 and 18660.25 of this Chapter, in a single recycling payment claim. An approved recycler shall prepare payment claims for different cancellation methods separately, but may submit a package containing all the claims for a reporting month.

(c) Prior to submitting a payment claim for cancelled CEWs, an approved recycler shall:

(1) Ship off-site all the following treatment residuals derived from the cancelled CEWs to an end-use destination authorized to receive and further treat or legally dispose of the treatment residual:

- (A) CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through crushing or shredding.
- (B) Bare CRTs or CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.
- (C) Gas plasma display glass cullet if conducting non-CRT-containing CEW cancellation through crushing or shredding.

- (D) Bare gas plasma display panels if conducting non-CRT-containing CEW cancellation through dismantling to a bare panel.
- (2) For each cancelled non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, serial number and weight prior to cancellation.
- (3) Only those CEWs that have been processed and documented pursuant to the applicable requirements of subsections (c)(1) and (c)(2) of this section shall be claimed for payment.
- (d) An approved recycler shall attach all of the following to the payment claim:
- (1) For all CEWs received from collectors during the claim activity period that are cancelled and included in the current claim, a report that includes:
- (A) A list of approved collectors from which the transfers of CEWs were accepted with the name and proof of approval identification number of each.
- (B) The total weight of CEWs in all loads transferred from each approved collector. Note that this weight may not equal the weight claimed for recycling payment because recovery payments are made on the weight of all CEWs transferred while recycling payments are made on the weight of only those CEWs cancelled.
- (C) Signed and dated receipts documenting all CEW transfers from approved collectors.
- (D) A copy(ies) of the applicable records specified in Section 18660.21(l)(1)-(4) pertaining to the collection and processing activities involving the CEWs cancelled and being claimed for payment.
1. Source documentation not associated with the claimed CEWs shall not be included in the report.
2. Transfer documentation not associated with the claimed CEWs shall not be included in the report.
- (E) A sum of the estimated weight of source-anonymous CEWs as reported by and transferred from approved collectors.
- (2) For all CEWs cancelled during the claim activity period and that are included in the current claim, a description of cancellation activities that includes:
- (A) The type(s) of cancellation method used.
- (B) The date(s) when cancellation occurred.
- (C) The amount of CEWs processed by dismantling, crushing or shredding by date in pounds.
- (D) The dates and destinations of all treatment residual shipments required prior to submitting a claim as specified in subsection (c) of this section.
- (3) For all CEWs received from collectors during the claim activity period that are not included in a prior claim and that are not cancelled, a description and quantification of those activities including but not limited to storage, repair, refurbishment, resale, reuse, transfer and/or export.
- (e) An approved recycler shall deliver recycling payment claims to CalRecycle's main business office, to the attention of the Accounting Section. An approved recycler shall mark the outside of the package containing the claims clearly with "e-Waste Claim Enclosed."
- (f) An approved recycler shall submit timely recycling payment claims so that CalRecycle receives each claim within 45 days of the end of the reporting month, as specified by Sections 18660.23, 18660.24 and 18660.25 of this Chapter. CalRecycle may return without payment any claim received more than 45 days after the end of the reporting month, as specified by Sections 18660.23, 18660.24 and 18660.25 of this Chapter. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.

(g) CalRecycle may reject a claim if it fails to comply with the general requirements of this Section, or the additional requirements in the applicable provisions regarding cancellation methods in Sections 18660.23, 18660.24 and/or 18660.25 of this Chapter.

(h) CalRecycle's rejection of a recycling payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.23. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs Through Crushing or Shredding.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT-containing CEWs through crushing or shredding as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of CRT glass cullet were sent to an end use destination.

(d) The reporting month for a recycling payment claim pursuant to this Section is the month in which shipment(s) of CRT glass cullet were made.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through crushing or shredding as follows:

(1) The total weight of CRT-containing CEWs cancelled for the reporting month from which all treatment residuals specified in Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use destination authorized to receive and further treat or legally dispose of those treatment residuals.

(2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (e)(1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(f) An example calculation for canceling CRT-containing CEWs through crushing or shredding is included for illustration purposes as follows:

*The weight of CRT-containing CEWs cancelled:* 1000 pounds

*Times the per pound Standard Statewide combined recovery and recycling payment rate:* X \$0.44

*Equals the payment claim for the reporting period:* = \$440.00 Total Claim

(g) An approved recycler shall attach to the payment claim the following documentation from all shipments of CRT glass cullet made during the reporting period of a calendar month:

(1) Shipping reports to end-use destinations, including the names of the shipping recycler and the receiving end-use destination.

(2) The date of the shipment and the weight of the CRT glass cullet.

- (3) Weight tickets of individual shipments of CRT glass cullet.
- (4) Verification of post cancellation disposition, including:
  - (A) For shipments by sea, the proof of disposition to an end-use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.
  - (B) For other shipments, the proof of disposition to an end-use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.
  - (C) For all shipments of CRT glass cullet, information pertaining to a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is not disposal to land, water or air compliant with applicable law and conformant with the approved recycler's conditions of authorization.
    - 1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.
    - 2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code;  
Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs Through Dismantling to a Bare CRT After Relieving the Vacuum.**

- (a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum as specified in Section 18660.32 of this Chapter.
- (b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of bare CRTs or CRT glass cullet were sent to an end use destination.
- (d) The reporting month for a recycling payment claim pursuant to this Section is the month in which the shipment(s) of bare CRTs or CRT glass cullet were made.
- (e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through dismantling to a bare CRT as follows:
  - (1) The total weight of CRT-containing CEWs cancelled from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use destination authorized to receive and further treat or legally dispose of those treatment residuals.
  - (2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(f) An example calculation for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum is included for illustration purposes as follows:

The weight of CRT-containing CEWs cancelled:	1000 pounds
Times the per pound Standard Statewide combined recovery and recycling payment rate:	X \$0.44
Equals the payment claim for the reporting period:	= \$440.00 Total Claim

(g) An approved recycler shall attach the following documentation for all shipments of bare CRTs or CRT glass cullet made during the reporting period of a calendar month:

- (1) Shipping reports to end-use destinations, including the names of the shipping recycler and the receiving end-use destination.
- (2) The date of the shipment and the weight of the bare CRTs or CRT glass cullet.
- (3) Weight tickets of individual shipments of bare CRTs or CRT glass cullet.
- (4) Verification of post cancellation disposition, including:
  - (A) For shipments by sea, the proof of disposition to an end-use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.
  - (B) For other shipments, the proof of disposition to an end-use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.
  - (C) For all shipments of bare CRTs or CRT glass cullet, information pertaining to a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is not disposal to land, water or air compliant with applicable law and conformant with the approved recycler's conditions of authorization.

1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**ATTACHMENT 2 –  
OAL NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION (2015-0925-02E)**



**State of California  
Office of Administrative Law**

**In re:**  
**Department of Resources Recycling and  
Recovery**

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections: 18660.44, 18660.45,  
18660.46**

**Amend sections: 18660.7**

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL Matter Number: 2015-0925-02**

**OAL Matter Type: Emergency (E)**

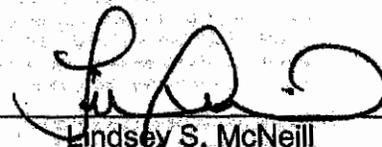
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This emergency rulemaking action by the Department of Resources, Recycling, and Recovery (CalRecycle) revises one section and adopts three sections in title 14 of the California Code of Regulations to implement a process for CalRecycle to exercise its authority to impose civil liabilities for violations of the Electronic Waste Recycling Program.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 10/5/2015 and will expire on 10/6/2017. The Certificate of Compliance for this action is due no later than 10/5/2017.

**Date: October 5, 2015**



**Lindsey S. McNeill  
Attorney**

**For: DEBRA M. CORNEZ  
Director**

**Original: Scott Smithline  
Copy: Elliot Block**

# EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2015-0925-02E</b>
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

**ENDORSED - FILED**  
 in the office of the Secretary of State  
 of the State of California

**OCT 25 2015**

**1:59 PM**

**2015 SEP 25 P 3 11**  
 OFFICE OF  
 ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY  
 Department of Resources Recycling and Recovery (CalRecycle)

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER / PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Administrative Civil Penalties	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT Title 14, Division 7, Chapter 8.2, Sections 18660.44, 18660.45, 18660.46 per agency request 10/1/15
	AMEND Title 14, Division 7, Chapter 8.2, Section 18660.7 per agency request 10/1/15
TITLE(S) <b>14</b>	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM 56660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Elliot Block, Chief Counsel	TELEPHONE NUMBER 916-341-6080	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Elliot.Block@CalRecycle.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Elliot Block</i>	DATE 8/21/15
TYPED NAME AND TITLE OF SIGNATORY Elliot Block, Chief Counsel	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 05 2015

Office of Administrative Law

**PROPOSED - California Code of Regulations**  
**Title 14. Natural Resources**  
**Division 7. Department of Resources Recycling and Recovery**  
**Chapter 8.2. Electronic Waste Recovery and Recycling**

For reference, this document shows proposed regulatory revisions and adoptions via underline:

**Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

**§ 18660.7. Document Submittals.**

- (a) A collector, a recycler, or a manufacturer shall prepare and submit applications, registrations, claims and/or reports required pursuant to this Chapter in the manner designated by CalRecycle.
- (b) CalRecycle shall only accept collector, recycler or dual entity applications, claims and reports containing all the required information and bearing an original signature of the primary applicant, or a person with signature authority as designated by the primary applicant pursuant to Section 18660.11 of this Chapter.
- (c) CalRecycle shall only accept manufacturer registrations, claims and reports containing all the required information and bearing an original signature of the primary registrant, or a person with signature authority as designated by the primary registrant pursuant to Section 18660.35 of this Chapter.
- (d) CalRecycle shall provide forms upon request that may be used to meet the requirements for the applications, registrations, and payment claims specified in this Chapter.
- (e) A collector, a recycler, or manufacturer shall ensure that applications, registrations, claims, reports and all applicable supporting documentation are accurate, complete, and typed or legibly handwritten in English using permanent ink. A collector or a recycler may void errors only by using a single line through the error. A collector or a recycler shall not use correction fluid, correction tape or erasures for correcting errors on any document required by or submitted to CalRecycle.
- (f) Any person, including but not limited to a handler, who provides documentation or information to an approved collector or an approved recycler that may be used by the approved collector or approved recycler pursuant to this Chapter shall not make a false statement or representation in the information or documentation provided.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Sections 42476, 42477, 42478 and 42479, Public Resources Code.

**Article 6. Administrative Civil Penalties**

**§ 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

- (a) Administrative civil penalties authorized by Public Resources Code Section 42474(d) shall be assessed in accordance with the procedures set forth in this Section.
- (b) The penalties shall be assessed as follows:
  - (1) A "Minor" violation means first-time violations where the gravity of the violation is severe. The penalties for this type of violation would be no less than five hundred dollars (\$500) and no more than four thousand dollars (\$4,000).
  - (2) A "Moderate" violation means subsequent or multiple violations. The penalties for this type of violation would be no less than four thousand dollars (\$4,000) and no more than fifteen thousand dollars (\$15,000).

PROPOSED - California Code of Regulations  
Title 14. Natural Resources  
Division 7. Department of Resources Recycling and Recovery  
Chapter 8.2. Electronic Waste Recovery and Recycling

(3) A "Major" violation means violations that indicate a pattern and practice of noncompliance, or intentional violations. The penalties for this type of violation would be no less than fifteen thousand dollars (\$15,000) and no more than twenty-five thousand dollars (\$25,000).

(c) CalRecycle may consider any or all of the following when imposing an administrative civil penalty:

(1) The nature, circumstances, extent, and/or gravity of the violation;

(2) The value of the actual or potential economic benefit to the violator associated with the violation;

(3) The amount of actual or potential harm to CalRecycle, financial or otherwise;

(4) Any prior history of noncompliance with this Chapter, including but not limited to any prior violations of a similar nature;

(5) Truthful and forthright cooperation during any relevant investigation, including but not limited to any measures taken by the violator to remedy the current violation or prevent future violations;

(6) The violator's ability to pay the proposed penalty;

(7) The deterrent effect that the imposition of the proposed penalty would have on the community as a whole and the violator; and

(8) Any other matters that justice may require.

(d) In any case in which it is determined that more than one person or entity is responsible and liable for a violation, each such person may be held jointly and severally liable for an administrative civil penalty.

(e) Prior to the issuance<sup>of</sup> an accusation, CalRecycle may issue a prior written notice of violation alleging with specificity:

(1) A description of the violation or violations;

(2) The proposed penalty amount, if any; (b)

(3) The facts considered in determining the violation and penalty amount;

(4) A list of corrective actions to be taken by the violator; and

(5) An acknowledgement of receipt to be executed by the violator.

(f) CalRecycle shall issue an accusation, as defined in Government Code Section 11503, seeking an administrative penalty or penalties pursuant to this Section. The accusation and all accompanying documents may be served by personal service or registered mail.

(g) Within fifteen (15) days after service upon the respondent of the accusation seeking any administrative civil penalty, respondent may request a hearing by filing a Notice of Defense pursuant to Government Code Sections 11505 and 11506. The request for hearing may be made by delivering or mailing the Notice of Defense to CalRecycle. Failure to file a Notice of Defense within fifteen (15) days of service of the accusation shall constitute a waiver of the respondent's right to a hearing and CalRecycle may proceed upon the accusation without a hearing.

(h) CalRecycle shall provide a hearing before the director or his or her designee, who shall act as hearing officer. At any time during the proceeding, before a decision is issued, CalRecycle and the respondent(s) may engage in settlement of the matter.

(i) The hearing officer shall consider the notice of violation (if applicable), the accusation, the Notice of Defense, and all other relevant evidence presented by CalRecycle and the respondent. The hearing officer shall specify relevant procedures to be conducted during the proceeding, which include but are not limited to, informing the parties as to whether the hearing officer will consider witness testimony, and whether there shall be written and/or oral arguments. The hearing officer shall issue a written decision stating the factual and legal basis for the decision within thirty (30) days of the

per agency  
LM request 10/1/15

**PROPOSED - California Code of Regulations**  
**Title 14. Natural Resources**  
**Division 7. Department of Resources Recycling and Recovery**  
**Chapter 8.2. Electronic Waste Recovery and Recycling**

hearing. If the hearing officer determines that any penalties are owed, the hearing officer shall include in the written decision the date payment of the assessed penalties shall be due and paid.

- (j) The respondent's failure to comply with the hearing officer's written decision may be grounds for suspension or revocation of their status as an approved collector and/or approved recycler.
- (k) Except as otherwise specified herein, the hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. The hearing shall take place in Sacramento, California unless a location is otherwise specified by the hearing officer. If respondent wishes to request an alternate location, the respondent must make that request in the Notice of Defense and provide a justification of undue burden.
- (l) Penalties assessed in a hearing officer's decision may be in addition to any adjustments made pursuant to Section 18660.30 and may be offset by CalRecycle against any other amounts that are otherwise due to the respondent(s) for payment claims. In the event of settlement, the parties may agree to offset provisions in the settlement agreement.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

- (a) The administrative procedure set forth in Section 18660.44(c)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(a).
- (b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.**

- (a) The administrative procedure set forth in Section 18660.44(b)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(c).
- (b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

The following table shows the results of the experiment. The first column is the number of trials, the second column is the number of correct responses, and the third column is the percentage of correct responses.

Number of trials	Number of correct responses	Percentage of correct responses
10	8	80%
20	15	75%
30	22	73%
40	28	70%
50	35	70%
60	42	70%
70	48	69%
80	55	69%
90	62	69%
100	68	68%

The results show that the percentage of correct responses increases as the number of trials increases, but it levels off after about 50 trials. This suggests that the subject is learning the task and reaching a plateau of performance.

Text shown in single underline (addition) and ~~single-strikeout~~ (deletion) depict changes proposed in the originally noticed text. Text shown in double underline (addition) and ~~double-strikeout~~ (deletion) depict changes made after the initial comment period and submission of regulations to the Office of Administrative Law.

## Article 1. General

### § 18660.5. Definitions.

(a) For the purposes of this Chapter, the following shall apply:

- (1) “Act” or “the Act” means the Electronic Waste Recycling Act of 2003 (Senate Bill 20, Chapter 526, Statutes of 2003), as amended.
- (2) “Approved Collector” means an authorized collector as defined in Section 42463(b) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recovery payments from approved recyclers.
- (3) “Approved Dual Entity” means an entity that is both an “approved collector” and an “approved recycler” as defined in this Section.
- (4) “Approved Recycler” means a “covered electronic waste recycler” as defined in Section 42463(h) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recycling payments from CalRecycle.
- (5) “Bare CRT” means a Cathode Ray Tube with the vacuum relieved and the yoke removed that has been separated from the device housing and has had all circuit boards, wiring and other components detached from the tube.
- (6) “Bare Panel” means an LCD, ~~gas~~ plasma, or other non-CRT video display panel that has been separated from the device housing and has had all circuit boards, lamps, wiring and other components detached from the panel. Lamps may remain affixed to an otherwise bare panel only if they cannot be removed without breaking.
- (7) “Cancellation” means a processing or treatment method that qualifies CEWs for recycling payments, removes the CEWs from the payment system eliminating the possibility of double payments, dismantles or destroys the original CEW, and results in treatment residuals as specified in Section 18660.32 of this Chapter.
- (8) “Claim Activity Period” means the span of time during which an approved recycler received CEWs from approved collectors, processed and cancelled CEWs, and shipped treatment residuals, as required, that results in a recycling payment claim being submitted to CalRecycle.
- (9) “CRT” means a Cathode Ray Tube with the yoke still attached that has been separated from a CRT device.
- (10) “CRT device” means a whole covered electronic device containing a Cathode Ray Tube.
- (11) “California Source” means persons, as defined in Section 42463(n) of the Public Resources Code, located in California who generate CEWs after their own use of a CED. Persons who receive, accumulate, consolidate, store, or otherwise handle discarded, donated or collected CEWs are not the California sources of those CEWs.
- (12) “CalRecycle” means the Department of Resources Recycling and Recovery.
- (13) “Collection log” means a record maintained by an approved collector that records CEW collection activities as specified in Section 18660.20(j) of this Chapter.
- (14) “Collective Report” means a report submitted to CalRecycle through a trade association, a group of associations, or other organization that represents more than one manufacturer.
- (15) “Commingled” means mixed together and impossible to economically or practically separate.

- (16) “Covered Electronic Device” or “CED” has the same meaning, for the purposes of this Chapter, as a covered electronic device specified in Section 42463(e) of the Public Resources Code.
- (17) “Covered Electronic Waste” or “CEW” means a discarded device that DTSC has determined to be a covered electronic device, as specified by Section 42463(e) of the Public Resources Code.
- (18) “Designated Approved Collector” means an approved collector, as defined in subsection (a)(2) of this section, that has been designated by a California local government to provide CEW collection services for or on behalf of the local government in accordance with Article 7 of this Chapter.
- (19) “DTSC” means the Department of Toxic Substances Control.
- (20) ~~“End Use Destination” means the location where the treatment residuals from the approved recycler are sent after cancellation.~~
- ~~(21)~~ “Further treat” means, for the purposes of this Chapter, activities such as crushing, size reduction, washing, cleaning, smelting, or similar steps taken to process the treatment residual ~~rendering it more marketable and alter its physical form or characteristics.~~ “Further treat” does not mean, for the purposes ~~or of~~ of this Chapter, receiving, storing, accumulating, consolidating, brokering, shipping, disposing or other similar activities that do not alter the physical form or characteristics of the treatment residual.
- ~~(22)~~ “Handler”, for the purposes of this Chapter, has the same meaning as a universal waste handler or CRT material handler, as applicable, as defined in Section 66273.9 of Title 22 of the California Code of Regulations.
- ~~(23)~~ “Illegal Disposal” means, for the purposes of this Chapter, the disposal or placement of CEWs on a property without the permission of the owner(s) of, or responsible party(ies) for, the property.
- (23) “Initial Destination” means, for the purposes of this Chapter, the location(s) to which treatment residuals are initially shipped by an approved recycler.
- (24) “Load” means a single transfer (a pick up or delivery) of CEWs, such as from a California source to a collector or from a collector to a recycler.
- (25) “Load Check Activities” means, for the purposes of this Chapter, the efforts made to identify, retrieve and divert from the disposed solid waste stream those CEWs that have been illegally discarded by generators. “Load Check Activities” do not include the rejection or acceptance of CEWs due to the lack of source documentation.
- (26) “Manufacturer Payment” or “Manufacturer Take Back Payment” means a payment made by CalRecycle to a registered manufacturer that takes back covered electronic wastes (CEWs) from a California source for the purposes of recycling the CEW pursuant to Section 42476(g) of the Public Resources Code.
- (27) “Manufacturer Payment Claim” means a registered manufacturer's request submitted to CalRecycle with all required documentation for a manufacturer payment.
- (28) “Manufacturer Take Back” means a program administered by a registered manufacturer that accepts CEWs from California sources for the purposes of recycling.
- (29) “PBBs” mean Polybrominated Biphenyls.
- (30) “Processing log” means a record maintained by an approved recycler that records CEW activities associated with CEW cancellation, such as but not limited to weighing, and dismantling, ~~documenting~~ ~~crushing, shredding, etc.~~, as specified in Section 18660.21(b) of this Chapter.
- (31) “Product Category” means the types of covered electronic devices as defined in Section 42463(e) of the Public Resources Code. These categories include, but are not limited to, the following:
- (A) Cathode Ray Tubes (CRTs) devices used in televisions,
  - (B) CRTs devices used in monitors,
  - (C) Liquid Crystal Display (LCD) monitors,
  - (D) Laptop computers containing LCD screens,
  - (E) LCD televisions,

- (F) ~~Gas p~~ Plasma display televisions, and
- (G) Other video display devices as specified by the DTSC pursuant to Section 25214.10.1(b) of the Health and Safety Code.

(32) “Proof of Approval” means the status of an approved collector or approved recycler, as portrayed on the CalRecycle website. ~~The Proof of Approval that is associated with the~~ an unique identification number ~~and expiration date,~~ issued by CalRecycle to identify a collector or recycler that identifies a collector or recycler as being approved pursuant to this Chapter ~~as being approved pursuant to this Chapter.~~

(33) “Proof of Designation” means a document issued by a California Local Government to a Designated Approved Collector in accordance with Article 7 of this Chapter.

(34) “Receiving log” means a record maintained by an approved recycler that documents CEW transfers from approved collectors to the approved recycler.

(35) “Recovery payment” means the payment made by an approved recycler to an approved collector in exchange for the transfer of CEWs pursuant to Section 42477 of the Public Resources Code.

(36) “Recovery payment request” means an approved collector's request for recovery payment made to an approved recycler accompanying the transfer of CEWs.

(37) “Recycling payment” means the payment made by CalRecycle to an approved recycler that includes a recovery component related to recycler payments to collectors pursuant to Section 42477 of the Public Resources Code and a recycling component for CEW cancellation pursuant to Section 42478 of the Public Resources Code.

(38) “Recycling payment claim” means an approved recycler's claim that includes all required documentation submitted to CalRecycle for recycling payments for cancelled CEWs.

(39) “Registered Manufacturer” means a manufacturer as defined in Section 42463(m) of the Public Resources Code who registers with CalRecycle pursuant to this Chapter and therefore may be eligible for manufacturer payments from CalRecycle.

(40) “Source-anonymous CEWs” means CEWs whose originating California source cannot be identified in collection log information required pursuant to Section 18660.20(j)(1)(B) of this Chapter.

(41) “Source documentation” means collection logs and other information developed, maintained and transferred pursuant to Section 18660.20(h) of this Chapter that demonstrates the eligibility, originating generator ~~and/or~~ intermediate handlers of collected CEWs as applicable.

(42) “Standard Statewide Recovery Payment Rate” means the amount paid to an approved collector per pound of CEWs transferred to an approved recycler to cover the cost of collection, consolidation and transportation of CEWs as established pursuant to Section 42477 of the Public Resources ~~Code.~~

(43) “Standard Statewide Combined Recycling and Recovery Payment Rate” means the amount paid to an approved recycler per pound of CEWs cancelled and claimed to cover the cost of receiving, processing and recycling CEWs as established pursuant to Section 42478 of the Public Resources Code, and making recovery payments to approved collectors.

(44) “Transfer” or “Transferred” means physically changing possession of CEWs, such as a transfer from a California source to a collector or from a collector to a recycler.

(45) “Transfer documentation” means, for the purposes of this Chapter, records ~~and/or~~ receipts that record the transfer of CEWs from an approved collector to an approved recycler, which include the weight, number, and source of the transferred CEWs, and the date(s) of transfer.

(46) “Treatment ~~Residuals~~” means any material resulting from the dismantling or treatment of a CEW. Treatment residuals are not considered CEWs and are not eligible for recovery or recycling payment, however the costs or revenues associated with managing treatment residuals shall be factored into the net cost of recycling CEW. ~~In some cases, t~~ Treatment residuals may be used to demonstrate the prior processing of CEWs, and bills of lading for documentation demonstrating the subsequent movement or

ultimate disposition of the material treatment residuals may be required as part of the claim for payment submitted by an approved recycler.

(47) “Ultimate disposition” means, for the purposes of this Chapter, the consumption of a treatment residual into a manufacturing process or the disposal of a treatment residual at a permitted disposal facility. Storage of a treatment residual at a site of generation or at an intermediate facility, or accumulation of a treatment residual at a location prior to consuming or disposing, is not ultimate disposition.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463, 42465.2, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

### **§ 18660.6. Applicability and Limitations.**

- (a) Limitations on the types of CEWs eligible for payments:
- (1) An approved collector may request recovery payment only for the types of CEWs specified by DTSC that are transferred to an approved recycler by the collector.
  - (2) An approved recycler may claim recycling payment only for the types of CEWs specified by DTSC that are received from an approved collector and are cancelled by the recycler.
  - (3) A registered manufacturer may claim manufacturer payment only for the types of CEWs specified by DTSC that the manufacturer takes back for recycling.
- (b) Limitations on the timeframes eligible for payments:
- (1) An approved collector, an approved recycler, or a registered manufacturer shall not receive payment for any CEWs transferred from a California source before January 1, 2005.
  - (2) An approved collector shall not request recovery payments from recyclers for transfers that occur prior to the approval of the collector's application by CalRecycle.
  - (3) An approved recycler shall not claim recycling payments from CalRecycle for CEWs cancelled prior to the approval of the recycler's application by CalRecycle.
  - (4) A registered manufacturer shall not claim manufacturer payments from CalRecycle for recycling that occurs prior to the manufacturer's registration with CalRecycle.
- (c) Limitations on the Sources of CEWs and CEWs eligible for payments:
- (1) Only CEWs resulting from a California source are eligible for recovery, recycling, or manufacturer payments.
  - (2) CEWs owned by a person in California, but used entirely outside of California are not eligible for payments.
  - (3) Source-anonymous CEWs, documented pursuant to Section 18660.20(j)(1)(E) of this Chapter, are eligible for recovery and recycling payments if:
    - (A) The source-anonymous CEWs result from load check activities as defined in Section 18660.5(a)(25) conducted at permitted solid waste facilities whose operator is an approved collector or, if not an approved collector, the source-anonymous CEWs are directly transferred from the permitted solid waste facility to an approved collector; or
    - (B) The source-anonymous CEWs result from illegal disposal clean-up activities conducted by an approved collector who is a local government or its designated approved collector; or
    - (C) The source-anonymous CEWs result from illegal disposal on property owned or managed by an approved collector.
  - (4) CEWs are transferred to a designated approved collector are not eligible for payments unless the CEWs are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.
- (d) Limitations on the ability of collectors and recyclers to charge a fee:
- (1) If the recovery payment from a recycler does not fully cover the net cost of CEW recovery, and the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector, then an approved collector may charge a fee for CEW recovery.
  - (2) If the recovery payment from a recycler fully covers the net cost of CEW recovery, an approved collector shall provide CEW recovery at no charge to California sources or CalRecycle may revoke approval and direct recyclers to deny recovery payments to the collector.
  - (3) If the recycling payment from CalRecycle does not fully cover the net cost of CEW recycling, an approved recycler may charge a fee for CEW recycling.

(4) If the recycling payment from CalRecycle fully covers the net cost of CEW recycling, an approved recycler shall provide CEW recycling at no charge to approved collectors or CalRecycle may revoke approval and deny recycling payments to the recycler.

(e) Limitations on recovery payments:

(1) An approved recycler shall make recovery payments at the rate specified in Section 18660.33 of this Chapter to approved collectors for all CEWs transferred to the recycler and that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(2) CalRecycle shall revoke a recycler's approval and deny recycling payments to a recycler that fails to make recovery payments to approved collectors as specified in this Chapter.

(3) An approved recycler shall not make the recovery payments as specified in this Chapter to collectors who are not approved pursuant to this Chapter.

(4) An approved recycler may make other types of payments, not provided for under this Chapter, to a collector regardless of the collector's approval status.

(5) An approved recycler shall not provide recovery payments to a collector other than the approved collector that transfers the CEWs to the recycler, but nothing limits the collectors involved in prior transfers from negotiating payments among themselves unrelated to the recovery payment provisions of this Chapter.

(6) An approved collector is eligible for recovery payments only if the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector.

(7) An approved collector is entitled for recovery payments only for CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(8) The approved collector shall repay the approved recycler the amount of recovery payment that was paid if an approved collector has received recovery payment from an approved recycler for which the approved collector was not entitled.

(f) Limitations on recycling payments:

(1) CalRecycle shall make recycling payments only to approved recyclers who:

(A) Cancel CEWs using cancellation methods as specified in Section 18660.32 of this Chapter.

(B) Document cancellation and meet the other requirements of this Chapter.

(2) CalRecycle shall not make recycling payments to a recycler other than the approved recycler that cancels the CEWs, but nothing limits the recyclers involved in subsequent transfers from negotiating payments among themselves unrelated to the recycling payment provisions of this Chapter.

(3) CalRecycle shall not make recycling payments for reuse of either a whole CEW or of a partially disassembled CEW, such as a CRT with an attached yoke.

(g) Limitations in relation to current business practices:

(1) CalRecycle shall not limit the ability of approved collectors and approved recyclers to transfer or not transfer CEWs to or from any party.

(2) CalRecycle shall not limit the ability of approved collectors and approved recyclers from entering into contracts with each other or other parties.

(3) CalRecycle shall not limit the ability of collectors to recover CEWs or recyclers to recycle CEWs without participating in the system described in this Chapter.

(4) If collectors wish to receive recovery payments or recyclers wish to receive recycling payments, then they must meet the requirements in this Chapter.

(h) Limitations on recycling payments on exported CEWs and the disposition of treatment residuals:

~~(1) CalRecycle shall not approve recyclers located outside the State. CEWs sent to and cancelled by unapproved recyclers are not eligible for payments pursuant to this Chapter regardless of the location of the unapproved recycler.~~

~~(2) If treatment residuals are disposed to land, water or air, then a recycler shall not be eligible for recycling payments for the original CEWs unless the treatment residual is not economically feasible to recycle and/or cannot be recycled because it would pose a hazard to public health, safety or the environment.~~

(1) Approved recyclers are not eligible for CEW recycling payments if treatment residuals are managed in a manner noncompliant or nonconforming with applicable law.

(2) Treatment residuals shall be managed for recycling to the extent economically feasible.

(A) Economic feasibility shall be determined by an approved recycler based on current market conditions for legal management options.

(B) CalRecycle may demand demonstration of economic infeasibility in accordance with Public Resources Code section 42479.

(3) Approved recyclers that ship treatment residual CRTs or CRT glass for the purposes of recycling shall be capable of demonstrating to CalRecycle or its designee upon demand that the CRT or CRT glass material has reached an ultimate disposition within one year of the initial shipment, unless the approved recycler is exempt from such demonstration pursuant to Article 7 of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(4) If treatment residuals are disposed, an approved recycler shall ensure and be able to demonstrate that the disposal is compliant complies with all applicable laws and conforms to any conditions of authorization or approval under which the approved recycler managed the CEW from which the treatment residuals were derived.

(5) CalRecycle may demand require approved recyclers to produce documentation maintained pursuant to this Chapter to demonstrate demonstration of compliance or conformance with all applicable laws associated with treatment residual shipment, initial destination, or ultimate disposition.

(i) Limitations on the manufacturer payment system:

(1) CalRecycle shall not register any entity other than a manufacturer as defined in Section 42463 ~~(pm)~~ of the Public Resources Code to be a registered manufacturer.

(2) CalRecycle shall not make manufacturer payments to any entity other than a registered manufacturer.

(3) A registered manufacturer shall only claim payment for, and CalRecycle shall only make manufacturer payments for, CEWs received from California sources that are processed for recycling ~~that~~ in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(4) A registered manufacturer shall not claim payment for, and CalRecycle shall not make manufacturer payments for, CEWs that are reused, repaired, refurbished or otherwise returned to use.

(j) Limitations on recycling payments on exported CEWs:

(1) CalRecycle shall not approve recyclers located outside the State of California.

(2) CEWs sent to and cancelled by unapproved recyclers are not eligible for recycling payments pursuant to this Chapter regardless of the location of the unapproved recycler.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42472(b), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.7. Document Submittals.**

(a) A collector, a recycler, or a manufacturer shall prepare and submit applications, registrations, claims ~~and/or~~ reports required pursuant to this Chapter in the manner designated by CalRecycle.

(b) CalRecycle shall only accept collector, recycler or dual entity applications, bearing the signatures of all persons with signatory authority designated pursuant to Section 18660.11. CalRecycle shall accept claims and

~~reports bearing a signature by any person with signatory authority designated pursuant to Section 18660.11 claims and reports containing all the required information and bearing an original signature of the primary applicant, or all persons with signature authority as designated by the primary applicant pursuant to Section 18660.11 of this Chapter.~~

(c) CalRecycle shall only accept manufacturer registrations, claims and reports containing all the required information and bearing an original signature of the primary registrant, or a person with signature authority as designated by the primary registrant pursuant to Section 18660.35 of this Chapter.

(d) CalRecycle shall provide forms upon request that may be used to meet the requirements for the applications, registrations, and payment claims specified in this Chapter.

(e) A collector, a recycler, or manufacturer shall ensure that applications, registrations, claims, reports and all applicable supporting documentation are accurate, complete, and typed or legibly handwritten in English using permanent ink. A collector or a recycler may void errors only by using a single line through the error. A collector or a recycler shall not use correction fluid, correction tape or erasures for correcting errors on any document required by or submitted to CalRecycle.

~~(f) Any person, including but not limited to a handler, who provides documentation or information to an approved collector or an approved recycler that may be used by the approved collector or approved recycler pursuant to this Chapter shall not make a false statement or representation in any document filed, submitted, maintained, or used for purposes of compliance with this Chapter the information or documentation provided.~~

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(d), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.8. Records.**

(a) An approved collector, an approved recycler, or a registered manufacturer shall send written notice to CalRecycle regarding any change in location, or intent to establish a new location, of records required by this Chapter no less than 10 days prior to the change. In the written notice, an approved collector or an approved recycler shall include its name, ~~and the unique identification number from the proof of approval, and the complete present and potential future address of the location of the records, if applicable, and the names and telephone numbers of the individuals responsible for such records.~~

(b) All records maintained pursuant to this Chapter must include the books of account that are ordinarily maintained by a prudent business person engaged in the same activity, together with all bills, receipts, invoices, manifests, cash register tapes, or other documents of original entry supporting the entries in the books of account.

(c) An electronic data processing system must have built into its program a method of producing visible and legible records that will provide the necessary information to determine compliance with the requirements of this Chapter.

(d) An approved collector, an approved recycler, or a registered manufacturer shall maintain records for at least three years.

(e) An approved collector, an approved recycler, or a registered manufacturer shall maintain records that are originals, and typed or legibly handwritten in English.

(f) An approved collector, an approved recycler, or a registered manufacturer shall not store records in an unprotected area, in an outside location, in a motor vehicle or in a location where the records are likely to become contaminated, damaged or stolen.

(g) An approved collector, an approved recycler, or a registered manufacturer shall maintain records suitable for examination prepared and retained in accordance with generally accepted accounting principles and good business practice.

(h) If CalRecycle determines that records do not meet the conditions in this Section, CalRecycle may revoke approval ~~and~~/or deny payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### § 18660.9. Audits.

(a) CalRecycle, or persons authorized by CalRecycle, may conduct audits of approved collectors, approved recyclers, and registered manufacturers to determine compliance with the requirements of this Chapter.

(b) As part of an audit, CalRecycle may do any one or all of the following in relation to CEW recovery or recycling:

- (1) Review, examine or investigate any books, records, accounts, ~~and~~/or documentation.
- (2) Observe, review, examine or investigate any on-site activities, operations, processes, CEWs, treatment residuals or other materials.
- (3) Observe and inspect transactions.
- (4) Verify measurements, counts, weights, and calculations.
- (5) Examine and verify revenue, cost and net cost information and calculations.
- (6) Use other examination procedures to investigate recovery payments, recycling payments, manufacturer payments, transfers of CEWs or treatment residuals, costs, revenue, net costs, or other activities related to determining compliance with this Chapter.

(c) An approved collector, an approved recycler, or a registered manufacturer shall provide CalRecycle staff, or persons authorized by CalRecycle, access to location(s) ~~and/or~~ and records for the purpose of audits related to the requirements of this Chapter, and for any or all of the following purposes in relation to CEW recovery or recycling:

- (1) To determine compliance with CalRecycle's regulations and with the provisions of the Act.
- (2) To determine the accuracy of the information provided in the application for approval or registration.
- (3) To determine the accuracy of the information, calculations, weights, counts, and other data upon which claims for payments or payments are based.
- (4) For the investigation of complaints related to recovery payments to collectors.
- (5) For the investigation of complaints related to the geographic origin of CEWs.
- (6) To obtain cost data, revenue data and net cost calculations required for CalRecycle to set and adjust the Standard Statewide recovery payment rate, recycler payment rate and consumer fees.
- (7) To obtain sample data to calculate component weight to device weight conversion factors.
- (8) To inspect any records required by this Chapter or the Act.

(d) If an approved collector, an approved recycler, or a registered manufacturer fails to provide reasonable access for audits pursuant to this Section, CalRecycle shall do one or more of the following:

- (1) Deny approval or registration if a renewal is pending.
- (2) Revoke an existing approval or registration.
- (3) Recoup monies previously paid by CalRecycle, which were the subject of the audit, accumulated interest, and any associated penalties.
- (4) Deny current and future claims for payments.

(e) An approved collector, an approved recycler or a registered manufacturer that must repay monies to CalRecycle based on the results of a CalRecycle audit shall pay the entire amount, including the original amount, accumulated interest, and any associated penalties.

(f) An approved collector, an approved recycler or a registered manufacturer shall make any payments, repayments or recoupments in U.S. dollars by check, draft, money order or cashier's check payable to the State of California, Department of Resources Recycling and Recovery, or to a designee selected by CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.10. Net Cost Report.**

(a) To adjust the statewide recovery and recycling payment rates, establish future payment schedules and adjust the consumer fees, CalRecycle shall periodically update information concerning the net costs of CEW recovery and CEW recycling.

(b) An approved collector or an approved recycler shall maintain records and provide information for use by CalRecycle in the update on their actual net costs to operate.

(c) An approved collector or an approved recycler shall use the following allowable revenues and costs for use in the calculation of net costs:

(1) Revenues in relation to CEW recovery or recycling, other than the payments required pursuant to this Chapter, including but not limited to:

(A) Up-front revenues received, such as from fees charged.

(B) ~~End-use~~ Treatment residual revenues, such as from commodity values.

(2) Costs in relation to CEW recovery or recycling including, but not limited to:

(A) The actual costs of receiving, handling, processing, storing, transferring and transporting CEWs.

(B) The actual costs of canceling CEWs.

(C) Labor.

(D) Property taxes.

(E) Depreciation.

(F) Utilities.

(G) Supplies.

(H) Fuel.

(I) Insurance.

(J) Interest.

(K) General overhead.

(L) Facilities and equipment rent or lease.

(M) Maintenance.

(N) Transportation.

(O) Handling costs.

(P) Disposition costs.

(Q) A reasonable rate of profit or return on investment.

(R) Marketing, promotion and public education.

(d) An approved collector and approved recycler shall submit to CalRecycle a report on the net costs of recovery ~~and~~ or recycling for the prior calendar year, including:

(1) An annualized summary of the revenues, costs, and net cost (costs minus revenues) of CEW recovery ~~and~~ or CEW recycling based on the records maintained pursuant to Sections 18660.20(j)(3) and 18660.21(l)(5) of this Chapter.

(2) Name, identification number and mailing address.

(3) The name and phone number of a contact person for purposes of the report.

(4) The reporting year and date of preparation of the report.

(5) The total annualized revenues excluding recovery and recycling payments received from CalRecycle, plus a list of the types of revenues included in the revenue calculation.

(6) The total annualized costs, plus a list of the types of costs included in the cost calculation.

- (7) The total annualized net costs (annualized costs minus annualized revenues).
- (8) The net cost per pound of CEW recovery and the net cost per pound of CEW recycling.
- (9) Provide a description of the types of targeted consumers, and the methods of collection used to obtain CEWs from the California sources, including but not limited to:
  - (A) Drop-off at permanent location,
  - (B) Temporary event drop off,
  - (C) Pick up at source,
  - (D) Pick up at handler location,
  - (E) Curbside collection,
  - (F) Landfill drop off ~~and~~ or load check.
- (10) The signature and title of a person with signature authority for net cost reports as designated pursuant to Section 18660.11 of this Chapter.
- (11) The signature block shall state and certify the following statement: "I hereby declare under penalty of perjury that this net cost report, including any and all figures, calculations and accompanying documents has been examined by me and is true, correct and complete."
- (12) The date and place of the signing of the report.
- (e) An approved collector or an approved recycler shall convert any data captured on a per unit basis to a per pound basis for the purposes of determining revenues, costs and net costs.
- (f) CalRecycle may revoke approval ~~and~~/or deny recycling payments for failure to submit a net cost report, or for the submission of a fraudulent report.
- (g) The net cost report shall be submitted to CalRecycle on or before March 1, 2006, and each year thereafter.
  - (1) The requirement to submit a net cost report subsequent to March 1, 2007, shall be determined by CalRecycle at a public hearing.
  - (2) Notice of the requirement to submit a net cost report subsequent to March 1, 2007, shall be issued by CalRecycle on or before December 31 of the year proceeding the year in which the report is next due.
- (h) In addition to the net cost report described by this Section, an approved collector or an approved recycler may submit test results, studies or other information for CalRecycle to consider when the Standard Statewide Recovery Payment Rate ~~and~~/or the Standard Statewide Combined Recovery and Recycling Payment Rate is reviewed and, if necessary, adjusted pursuant to Sections 18660.33 and 18660.34 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42464, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.1. Electronic Waste Payment System – Applications for Approval**

### **§ 18660.12. Additional Application Requirements for Collectors.**

- (a) In addition to the general application information required in Section 18660.11 of this Chapter, a collector shall also include the following information:
  - (1) The date and the name under which the collector notified DTSC as a CRT ~~and~~/or universal waste handler.
  - (2) A description of the existing or proposed collection operation, including but not limited to:
    - (A) The types of California sources from which the collector may recover CEWs, including but not limited to households, businesses, ~~and~~/or other collectors.
    - (B) The type(s) of CEWs that may be recovered by the collector.
    - (C) Whether the collector may recover CEWs from outside of the State of California.

(D) The cost-free opportunity(ies) established by the collector for a California source to transfer CEWs to the collector as required by Section 42476(f)(23) of the Public Resources Code.

(3) Certification statements by the collector as follows:

(A) “The undersigned collector agrees under penalty of immediate revocation of approval and denial of recovery payments that as an approved collector:”

1. “I shall make reasonable efforts to ensure that any CEWs for which payment is claimed originate from a California source.”
2. “I shall provide free CEW collection to California sources if the payments I receive from recyclers fully covers the net cost of collection, transportation and charges paid to the recycler.”
3. “I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions.”
4. “I shall establish a cost-free CEW collection opportunity for California sources.”
5. “I have read and understand the requirements set forth in the statutes and regulations governing this program.”

(B) “The undersigned collector certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct.”

(4) The name and signature of the primary applicant who has the authority to sign and bind the collector to this application.

(5) The date and location of application.

(b) A collector shall maintain a physical location within the state of California at which:

(1) CEWs can be handled.

(2) All records required by this Chapter shall be maintained.

(c) CalRecycle shall not approve a collector located outside the United States, unless required to by treaty. If CalRecycle must approve a collector outside the United States, the collector must comply with the requirements of Section 42476.5 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42476.5, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.13. Additional Application Requirements for Recyclers.**

(a) In addition to the general information required in Section 18660.11 of this Chapter, a recycler shall also include the following information:

(1) Documentation that the recycler has fulfilled DTSC notification and authorization requirements regarding the handling and processing of CEWs.

(2) A description of the recycling operation, including:

(A) The method(s) of cancellation used by the recycler.

(B) The types of CEWs cancelled by the recycler, pursuant to Section 18660.32 of this Chapter.

(C) Estimated percentages of cancelled CEWs expected to originate from inside of and from outside of the State of California annually.

(3) An explanation and documentation showing how the demonstrations in Public Resources Code Section 42479(b) have been satisfied, including but not limited to the following:

(A) The recycler is in compliance with DTSC’s minimum standards for managing hazardous and universal waste set forth in applicable requirements of Chapter 23 of Chapters 12, 14, 15, 16, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(B) The recycler demonstrates to CalRecycle that the recycler's facility meets all of the following standards:

1. The facility has been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A). If a DTSC inspection has been requested but not yet completed, then CalRecycle will review the remainder of the application but withhold approval until the DTSC inspection is completed and the facility found to be in conformance.
2. The facility is accessible during normal business hours for unannounced inspections by state or local agencies.
3. The facility has health and safety, employee training, and environmental compliance plans and certifies compliance with the plans.
4. The facility meets or exceeds the standards specified in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300), of the Labor Code or, if all or part of the work is to be performed in another state, the equivalent requirements of that state.

(4) Unless the recycler is applying as a dual entity, the name, address, contact person's name and telephone number of at least one (1) collector from which the recycler has accepted, has contracted to accept or intends to contract to accept CEWs for cancellation with a letter from the collector certifying under penalty of perjury that California CEWs from that collector will be transferred to the recycler for recycling.

(5) A completed "Payee Data Record" STD. 204 form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.

(6) Certification statements by the recycler as follows:

(A) "The undersigned recycler agrees under penalty of perjury and of immediate revocation of approval and denial of recycling payments that as an approved recycler:"

1. "I shall fully reimburse an approved collector for all CEWs ~~and/or CEWs~~ transferred at the rate specified in this Chapter within 90 days"
2. "Notwithstanding the allowances contained in Section 18660.6(d) of this Chapter, I shall not adjust fees, charges or other contract provisions upward for the purpose of negating the recovery payment to approved collectors."
3. "I shall provide free CEW recycling by accepting without charge CEWs from approved collectors if the payment from CalRecycle fully covers the net cost of CEW recycling."
4. "I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions."
5. "I have read and understand the requirements set forth in the statutes and regulations governing this program."

(B) "The undersigned certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct."

(7) The name and signature of the primary applicant who has the authority to sign and bind the recycler to this application.

(8) The date and location of application.

(b) CalRecycle shall not approve a recycler located outside California.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.15. CalRecycle Review of Applications.**

(a) Upon receipt of the application, CalRecycle will notify the applicant within 30 calendar days if the application is complete or incomplete.

(b) If CalRecycle determines the application is incomplete, with exception of a pending inspection by DTSC, CalRecycle notification will list the missing information, and the applicant will have 30 calendar days from the notification to provide the missing information or CalRecycle will deny the application.

(c) After CalRecycle determines that an application is complete, CalRecycle will notify the applicant within 30 calendar days whether the application has been:

(1) Approved, and if so, issue a proof of approval ~~bearing a unique approval identification number will be provided~~ stating the type of approval granted:

(A) Approved collector, ~~and/or~~

(B) Approved recycler.

(2) Denied, and if so, the cause(s) for denial will be listed. After denial, an application to become approved may be resubmitted at any time after the causes for denial have been corrected.

(d) CalRecycle shall not charge collector or recyclers to process an application.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.16. Approval Term and Applications for Renewal.**

(a) An approved collector's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the collector continues to meet and fulfill the requirements of this Chapter, and the collector continues to operate in conformance with DTSC requirements.

(b) An approved recycler's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the recycler continues to meet and fulfill the requirements of this Chapter, and the recycler continues to operate in conformance with DTSC requirements and submit to inspections by DTSC.

(c) To renew approval, a collector or recycler shall ~~re-apply~~ reapply to CalRecycle on a biennial basis at least 90 calendar days prior to the expiration date of approval.

(d) If a collector or recycler fails to ~~renew~~ reapply for approval, after the expiration date all of the following conditions apply:

(1) The approval is expired and invalid.

(2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.

(3) The collector or recycler shall immediately cease using the issued unique identification number. ~~return any issued proof of approval to CalRecycle.~~

(e) An approved collector or an approved recycler may withdraw their approved application at any time via written notice to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.17. Prohibited Activities.**

(a) CalRecycle may deny ~~a renewal~~ an application or revoke or suspend the approval of a collector or recycler for any of the following prohibited activities:

(1) Failure by a collector or recycler to operate in conformance with DTSC requirements.

(2) Failure by a recycler to submit to a DTSC inspection within any 12-month period.

(3) Failure by a recycler to provide recovery payments to approved collectors as specified in this Chapter.

- (4) Failure to submit to CalRecycle audits as specified by this Chapter.
- (5) Failure to submit a net cost report as specified in Section 18660.10.
- (6) Transferring an approval or proof of approval to any other person.
- (7) ~~Altering the proof of~~ Misrepresenting an approval status.
- (8) A material breach of any of the certification statements contained in the approved application.
- (9) Fraudulently requesting a recovery payment.
- (10) Fraudulently claiming a recycling payment.
- (11) Submitting a fraudulent net cost report.
- (12) Failure to secure, maintain, ~~and/or~~ transfer documentation as specified by this Chapter.
- (13) Failure to notify CalRecycle of changes to information contained in the approved application.
- (14) Making a false statement or representation in a document filed, submitted, maintained or used for purposes of compliance with this chapter or Division 30, Part 3, Chapter 8.5 of the Public Resources Code.

(b) If CalRecycle denies an application renewal or revokes an approval for prohibited activities, all of the following conditions apply:

- (1) The approval is immediately invalid.
- (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.
- (3) The collector or recycler shall immediately cease using the issued unique identification number.  
~~return any issued proof of approval to CalRecycle.~~

(c) A collector or recycler may not reapply for approval until 180 calendar days after denial or revocation for prohibited activities.

(d) If CalRecycle suspends an approval for prohibited activities, all the following conditions apply until CalRecycle determines that the cause for suspension has been remedied:

- (1) The approval is temporarily invalid.
- (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter for recovery ~~and/or~~ recycling activities conducted during the suspension of approval.

(e) An application for approval or renewal from a collector or recycler or an individual identified in the application who has a history of demonstrating a pattern of operation in conflict with the requirements of this chapter and Division 30, Part 3, Chapter 8.5 of the Public Resources Code may be denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.18. Changes to Information Contained in an Approved Application.**

(a) An approved collector or an approved recycler shall ~~reapply notify to~~ notify CalRecycle ~~for approval~~ in writing of changes to information contained in an approved application at least ~~90~~ 30 calendar days prior to the effective date of any proposed changes. ~~change taking effect, if one of the following changes may occur:~~

- (1) ~~A change in recovery, recycling or business practices that will prevent the approved collector or approved recycler from meeting the requirements of this Chapter.~~
- (2) ~~A change in recovery, recycling or business practices that will result in the breach of a certified statement on the application or in a prohibited activity as specified in Section 18660.17 of this Chapter.~~

(b) If an unforeseen change occurs, an approved collector or an approved recycler shall notify CalRecycle in writing of the change within ten calendar days after the unforeseen change. ~~In cases of notification after a change specified in subsections (1) or (2) in part (a) of this Section, CalRecycle may revoke the approval immediately or may require the collector or recycler to reapply for approval.~~

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.19. Appeal of Denial, Suspension or Revocation of Approval.**

(a) If CalRecycle denies an application for approval or suspends or revokes an approval, the collector or recycler shall appeal that decision and request a hearing within 30 calendar days after the date of the denial, suspension or revocation. Any appeal received by CalRecycle after 30 calendar days from the date of the denial, suspension or revocation shall be denied without a hearing or consideration of the appeal.

(b) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

(c) The collector or recycler requesting a hearing must submit the appeal in writing and ensure that it is received by CalRecycle's main business office, to the attention of the Legal Office. The collector or recycler shall clearly mark the outside of the package containing the appeal with: "~~e-Waste~~ Covered Electronic Waste Application Appeal Enclosed".

(d) In an appeal, a collector or recycler shall include, at a minimum, all of the following:

- (1) The collector's or recycler's name, mailing address, contact name and daytime telephone number.
- (2) The type of approval: collector, recycler or both.
- (3) The location and street address.
- (4) The date on the notification from CalRecycle and the stated reasons for denial, suspension or revocation.
- (5) A statement of the basis for objecting to the denial, suspension or revocation.

(e) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(f) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the application, the reasons for denial, suspension or revocation, and any additional relevant information presented by the applicant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(g) CalRecycle will notify the collector or recycler of the determination in writing within 20 calendar days from the date of the decision.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463(b), 42474(e)(3) and 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

## **Article 2.2. Electronic Waste Payment System – Business Requirements**

### **§ 18660.20. Requirements for an Approved Collector.**

(a) Upon CalRecycle approval of its application, an approved collector may begin requesting recovery payments for CEWs documented and transferred to approved recyclers pursuant to the requirements of this Chapter after the approval.

(b) An approved collector shall comply with the requirements of this Chapter, including:

- (1) Begin collection activities from California sources within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to begin collection activities within 180 days.
  - (2) Transfer at least one (1) load of CEWs to an approved recycler within 180 calendar days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to transfer at least one load of CEWs within 180 calendar days of approval.
- (c) An approved collector shall make reasonable efforts to determine if CEWs it collects are from California sources or from non-California sources and shall keep track of those materials separately. Reasonable efforts may include any of the following, but are not limited to:
- (1) Posting signs and asking California sources.
  - (2) Conducting spot checks ~~and/or~~ surveys.
  - (3) Checking for a valid California identification of a person, a California license plate on a vehicle, ~~and/or~~ a bill of lading showing a California origin.
  - (4) Requiring additional documentation from California sources or collectors delivering large numbers of CEWs.
  - (5) Instituting measures to prevent CEWs from being dropped-off anonymously or illegally disposed at the approved collector's facilities or operations.
- (d) An approved collector shall not request recovery payment for non-California CEWs.
- (e) An approved collector shall determine if CEWs they transfer to recyclers have already been cancelled, and shall keep track of those materials separately.
- (f) An approved collector shall not request recovery payment for previously cancelled CEWs.
- (g) An approved collector shall provide the CalRecycle-issued proof of approval identification number when transferring CEWs to or requesting recovery payments from an approved recycler. If an approved collector, or its agent, fails to provide the unique identification number from the proof of approval, the approved recycler may deny recovery payment.
- (h) An approved collector shall provide to any approved collector or approved recycler to whom it transfers CEWs information on the origin (California or non-California) and cancellation status of CEWs transferred, including but not limited to the following:
- (1) Signed statement listing the sources(s) of the transferred CEWs as recorded pursuant to subsection (j) of this section.
  - (2) A copy(ies) of the applicable portions of the collection log specified in subsection (j) of this section that describe the collection activities that resulted in the transferred CEWs.
  - (3) Written description of any activity, such as storage, repair, refurbishment, resale, reuse, transfer, packaging ~~and/or~~ consolidation, that explains any discrepancy between the CEWs transferred and the CEWs collected as recorded in a log specified in subsection (j) of this section.
  - (4) A copy of any applicable Proof of Designation, issued pursuant to and used in accordance with Article 7 of this Chapter, associated with CEWs collected while acting as a designated approved collector for a local government.
- (i) An approved collector shall operate in accordance with all Federal, State and local laws and regulations.
- (j) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved collector shall maintain the following records:
- (1) A collection log containing:
    - (A) For each collection activity or event that results in CEWs transferred to the approved collector, a brief written description of the collection activity or event, including the type of California sources targeted for collection, the date and location the activity or event occurred, the number of CRT CEWs or non-CRT CEWs collected, and an estimate of the weight of CEWs collected.

(B) Approved collectors that are not California local governments, nor entities acting as the Designated Approved Collector for a California local government, shall maintain a list of all California sources who discarded the CEWs transferred to the approved collector, including the name and address of the California source and the number and type(s) of CEWs discarded by the California source.

(C) When receiving five (5) or more CEWs units discarded from a non-residential California source, an approved collector shall record the name of the non-residential organization, an address, a contact person and a telephone number.

(D) A list of other handlers and approved collectors who transferred CEWs to the approved collector in any month, including the name and address of the other handler and approved collector and the number of CEWs transferred and the sources of those CEWs as recorded pursuant to parts (A) and (B) of this Section.

(E) When collecting source-anonymous CEWs, all approved collectors shall:

1. Log the source-anonymous CEW collection activity separately.
2. Provide a brief written description of the activity or incident that resulted in the source-anonymous CEWs.
3. Record the date and location of the activity or incident, the number and an estimate of the weight of source-anonymous CEWs collected from the location of the activity or incident.
4. Record the name, organizational affiliation, address and phone number of a person responsible for the site of the activity or incident.

(2) Records of transfers by load to, and recovery payments from, approved recyclers, including:

(A) Inventory records that document the relationship between the CEWs received from all sources and the CEWs transferred to the approved recycler or to other handlers.

(B) Signed and dated receipts showing the number and weight of CEWs transferred. The approved collector shall identify and record each approved recycler using the name and identification number from the recycler's "proof of approval."

(3) Records on the costs, revenues and net costs associated with the collection, transportation and disposition of all CEWs handled as specified in Section 18660.10 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.21. Requirements for an Approved Recycler.**

(a) Upon CalRecycle approval of its application, an approved recycler may begin claiming recycling payments for CEWs received from an approved collector and cancelled after the approval.

(b) An approved recycler shall comply with the requirements of this Chapter, including:

(1) Begin CEW cancellation activities within 180 calendar days of approval. CalRecycle may revoke approval if a recycler fails to begin CEW cancellation within 180 days.

(2) Accept transfer of and cancel at least one (1) load of CEWs from an approved collector within 180 days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 days of approval. CalRecycle may revoke approval if a recycler fails to cancel at least one load within 180 days of approval.

(3) Record each approved collector's proof of approval identification number and provide a receipt showing the weight and number of CEWs transferred and the amount of the corresponding recovery payment due to the collector.

- (4) Make recovery payments to approved collectors, or their agents, for all CEWs transferred, in accordance with this Chapter, at the time of transfer of CEWs, or at a later time specified in a written contract between the approved collector and approved recycler, but not more than 90 days from the date of transfer.
- (5) Cancel CEWs by one or more of the manners prescribed in Section 18660.32 of this Chapter.
- (A) An approved recycler shall maintain a processing log that records the date, method of cancellation, and quantity in pounds of CEWs cancelled.
- (B) An approved recycler shall maintain inventory records that document the relationship between CEWs received from approved collectors, CEWs processed and cancelled by the approved recycler, and treatment residuals shipped to ~~end use~~ initial destinations or ultimate dispositions, as applicable.
- (6) Submit recycling payment claims to CalRecycle as specified in Sections 18660.22 through 18660.31 of this Chapter.
- (7) Submit to and obtain a DTSC inspection, within any 12-month period.
- (c) Based on information supplied by approved collectors, an approved recycler shall, at a minimum, keep track of the weight of CEWs from both California and non-California sources transferred from approved collectors and ensure that recycling payments are not claimed for non-California source materials.
- (d) An approved recycler shall not provide recovery payment to approved collectors for CEWs from non-California sources, or to approved collectors that fail to provide complete and applicable source documentation on CEW origin pursuant to Section 18660.20(h) of this Chapter.
- (e) An approved recycler shall not claim recycling payments for non-California CEWs.
- (f) Approved recyclers shall determine if CEWs they accept from collectors have already been cancelled and shall keep track of the weight of those materials and ensure that recycling payments are not claimed for these materials.
- (g) An approved recycler shall not provide recovery payment to approved collectors for previously cancelled material.
- (h) An approved recycler shall not claim recycling payments for previously cancelled material.
- (i) An approved recycler may deny recovery payments for commingled loads in which CEWs cannot be distinguished from other materials.
- (j) An approved recycler shall operate in accordance with all Federal, State and local laws and regulations.
- (k) An approved recycler shall:
- (1) Be equipped with scales and be a weighmaster in accordance with Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.
- (2) Measure, record and report weights in pounds and issue certified weights.
- (3) Weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 (commencing with Section 12500) of the Business and Professions Code.
- (l) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved recycler shall maintain the following records:
- (1) A receiving log containing a brief written description of CEW transfers by load from approved collectors, the certified number of units and the certified weight of CEWs transferred, and the dates the transfers from collectors occurred.
- (2) Records of CEW transfers, including all documentation received from an approved collector as specified in Section 18660.20(h), and recovery payments made ~~and/or~~ and owed to approved collectors, including signed and dated receipts showing the certified number of units and the certified weight of CEWs transferred.
- (A) The approved recycler shall identify and record each approved collector using the name and identification number from the collector's "proof of approval."

- (B) The approved recycler shall record separately the number of units and sum of estimated weights of source-anonymous CEWs reported by and transferred from an approved collector.
- (3) A processing log showing the definitive cancellation of CEWs by weight, date and cancellation method, as specified in Section 18660.32 of this Chapter, upon which a payment claim is based.
- ~~(4) Records for all bills of lading for treatment residuals including the following information:~~
- (4) Applicable records for all shipments of treatment residuals, including but not limited to weight certificates, packing lists, bills of lading, manifests, destination receipts, invoices, and payments. Applicable records shall be maintained pursuant to Section 18660.8 of this Chapter and ~~be capable of demonstrating~~ demonstrate the following information:
- (A) Date of shipment.
- (B) Quantity and material type in shipment.
- (C) The full name and address of shipping service.
- (D) The full name and address of the buyer or other transferee, and destination name and address if different.
- (E) Identification and description of the initial destinations or ultimate disposition of the treatment residuals, as applicable.
- (5) Records on the net costs associated with the disposition of all CEWs handled, the net costs of accepting the transfer of CEWs, the net costs of each cancellation method used, and any additional administrative costs of providing recovery payments to approved collectors.
- (6) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **Article 2.3. Electronic Waste Payment System – Recycling Payment Claims**

#### **§ 18660.22. General Requirements for Recycling Payment Claims.**

- (a) An approved recycler shall submit all of the following general information in a claim for recycling payments from CalRecycle:
- (1) The full name, mailing address, and federal tax identification number of the recycler preparing the report.
  - (2) The name and phone number of a contact person for purposes of the report.
  - (3) The reporting month (calendar month and year) and date of preparation of the report.
  - (4) The claim activity period, listing the start and end dates.
  - (5) The total weight of CEW claimed, as calculated in Sections ~~18660.23~~, 18660.24, and 18660.25 of this Chapter.
  - (6) The total monetary amount being claimed.
  - (7) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.11 of this Chapter. The signature block shall include the following certification statements:
    - (A) “I hereby declare under penalty of perjury that:”
      1. “The approved recycler whom I represent is currently in compliance with all Federal, State and local requirements, including compliance with the requirements of the Act and this Chapter.”

2. "All claimed CEWs have been cancelled as specified in Section 18660.32 and are unable to re-enter the payment system, and all treatment residuals specified in Section 18660.22(c) derived from the claimed CEWs have been shipped off-site to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of those treatment residuals."

3. "I have certified the weights and verified the calculations, including the adjustments for CEWs from non-California sources and for prior cancellation."

4. "This payment claim, including any and all accompanying documents has been examined by me and is true, and correct ~~and complete~~."

5. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"

6. "I further understand that fraud could result in revocation of the recycler's approval."

(8) The date and place of the signing of the claim.

(b) For each cancellation method used, an approved recycler shall submit no more than one recycling payment claim per calendar month and may only include one reporting month, as specified by Sections ~~18660.23~~, 18660.24 and 18660.25 of this Chapter, in a single recycling payment claim. An approved recycler shall prepare payment claims for different cancellation methods separately, but may submit a package containing all the claims for a reporting month.

(c) Prior to submitting a payment claim for cancelled CEWs, an approved recycler shall:

(1) Ship off-site all the following treatment residuals derived from the cancelled and claimed CEWs to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of the treatment residual:

~~(A) CRT glass cullet if conducting CRT or CRT containing CEW cancellation through crushing or shredding.~~

~~(B) (A) Bare CRTs or CRT glass cullet if conducting CRT or CRT containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~

(B) CRT glass cullet.

1. CRT glass, CRT funnel glass, and CRT panel glass, as defined in Section 66273.9 of Chapter 23 of Title 22 of the California Code of Regulations, shall be accounted for separately, as applicable.

2. The shipped CRT glass cullet shall account for the amount derived from the cancelled and claimed CEW.

~~(C) Gas plasma display glass cullet if conducting non-CRT containing CEW cancellation through crushing or shredding.~~

~~(D) Bare gas plasma display panels if conducting non-CRT containing CEW cancellation through dismantling to a bare panel.~~

(2) For each claimed ~~cancelled~~ non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and ~~scale~~ weight of each device prior to cancellation.

(A) If the non-CRT-containing CEWs contain a plasma display, records relating to quantity of the bare panel(s) and ultimate disposition shall be maintained pursuant to Section 18660.8 of this Chapter.

(B) If the non-CRT-containing CEWs contain cold cathode fluorescent lamps, records relating to quantity of the lamps and ultimate disposition shall be maintained pursuant to Section 18660.8 of this Chapter.

(C) Records maintained pursuant to (A) and (B) above shall be made available upon request by CalRecycle or its designee.

(3) Only those CEWs that have been processed and documented pursuant to the applicable requirements of subsections (c)(1) and (c)(2) of this section shall be claimed for payment.

- (d) An approved recycler shall attach all of the following to the payment claim:
- (1) For all CEWs received from collectors during the claim activity period that are cancelled and included in the current claim, a report that includes:
    - (A) A list of approved collectors from which the transfers of CEWs were accepted with the name and proof of approval identification number of each.
    - (B) The total weight of CEWs in all loads transferred from each approved collector. Note that this weight may not equal the weight claimed for recycling payment because recovery payments are made on the weight of all CEWs transferred while recycling payments are made on the weight of only those CEWs cancelled.
    - (C) Signed and dated receipts documenting all CEW transfers from approved collectors.
    - (D) A copy(ies) of the applicable records specified in Section 18660.21(l)(1)-(4) pertaining to the collection, transfer, and processing activities involving the CEWs cancelled and being claimed for payment.
      1. Source documentation not associated with the claimed CEWs shall not be included in the report.
      2. Transfer documentation not associated with the claimed CEWs shall not be included in the report.
    - (E) A sum of the estimated weight of source-anonymous CEWs as reported by and transferred from approved collectors.
  - (2) For all CEWs cancelled during the claim activity period and that are included in the current claim, a description of cancellation activities that includes:
    - (A) The type(s) of cancellation method used.
    - (B) The date(s) when cancellation occurred.
    - (C) The amount of CEWs processed by dismantling, ~~crushing or shredding~~ by date in pounds.
    - (D) The dates and destinations of all treatment residual shipments required prior to submitting a claim as specified in subsection (c) of this section.
  - (3) For all CEWs received from collectors during the claim activity period that are not included in a prior claim and that are not cancelled, a description and quantification of those activities including but not limited to storage, repair, refurbishment, resale, reuse, transfer ~~and/or~~ export.
- (e) An approved recycler shall deliver recycling payment claims to CalRecycle's main business office, to the attention of the Accounting Section. An approved recycler shall mark the outside of the package containing the claims clearly with "~~e-Waste~~ Covered Electronic Waste Claim Enclosed."
- (f) An approved recycler shall submit timely recycling payment claims so that CalRecycle receives each claim within 45 days of the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle may return without payment any claim received more than 45 days after the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.
- (g) CalRecycle may reject a claim if it fails to comply with the general requirements of this Section, or the additional requirements in the applicable provisions regarding cancellation methods in Sections ~~18660.23~~, 18660.24 ~~and/or~~ 18660.25 of this Chapter.
- (h) CalRecycle's rejection of a recycling payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.23. ~~RESERVED-Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Crushing or Shredding.~~**

- (a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT containing CEWs through crushing or shredding as specified in Section 18660.32 of this Chapter.
- (b) An approved recycler shall base recycling payment claims on the weight of CRT containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of CRT glass cullet were sent to an end use destination.
- (d) The reporting month for a recycling payment claim pursuant to this Section is the month in which shipment(s) of CRT glass cullet were made.
- (e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT containing CEWs through crushing or shredding as follows:
- (1) The total weight of CRT containing CEWs cancelled for the reporting month from which all treatment residuals specified in Section 18660.22(c)(1) of this Chapter have been shipped off site to an end use destination authorized to receive and further treat or legally dispose of those treatment residuals.
  - (2) The total payment claimed, calculated by multiplying the weight of CRT containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.
  - (3) If the amount in subsection (e)(1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.
- (f) An example calculation for canceling CRT containing CEWs through crushing or shredding is included for illustration purposes as follows:

*The weight of CRT containing CEWs cancelled: \_\_\_\_\_ 1000 pounds*  
*Times the per pound Standard Statewide combined*  
*—recovery and recycling payment rate: \_\_\_\_\_ X \$0.49*  
*Equals the payment claim for the reporting period: \_\_\_\_\_ = \$490.00 Total Claim*

- (g) An approved recycler shall attach to the payment claim the following documentation from all shipments of CRT glass cullet made during the reporting period of a calendar month:
- (1) Shipping reports to end use destinations, including the names of the shipping recycler and the receiving end use destination.
  - (2) The date of the shipment and the weight of the CRT glass cullet.
  - (3) Weight tickets of individual shipments of CRT glass cullet.
  - (4) Verification of post cancellation disposition, including:
    - (A) For shipments by sea, the proof of disposition to an end use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.
    - (B) For other shipments, the proof of disposition to an end use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.
    - (C) For all shipments of CRT glass cullet, information pertaining to a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is not disposal to land, water or air compliant with applicable law and conformant with the approved recycler's conditions of authorization.
      1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.
      2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.

~~(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and qualification quantification of the disposition of other treatment residuals derived from cancellation of the CRT containing CEWs, including but not limited to metals, plastics, fibers and wood.~~

~~Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.~~

~~Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.~~

**§ 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a ~~calendar reporting month in which one or more shipments of bare CRTs or CRT glass cullet were sent to an end use destination.~~

(d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first makes shipment(s) to an initial destination of bare CRTs or CRT glass cullet derived from the claimed CEWs were made.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through dismantling to a bare CRT as follows:

(1) The total weight of CRT-containing CEWs cancelled from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use initial destination authorized to receive and further treat or legally dispose of those treatment residuals.

(2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(f) An example calculation for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum is included for illustration purposes as follows:

<i>The weight of CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

(g) An approved recycler shall attach the following documentation for all shipments of bare CRTs or CRT glass cullet made during the reporting claim activity period of a calendar month:

(1) Shipping reports to end-use initial destinations, including the names of the shipping recycler and the receiving end-use initial destination.

(2) The date of the shipment and the weight of the bare CRTs or CRT glass cullet.

(3) Certified Wweights tickets of individual shipments of bare CRTs or CRT glass cullet.

(4) Verification of post cancellation disposition, including:

(A) For shipments by sea, the proof of ~~disposition transfer~~ to an ~~end-use~~ initial destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.

(B) For other shipments, the proof of ~~disposition transfer~~ to an ~~end-use~~ initial destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading or manifest, etc.

(C) For all shipments of bare CRTs or CRT glass cullet, information pertaining to a discussion of the ultimate initial destination or the ultimate disposition of the material shipped; demonstrating that the disposition is not disposal to land, water or air compliant with applicable law and conformant with the recycler's conditions of authorization.

1. All documentation necessary to demonstrate compliance with material disposition handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations shall be included in the discussion claim.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine compliance with the legality of shipped material handling and shipment requirements, disposition status set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.25. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of Non-CRT-Containing CEWs.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of the cancelled non-CRT-containing CEWs.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar reporting month in which it cancels non-CRT-containing CEWs.

(d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first cancels any of the non-CRT CEW being claimed cancellation occurs.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as follows:

(1) The total weight of cancelled non-CRT-containing CEWs for the reporting month for which records specified in Section 18660.22(c)(2) of this Chapter have been established and maintained pursuant to Section 18660.8 of this Chapter from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped to an end-use destination authorized to receive and further treat those treatment residuals. Note that non-CRT-containing CEWs commingled with other material are ineligible for recycling payment.

(2) The total payment claimed, calculated by multiplying the weight of non-CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(4) For each claimed ~~cancelled~~ non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and ~~the scale~~ weight of each device prior to cancellation.

(f) An example calculation for canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ is included for illustration purposes as follows:

<i>The weight of non-CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

(g) An approved recycler shall attach the following documentation for all ~~shipments of circuit boards, bare plasma panels and lamps derived from non-CRT-containing CEWs made during the reporting claim activity~~ period of a calendar month:

(1) Shipping reports to ~~end use~~ initial destinations, including the names of the shipping recycler and the receiving ~~end use~~ initial destination.

(2) The accumulation start date(s) of the bare plasma panels or lamps shipped or stored ~~shipment and the weight of the circuit boards.~~

(3) ~~W~~ Certified weights tickets of individual shipments ~~of the circuit boards.~~

(4) Verification of post cancellation disposition, including:

(A) For shipments by sea, the proof of ~~disposition~~ transfer to an end use initial destination shall be the on-board bill of lading or manifest, as applicable.

(B) For other shipments, the proof of ~~disposition~~ transfer to an end use initial destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading or manifest.

(C) For all shipments of bare plasma panels and lamps derived from non-CRT-containing CEWs ~~circuit boards~~, a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is ~~not disposal to land, water or air~~ compliant with applicable law and conforms with the approved recycler's conditions of authorization.

1. All documentation necessary to demonstrate compliance with material handling and shipment requirements set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations shall be included in the claim.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine compliance with the legality of shipped material handling and shipment requirements, status set forth in Chapters 12, 14, 15, 16, 18, 20, 22, and 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(5) The quantities of treatment residuals recorded pursuant to section 18660.22(c)(2)(A) and (B) shall be included in the claim.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals

derived from cancellation of the non-CRT-containing CEWs, including but not limited to circuit boards, other video display panels, metals, plastics, and fibers.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.30. CalRecycle Review of Recycling Payment Claims.**

(a) CalRecycle shall review a recycling payment claim and determine if a recycling payment is due pursuant to this Chapter. If CalRecycle has cause to investigate any aspect of a claim, the review may be extended until resolution of all issues aspects under investigation.

(b) CalRecycle may deny or adjust payment for any of the following reasons:

(1) CalRecycle determines that:

(A) The signature on the claim is not that of a person with signature authority for recycling payment claims as designated pursuant to Section 18660.11 of this Chapter.

(B) The recycler did not have current approval for the reporting period ~~and~~ for the cancellation period in the claim.

(C) The approved recycler failed to meet the requirements in this Chapter or committed an activity prohibited in this Chapter.

(D) The payment claim contains a numerical discrepancy between values or calculations reported on the claim and CalRecycle verified values and calculations.

(E) The facility has not been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A) of the Public Resources Code.

(F) The recycler is ineligible for payment pursuant to Section 42479(b)(1) of the Public Resources Code.

(G) The payment claim is deficient with regard to any of the following:

1. CEW source documentation

2. CEW transfer documentation

3. CEW processing documentation

4. Treatment residual disposition documentation

5. Any other documentation required as part of a payment claim as specified in Sections 18660.22 through 18660.25 of this Chapter.

(2) CalRecycle has prevailed against the claimant in a civil or administrative action and money is owed to CalRecycle as a result of the action.

(3) CalRecycle discovers, as part of an application review, claim review or an audit, significant inconsistencies or fraud.

(c) If CalRecycle adjusts or denies a payment claim based on deficiencies in documentation specified in subsection (b)(1)(G) of this section, an approved recycler shall not resubmit as part of a future claim that same documentation, or any revised form of that documentation, seeking payment for those CEWs for which payment had been denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.31. Appeal of Denied or Adjusted Recycling Payment Claims.**

(a) An approved recycler shall submit an appeal in writing and ensure that it is received by the to the CalRecycle main business office, to the attention of the Legal Office, ~~file a formal appeal by writing to CalRecycle~~ within 30

calendar days of the date of the notice denying or adjusting the claim. The recycler shall clearly mark the outside of the package containing the appeal with: “Covered Electronic Waste Claim Appeal Enclosed”.

(b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice ~~letter from CalRecycle on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.

(c) An approved recycler shall include all of the following information in a written appeal:

- (1) The recycler's name and identification number from its proof of approval.
- (2) The month(s) and year(s) in question.
- (3) A copy of the recycling payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
- (4) An explanation of why the adjustment or denial was in error.
- (5) Any other documentation that supports the appeal.

(d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(f) CalRecycle will notify the recycler of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e)(3) and 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

## **Article 2.4. Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

### **§ 18660.32. Cancellation Methods.**

(a) CalRecycle shall not pay recycling payment claims unless the cancellation method used meets the requirements of this Section.

(b) An approved recycler shall not use or propose cancellation methods that are inconsistent with any DTSC requirements for handling or otherwise processing CEWs.

(c) An approved recycler may use the following standard CEW cancellation methods that qualify for recycling payments as specified in the requirements of this Chapter:

- ~~(1) CRT or CRT-containing CEW cancellation through crushing or shredding.~~
- ~~(2) CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~
- ~~(3) Cancellation of non-CRT-containing CEWs through crushing/shredding of the entire CEW.~~
- ~~(4) (2) Cancellation of non-CRT-containing CEWs through dismantling to a bare panel.~~

(d) An approved recycler may submit proposals for alternative cancellation methods to CalRecycle for review on a case-by-case basis. CalRecycle, in consultation with DTSC, shall act within ~~180~~ 90 calendar days to disapprove an alternative method, approve an alternative method for use only by the requesting recycler, or approve an alternative method for use by all recyclers.

(e) An approved recycler shall not claim, and CalRecycle shall not pay, recycling payments for CEWs “cancelled” with an alternative method unless CalRecycle has previously approved the alternative method. CalRecycle shall deny payment on any CEWs “cancelled” with an alternative method prior to CalRecycle approval.

(f) Reuse of either an intact CEW or of a partially disassembled CEW, such as a CRT with an attached yoke, is not cancellation and is not eligible for recycling payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.33. Standard Statewide Recovery Payment Rate.**

(a) An approved recycler shall pay an approved collector the Standard Statewide ~~Combined~~ Recovery Payment Rate for all CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter regardless of the real or anticipated disposition of the CEWs.

(b) Beginning July 1, 2016, the Standard Statewide Recovery Payment Rate is \$0.19 per pound.

(c) CalRecycle shall review the Standard Statewide Recovery Payment Rate at a public meeting ~~of the Board~~ and establish the rate pursuant to Section 42477 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.5. Electronic Waste Payment System – Manufacturer Payments**

### **§ 18660.35. Manufacturer Registration.**

(a) A manufacturer may apply to become registered, to renew an existing registration, or to revise an existing registration at any time by submitting a complete application.

(b) In an application for registration, manufacturers shall provide the following general information:

(1) Name of manufacturer.

(2) Mailing address and physical address.

(3) Name of the employee or officer of the manufacturer who is the contact person.

(4) Telephone number(s) of the contact person.

(5) An e-mail address of the contact person.

(6) Name of the employee or officer of the manufacturer who is the primary applicant authorized to sign:

(A) Payment claims.

(B) Reports.

(C) Other payment-related documentation ~~and/or~~ correspondence required by CalRecycle.

(7) Name of the employee or officer of the manufacturer (if any), in addition to the primary applicant, who is authorized to sign:

(A) Payment claims.

(B) Reports.

- (C) Other-payment related documentation ~~and/or~~ correspondence required by CalRecycle.
- (8) An indication of whether the manufacturer wishes to be included in an on-line registry.
- (9) The location in which the records required by this Chapter will be maintained.
- (c) In an application for registration, a manufacturer shall also include the following information about its take back program or activities, including but not limited to:
  - (1) The types of California sources from which the manufacturer may take back CEWs, including but not limited to households, businesses, ~~and/or~~ other collectors.
  - (2) The type(s) of CEWs that the manufacturer may take back for recycling.
  - (3) The mechanism(s) by which the manufacturer will accept CEWs into the take back program, such as mail-in, drop-off, trade-in, or pick-up.
  - (4) Any conditions the manufacturer may place on accepting CEWs.
  - (5) Whether the manufacturer may recover for the purposes of recycling discarded electronic devices similar to CEWs from outside of the State of California.
- (d) In an application for registration, a manufacturer shall also include the following information regarding the recycling of the CEWs received into its take back program:
  - (1) The name and address of the recycling facility(ies) used by the manufacturer.
  - (2) A description of the recycling operation used by the manufacturer, including the recycling process that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (e) In an application for registration, a manufacturer shall make the following certification statements:
  - (1) “The undersigned manufacturer agrees under penalty of immediate revocation of registration and denial of manufacturer payments that as a registered manufacturer:”
    - (A) “I shall ensure that any CEWs for which payment is claimed originate from a California source.”
    - (B) “I shall only claim payment for those CEWs that I take back and process for recycling.”
    - (C) “I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions.”
  - (2) “The undersigned manufacturer certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct.”
    - (A) The name and signature of the primary applicant who has the authority to sign and bind the manufacturer to this application.
    - (B) The date and location of application execution.
- (f) In an application for registration, a manufacturer shall submit a completed “Payee Data Record” STD. 204 Form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.
- (g) Within 30 calendar days upon receipt of the application for registration, CalRecycle will notify the manufacturer if the applicant is a registered manufacturer and provide a registration number to be used in all correspondence and claims.
- (h) A registered manufacturer's registration remains valid for 2 years following the date of registration provided that the information in the original application remains unchanged and the manufacturer continues to meet and fulfill the requirements of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Sections 42475(a) and 42476, Public Resources Code.

**§ 18660.36. Requirements for a Registered Manufacturer.**

- (a) Upon registration with CalRecycle, a registered manufacturer may claim manufacturer payments for those CEWs received by the manufacturer's take back program after the effective date of registration and processed for recycling as specified in Section 18660.6(i)(3) of this Chapter.
- (b) A registered manufacturer shall determine if CEWs received by the manufacturer's take back program and processed for recycling are from California sources or from non-California sources and shall keep track of those materials separately.
- (c) A registered manufacturer shall not request payment for non-California CEWs.
- (d) A registered manufacturer shall not request payment for previously cancelled CEWs.
- (e) A registered manufacturer shall ensure that any CEW on which the manufacturer has claimed manufacturer payment does not enter the recovery and recycling payment system.
- (f) The recycling operation used by a registered manufacturer shall operate in accordance with all Federal, State and local laws and regulations.
- (g) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, a registered manufacturer shall obtain and maintain the following records:
  - (1) A written description of the take back program, including the type of consumers from whom CEWs are accepted for take back.
  - (2) A record of the number of CEWs collected by the product categories defined in Section 18660.5(a)(31) of this Chapter.
  - (3) Records of transfers by load to the recycling operation used by the registered manufacturer, including signed and dated receipts showing the weight and number of CEWs transferred.
  - (4) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the recycling operation used by the manufacturer.
  - (5) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
  - (6) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
  - (7) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
  - (8) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.
- (h) A registered manufacturer shall measure, record and report weights in pounds. A registered manufacturer shall weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 of the Business and Professions Code (Weights and Measures) or in accordance with comparable standards of the state in which the registered manufacturer is located.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

**§ 18660.37. Manufacturer Payment Claims.**

- (a) A registered manufacturer shall base a manufacturer payment claim on the number of CEWs processed for recycling by screen size(s) as listed in Section 42464(a) of the Public Resources Code.
- (b) A registered manufacturer shall submit all of the following general information in a claim for manufacturer payments from CalRecycle:

- (1) The full name, mailing address, registration number, and federal tax identification number of the registered manufacturer preparing the claim.
  - (2) The name and phone number of a contact person for purposes of the claim.
  - (3) The period of time covered by the claim and date of preparation of the claim.
  - (4) The number of CEW devices claimed:
    - (A) In each product category as defined in Section 18660.5(a)(31).
    - (B) By screen size as listed in Section 42464(a) of the Public Resources Code.
  - (5) The total monetary amount being claimed, as calculated in subsection (f) of this Section.
  - (6) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.35(b)(6) or (7) of this Article. The signature block shall include the following certification statements:
    - (A) "I hereby declare under penalty of perjury that:"
      1. "All claimed CEWs were received from California sources through the manufacture take back program described in the manufacturer registration."
      2. "All claimed CEWs have been processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result."
      3. "No claimed CEWs were transferred into the recovery and recycling payment system."
      4. "I have certified the number of devices and verified the calculations."
      5. "This payment claim, including any and all accompanying documents, has been examined by me and is true, correct and complete."
      6. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
      7. "I further understand that fraud could result in revocation of the manufacturer registration."
  - (7) The date and place the claim was signed.
- (c) A registered manufacturer shall submit no more than one payment claim per calendar month.
- (d) The claim period for a manufacturer payment claim pursuant to this Section is the time period within which processing occurs and may not exceed three (3) months.
- (e) A registered manufacturer shall attach all of the following to the payment claim:
  - (1) A written description of take back program that collected the CEWs for which payment is being claimed, including the type of consumers from whom CEWs were accepted, and a record of the number of CEWs collected by the product categories as defined in Section 18660.5(a)(31) of this Chapter.
  - (2) Records of transfers by load to the registered manufacturer's recycling operation, including signed and dated receipts showing the weight and number of CEWs transferred.
  - (3) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the manufacturer's recycling operation.
  - (4) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
  - (5) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
  - (6) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (f) A registered manufacturer shall calculate the payment and include the calculation in a manufacturer payment claim as follows:

- (1) The total number of CEWs, by screen size as specified in Section 42464(a) of the Public Resources Code, that are processed for recycling during the claim period.
- (2) The total payment claimed, calculated by:
  - (A) Multiplying the number of CEWs in each screen size category by the value of the covered electronic waste recycling fee that applies to that category.
  - (B) Adding the calculations in (A) above for each screen size category calculation together.
- (g) An example calculation for a manufacturer claim is included for illustration purposes as follows:

*The number CEWs processed for recycling by screen size:*

<i>100 devices with less than 15 inch screen size</i>	<i>100 devices</i>
<i>Times the covered electronic waste recycling fee for category</i>	<i>X <del>\$6.00</del> <u>\$5.00</u></i>
	<i><del>\$600.00</del> <u>\$500.00</u></i>

<i>200 devices greater than or equal to 15 inch screen size but less than 35 inch screen size</i>	<i>200 devices</i>
<i>Times the covered electronic waste recycling fee for category</i>	<i>X <del>\$8.00</del> <u>\$6.00</u></i>
	<i><del>\$1600.00</del> <u>\$1200.00</u></i>

*Equals the payment claim for the claim period: (~~\$6~~500.00+~~\$16~~1200.00) = ~~\$22~~1700.00 Total Claim*

- (h) A registered manufacturer shall deliver manufacturer payment claims to CalRecycle’s main business office, to the attention of the Accounting Section. A registered manufacturer shall mark the outside of the package containing the claims clearly with “Electronic Manufacturer e-Waste Claim Enclosed.”
- (i) A registered manufacturer shall submit timely manufacturer payment claims so that CalRecycle receives each claim within 45 days of the end of the claim period. CalRecycle may return without payment any claim received more than 45 days after the end of the claim period. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.
- (j) CalRecycle may reject a claim if it fails to comply with the requirements of this Section.
- (k) CalRecycle’s rejection of a manufacturer payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

**§ 18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims.**

- (a) A registered manufacturer ~~may~~shall submit an appeal in writing ~~and ensure that it is received by the~~ to the CalRecycle main business office, to the attention of the Legal Office, file a formal appeal by writing to CalRecycle within 30 calendar days of the date of the notice denying or adjusting the claim. The registered manufacturer shall clearly mark the outside of the package containing the appeal with: “Electronic Manufacturer Claim Appeal Enclosed”.
- (b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice letter from CalRecycle ~~on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.

(c) A registered manufacturer shall include all of the following information in a written appeal:

- (1) The registered manufacturer's name and registration.
- (2) The month(s) and year(s) in question.
- (3) A copy of the manufacturer payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
- (4) An explanation of why the adjustment or denial was in error.
- (5) Any other documentation that supports the appeal.

(d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(f) CalRecycle will notify the registered manufacturer of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474 and 42476, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

### **Article 3. Manufacturer Reporting**

#### **§ 18660.41. Reporting Requirements.**

Each manufacturer as defined by Section 42463(m) of the Public Resources Code shall submit an annual report to CalRecycle on or before July 1, 2005, and annually thereafter, for the period of the previous calendar year. Each manufacturer shall report information by brand name of covered electronic devices sold in the state.

(a) The report shall include the following:

- (1) Name and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer.
- (2) The information elements, as described in Section 42465.2 of the Public Resources Code and specified in Sections 18660.41(b) through (f), below.

(b) The sales reporting shall include:

- (1) Data on the number of covered electronic devices sold in the state by product category.
- (2) An explanation of the methodology used to estimate data.

(c) The materials reporting shall include:

- (1) An estimated average amount in milligrams for mercury, cadmium, lead, hexavalent chromium, including their alloys and compounds, and PBBs used in covered electronic devices, and all their component parts by product category.

- (2) Estimates may be based on either physical testing or maximum tolerance levels of the material in product design specifications.
  - (3) An explanation of the methodology used to estimate data.
- (d) Recyclable content reporting shall include:
- (1) Estimates on the amount in tons of recyclable content materials (e.g., plastics, glass, and metals) contained in covered electronic devices;
  - (2) The increase from the previous year in the use of recyclable content materials; and
  - (3) An explanation of the methodology used to estimate recyclable content.
- (e) Design for recycling reporting shall include:
- (1) Information on current activities and future plans related to the design of covered electronic devices, including but not limited to, the following:
    - (A) Ease of disassembly of covered electronic devices;
    - (B) Identification of resin types; and
    - (C) Improved materials efficiency through reduction in hazardous materials use or other approaches.
- (f) List of retailers noticed pursuant to Section 42465.2(a)(1)(E) of the Public Resources Code shall include:
- (1) The contact information used by the manufacturer to perform the notice, such as the name, address, contact person, phone number and ~~or~~ email address of the retailer to which the notice was made.
  - (2) The list of covered products contained in the notice.
- (g) Manufacturers shall individually submit to CalRecycle samples of the consumer information and description of all methods used to comply with Section 18660.42 of this Chapter. Manufacturers shall submit this information at the same time they comply with Section 18660.41(a) through (e), above.
- (h) Each manufacturer shall maintain the report and all supporting documentation for three years after the report is submitted. If CalRecycle or DTSC requests a copy of the supporting documentation the manufacturer shall submit the supporting documentation within 10 days of the request.
- (i) Each manufacturer shall provide a certification under penalty of perjury that the information is true and correct.
- (j) Collective reporting - Compliance with the reporting required in Sections 18660.41(b) through (f), above, is the individual responsibility of each manufacturer. A manufacturer may comply with the reporting requirements in subsections (b) and (c), above, by submitting a collective report for the subsections containing sales and materials information, if the following conditions are met:
- (1) A collective report must contain all of the information required in Sections 18660.41(b) and (c), above, but may combine the information for those manufacturers submitting information for the collective report;
  - (2) The collective report shall contain a list of all manufacturers whose reports are included in the collective report. This list shall include the name of the manufacturer and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer;
  - (3) Each manufacturer shall provide a certification under penalty of perjury that the information provided for the collective report is true and correct; and
  - (4) Notwithstanding Section 18660.41(j)(1) through (3), above, CalRecycle may request, on a case-by-case basis, a manufacturer to submit an individual report with the information required in Sections 18660.41(b) and (c), above, and all supporting documentation of the information contained in the report. In response to CalRecycle's request, the manufacturer shall submit an individual report and supporting documentation within ten days of receiving CalRecycle's request.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
Reference: Section 42465.2, Public Resources Code.

## Article 6. Administrative Civil Penalties

### § 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.

(a) Administrative civil penalties authorized by Public Resources Code Section 42474(d) shall be assessed in accordance with the procedures set forth in this Section.

(b) The penalties shall be assessed as follows:

(1) A “Minor” violation means first-time violations where the gravity of the violation is severe. The penalties for this type of violation ~~would~~ shall be no less than five hundred dollars (\$500) and no more than four thousand dollars (\$4,000).

(2) A “Moderate” violation means subsequent or multiple violations occurring at one time. The penalties for this type of violation ~~would~~ shall be no less than four thousand dollars (\$4,000) and no more than fifteen thousand dollars (\$15,000).

(3) A “Major” violation means violations that indicate a pattern and practice of noncompliance, or intentional violations. The penalties for this type of violation ~~would~~ shall be no less than fifteen thousand dollars (\$15,000) and no more than twenty-five thousand dollars (\$25,000).

(c) CalRecycle ~~may~~ shall consider any or all of the following when imposing an administrative civil penalty:

(1) The nature, circumstances, extent, ~~and/or~~ and gravity of the violation;

(2) The value of the actual or potential economic benefit to the violator associated with the violation;

(3) The amount of actual or potential harm to CalRecycle, ~~financial or otherwise~~;

(4) Any prior history of noncompliance with this Chapter, including but not limited to any prior violations of a similar nature;

(5) Truthful and forthright cooperation during any relevant investigation, including but not limited to any measures taken by the violator to remedy the current violation or prevent future violations;

(6) The violator’s ability to pay the proposed penalty;

(7) The deterrent effect that the imposition of the proposed penalty would have on the community as a whole and the violator; and

(8) Any other matters that justice may require.

(d) In any case in which it is determined that more than one person or entity is responsible and liable for a violation, each such person may be held jointly and severally liable for an administrative civil penalty.

(e) Prior to the issuance of an accusation, CalRecycle may issue a ~~prior~~ written notice of violation (NOV). ~~alleging with specificity~~. A NOV shall not be issued in the event of a violation that indicates a pattern and practice of noncompliance, or an intentional violation.

(1) The NOV shall allege with specificity the following:

(A~~1~~) A description of the violation or violations;

(B~~2~~) The ~~proposed~~ potential penalty amount, ~~if any~~; (b)

(C~~3~~) The facts considered in determining the type of violation and potential penalty amount;

(D~~4~~) ~~A list of~~ The corrective action(s) to be taken by the violator; and

(E~~5~~) An acknowledgement of receipt and review to be executed by the violator.

(2) The NOV and all accompanying documents ~~may~~ shall be served by certified mail or personal service.

(f) CalRecycle shall issue an accusation, as defined in Government Code Section 11503, seeking an administrative penalty or penalties pursuant to this Section. The accusation and all accompanying documents ~~may~~ shall be served by personal service or registered mail.

(g) Within fifteen (15) days after service upon the respondent of the accusation seeking any administrative civil penalty, respondent may request a hearing by filing a Notice of Defense pursuant to Government Code Sections 11505 and 11506. The request for hearing may be made by delivering or mailing the Notice of Defense to

CalRecycle. Failure to file a Notice of Defense within fifteen (15) days of service of the accusation shall constitute a waiver of the respondent's right to a hearing and CalRecycle may proceed upon the accusation without a hearing.

(h) CalRecycle shall provide a hearing before the director or his or her designee, who shall act as hearing officer. At any time during the proceeding, before a decision is issued, CalRecycle and the respondent(s) may engage in settlement of the matter.

(i) The hearing officer shall consider the ~~notice of violation~~ NOV (if applicable), the accusation, the Notice of Defense, and all other relevant evidence presented by CalRecycle and the respondent. The hearing officer shall specify relevant procedures to be conducted during the proceeding, which include but are not limited to, informing the parties as to whether the hearing officer will consider witness testimony, and whether there shall be written ~~and/or~~ oral arguments. The hearing officer shall issue a written decision stating the factual and legal basis for the decision within thirty (30) days of the hearing. If the hearing officer determines that any penalties are owed, the hearing officer shall include in the written decision the date payment of the assessed penalties shall be due and paid.

(j) The respondent's failure to comply with the hearing officer's written decision may be grounds for suspension or revocation of their status as an approved collector ~~and/or~~ approved recycler.

(k) Except as otherwise specified herein, the hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. The hearing shall take place in Sacramento, California unless a location is otherwise specified by the hearing officer. If respondent wishes to request an alternate location, the respondent must make that request in the Notice of Defense and provide a justification of undue burden.

(l) Penalties assessed in a hearing officer's decision may be in addition to any adjustments made pursuant to Section 18660.30 and may be offset by CalRecycle against any other amounts that are otherwise due to the respondent(s) for payment claims. In the event of settlement, the parties may agree to offset provisions in the settlement agreement.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

(a) The administrative procedure set forth in Section 18660.44(c)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(a).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.**

(a) The administrative procedure set forth in Section 18660.44(b)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(c).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Proposed Electronic Waste Regulations—Title 14 CCR Division 7 Chapter 8.2 Section 18660.5 et seq.  
Administration of the Electronic Waste Recycling Act of 2003; Public Resources Code 42460 et seq.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**REQUEST FOR APPROVAL**

**To:** **Scott Smithline**  
Director

**From:** **Howard Levenson**  
Deputy Director, Materials Management and Local Assistance Division

**Request Date:** November 15, 2017

**Decision Subject:** Adoption of Regulations Amending the Electronic Waste Recycling Program

**Action By:** November 21, 2017

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**Summary of Request:**

Staff seeks approval to adopt proposed regulations that would amend aspects of current regulations governing the covered electronic waste (CEW) recycling payment program, as well as finalize related emergency rules adopted in 2015, and readopted in 2017. The proposed regulations establish and clarify requirements related to participating in the CEW program and CalRecycle's oversight and administrative responsibilities.

The proposed regulations apply to Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations. They will serve to finalize two existing emergency regulation packages that address: 1) the assessing of civil liabilities pursuant to the authority granted under Public Resources Code (PRC) section 42474, and 2) the management of treatment residuals derived from the dismantling of CEW. In addition to other general edits, the proposed rules will also amend and clarify aspects of definitions, applicability and limitations, documents and records, net cost reports, applications, prohibited activities, appeals, requirements for collectors and recyclers, claims, cancellation, and manufacturer payments.

**Recommendation:**

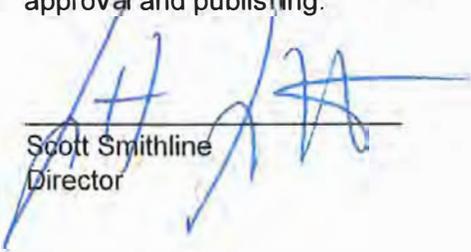
Staff recommends adopting the proposed regulations that would modify areas within Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations and directing staff to file the proposed regulations with the Office of Administrative Law for approval and publishing.

The proposed regulatory language can be found as Attachment 1 to this Request for Approval.

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**Director Action:**

On the basis of the information and analysis in this Request for Approval and the findings herein, I hereby approve the adoption of Regulations Amending the Electronic Waste Recycling Program and direct staff to file the regulatory packet with the Office of Administrative Law for approval and publishing.

  
\_\_\_\_\_  
Scott Smithline  
Director

12-5-17  
Date Signed

## **Attachments**

Proposed Regulatory Language Editing and Amending Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations including portion of Articles 1, 2, 2.1, 2.2, 2.3, 2.4, 2.5, 3 and 6.

## **Background and Analysis:**

### Statutory Authority:

The authority to adopt regulations to implement and administer the Electronic Waste Recycling Act of 2003 is found in PRC § 42475. Portions of the proposed regulations were previously adopted in late 2015 under emergency authority established by PRC § 42475.2, and readopted in 2017.

### Program Background:

The Electronic Waste Recycling Act of 2003 (PRC § 42460, *et seq.*) establishes a funding mechanism to provide for convenient collection opportunities and waste processing capabilities for certain electronic products discarded in California. Covered electronic devices (CED) are video display devices with screen sizes greater than four inches that the Department of Toxic Substances Control (DTSC) has determined to be hazardous when discarded. When CED are discarded, they become covered electronic waste (CEW). Under the CEW recovery and recycling payment program administered by CalRecycle, approved collectors document the recovery of eligible CEW before transferring that material to an approved recycler. Approved recyclers receive and dismantle (cancel) the CEW, compliantly manage derived residuals, and subsequently submit claims for payment.

The CEW recovery and recycling payment program has been operating largely under the same regulations since its inception in 2005. Initial emergency rules were finalized in October 2006. Subsequent print filings associated with recovery and recycling payment rate changes, emergency rules to enact electronic waste recycling fee changes, and Section 100 rule changes necessary to conform to statutory developments have left the overall requirements of the program unchanged for a dozen years. In that time, more than 2 billion pounds of CEW was recovered and claimed for payments through the program. Along the way, program staff have noted deficiencies within the rules and the inevitable drift that occurs due to changes in real-world circumstances relative to static regulations.

In August 2015, CalRecycle filed emergency rules to address the evolution of global markets for treatments residuals, specifically cathode ray tube (CRT) glass. Historically, a key criterion for CEW recycling claims was that treatment residual CRTs or CRT glass be shipped with the purpose of recycling. Markets for CRT glass had been eroding with the demise of CRT use in video technology, and substantial uncertainty existed about both domestic and international destinations receiving California-generated glass. To address this concern, the emergency rules created additional disposition options for CRTs and CRT glass, including disposal, along with improved documentation requirements. Similar documentation enhancements were established for other treatment residuals as well.

In September 2015, CalRecycle filed emergency rules to implement and administer a civil liabilities (penalties) authority that had been vested with CalRecycle via 2012 Budget Act trailer bill language. The rules establish a framework to impose civil liabilities for the failure to pay the CEW recycling fee, manufacturer non-compliance, and false statements or representations.

The process and procedures set forth in the rules ensure CalRecycle has the ability to exercise its authority and impose civil liabilities.

General Intent of Proposed Rules:

In addition to finalizing regulations adopted as emergency rules in late 2015, and readopted in 2017, the intent of this rulemaking is to clarify requirements and allowances relative to the CEW program. The rules will establish better documentation practices aimed at ensuring compliant handling of hazardous electronic waste, and increase the integrity of the program and protect the associated tens of millions of dollars in public funds paid annually to participating CEW collectors and recyclers.

**Rulemaking Timeline:**

Over the course of several years, program staff have had several opportunities to engage with stakeholders on topics addressed in the proposed regulations. In addition to administering the CEW recovery and recycling program for a dozen year, program staff have hosted over three dozen stakeholder workshops apart from departmental considerations and determinations. A main purpose of the workshops was to exchange information between the program and its participants.

Specific to the issues addressed in the two emergency rule packages:

CRT/Residuals

Staff held many workshops since 2010, including several in collaboration with DTSC, on the subject of CRT management and diminishing CRT markets. CalRecycle took into consideration stakeholder participation during these workshops, which assisted CalRecycle with its drafting of the proposed regulations.

Staff recognized through experience that similar constraints facing CRT glass management also affect recyclers when handling other regulated residual materials, such as plasma panel glass and mercury containing lamps.

Staff have proposed documentation approaches that ensure compliance while reducing unnecessary burden.

Administrative Civil Penalties

Staff held an informal stakeholder workshop on the subject of administrative civil liabilities prior to seeking formal approval to file emergency rules in 2015. CalRecycle incorporated changes into the emergency rules in response to public comments.

Staff identified minor issues of clarity that are being addressed between the existing emergency rules and the proposed final rules.

Staff held an informal workshop specific to the entirety of this rulemaking on December 20, 2016 to solicit comments on the draft proposed regulatory text.

Staff presented the Proposed Regulations Amending the Electronic Waste Recycling Program at the January 24, 2017 Public Meeting requesting approval to initiate the formal rulemaking process.

Formal rulemaking activities began on August 11, 2017 when the Office of Administrative Law published CalRecycle's Notice of Proposed Regulatory Action. The written comment period ran from August 11, 2017 to October 10, 2017. On October 11, 2017, CalRecycle conducted a public hearing on the proposed regulations to allow for additional written and oral comments. After considering comments received during the 45-day comment period (see Summary of Comments), CalRecycle determined that no further revisions to the proposed regulations are warranted. Staff recommends the Director approve the adoption of Regulations Amending the Electronic Waste Recycling Program and direct staff to finalize and forward the regulatory package to the Office of Administrative Law for approval and publishing, anticipated December 2017.

Summary of Comments:

There were no comments at the October 11, 2017 public hearing. After considering the totality of public comments submitted during the written comment period, staff determined that no further revisions to the proposed regulations are warranted. The following summarizes the comments received and provides CalRecycle's staff response.

**Section 18660.22(c)(2)(A) and (B). Records for Treatment Residuals Derived from Dismantling non-CRT CEWs:** One written comment suggested to clarify that the quantity of bare plasma panels and lamps required to be recorded should be in pounds and not in units. This change would be consistent with other language regarding quantity in the text of the regulations.

Response: This provision aims to ensure that treatment residuals derived from dismantling non-CRT CEWs that remain regulated materials are properly managed. The request to maintain records relating to the quantity of bare plasma panels and lamps is intended to provide CalRecycle the ability to verify compliant disposition. Staff believes it is not necessary to specify the type of measurement as quantities can be reported using any appropriate units of measure; therefore no change has been made to the proposed regulations.

**Section 18660.22(c). Cancellation Records for non-CRT CEW:** One written comment suggested to remove the requirement to report and record the scale weight of each device prior to dismantling given that many times the reported weight cannot be reconciled with the manufacturer weight.

Response: Staff has already proposed to remove the requirement to report and record the serial number of each non-CRT CEW device prior to dismantling recognizing that this information item requirement is problematic to comply with in practice. Staff believes the requirement to report and record the scale weight of each device ensures CalRecycle the ability to verify that the claimed devices have been dismantled (cancelled) and cannot re-enter the payment system thus protecting the integrity of the program. Staff disagree with the comment and no revisions have been made to the proposed regulations.



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

### NOTICE OF PUBLIC HEARING

#### California Code of Regulations

**Title 14:** Natural Resources  
**Division 7:** Department of Resources Recycling and Recovery  
**Chapter 8.2:** Electronic Waste Recovery and Recycling

Joe Serna Jr., Cal EPA Building  
Coastal Hearing Room  
1001 I Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

The hearing will be conducted beginning at **9:30 a.m.** on **October 11, 2017**, and **will conclude at 12:00 p.m.**, or after all testimony is given. Any person may present statements or arguments, orally or in writing, with respect to the proposed action.

#### **Agenda**

9:30 a.m. – 9:40 a.m.	Introductions and Overview
9:40 a.m. – 11:50 a.m.	Public Provides Comments on Proposed Regulations
11:50 a.m. – 12:00 p.m.	Testimony Concludes



**Title 14 Natural Resources**  
**Division 7 California Department of Resources Recycling and Recovery**  
**Chapter 8.2 Electronic Waste Recovery and Recycling**

For reference, this document depicts proposed regulatory revisions, deletions, and additions via underline and ~~strikethrough~~.

**Article 1 General**

18660.5. Definitions

**Article 2.0 Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

18660.6. Applicability and Limitations

18660.7. Document Submittals

18660.8. Records

18660.9. Audits

18660.10. Net Cost Report

**Article 2.1 Electronic Waste Payment System - Applications for Approval**

18660.12. Additional Application Requirements for Collectors

18660.13. Additional Application Requirements for Recyclers

18660.15. CalRecycle Review of an Application

18660.16. Approval Term and Applications for Renewal

18660.17. Prohibited Activities

18660.18. Changes to Information Contained in an Approved Application

18660.19. Appeal of Denial or Revocation of Approval

**Article 2.2 Electronic Waste Payment System - Business Requirements**

18660.20. Requirements for an Approved Collector

18660.21. Requirements for an Approved Recycler

**Article 2.3 Electronic Waste Payment System - Recycling Payment Claims**

18660.22. General Requirements for Recycling Payment Claims

18660.23. ~~Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of CRTs through Crushing or Shredding~~ RESERVED

18660.24. Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of CRTs through dismantling to a bare CRT after relieving the vacuum

18660.25. Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of non-CRT-containing CEWs

18660.30. CalRecycle Review of Recycling Payment Claims

18660.31. Appeal of Denied or Adjusted Recycling Payment Claims

**Article 2.4 Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

18660.32. Cancellation Methods

18660.33. Standard Statewide Recovery Payment Rate

**Article 2.5 Electronic Waste Payment System – Manufacturer Payments**

18660.35. Manufacturer Registration

18660.36. Requirements for a Registered Manufacturer

18660.37. Manufacturer Payment Claims

18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims

Proposed Electronic Waste Regulations—Title 14 CCR Division 7 Chapter 8.2 Section 18660.5 et seq.

Administration of the Electronic Waste Recycling Act of 2003; Public Resources Code 42460 et seq.

Edited and Amended to Address:

Definitions, Program Participation, Treatment Residual Management, Cancellation, Claims, Administrative Civil Liabilities, and General Clean-up

**Article 3. Manufacturer Reporting**

18660.41. Reporting Requirements

**Article 6. Administrative Civil Penalties**

18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.

18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.

18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.

## Article 1. General

### § 18660.5. Definitions.

(a) For the purposes of this Chapter, the following shall apply:

- (1) “Act” or “the Act” means the Electronic Waste Recycling Act of 2003 (Senate Bill 20, Chapter 526, Statutes of 2003), as amended.
- (2) “Approved Collector” means an authorized collector as defined in Section 42463(b) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recovery payments from approved recyclers.
- (3) “Approved Dual Entity” means an entity that is both an “approved collector” and an “approved recycler” as defined in this Section.
- (4) “Approved Recycler” means a “covered electronic waste recycler” as defined in Section 42463(h) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recycling payments from CalRecycle.
- (5) “Bare CRT” means a Cathode Ray Tube with the vacuum relieved and the yoke removed that has been separated from the device housing and has had all circuit boards, wiring and other components detached from the tube.
- (6) “Bare Panel” means an LCD, ~~gas~~ plasma, or other non-CRT video display panel that has been separated from the device housing and has had all circuit boards, lamps, wiring and other components detached from the panel. Lamps may remain affixed to an otherwise bare panel only if they cannot be removed without breaking.
- (7) “Cancellation” means a processing or treatment method that qualifies CEWs for recycling payments, removes the CEWs from the payment system eliminating the possibility of double payments, dismantles or destroys the original CEW, and results in treatment residuals as specified in Section 18660.32 of this Chapter.
- (8) “Claim Activity Period” means the span of time during which an approved recycler received CEWs from approved collectors, processed and cancelled CEWs, and shipped treatment residuals, as required, that results in a recycling payment claim being submitted to CalRecycle.
- (9) “CRT” means a Cathode Ray Tube with the yoke still attached that has been separated from a CRT device.
- (10) “CRT device” means a whole covered electronic device containing a Cathode Ray Tube.
- (11) “California Source” means persons, as defined in Section 42463(n) of the Public Resources Code, located in California who generate CEWs after their own use of a CED. Persons who receive, accumulate, consolidate, store, or otherwise handle discarded, donated or collected CEWs are not the California sources of those CEWs.
- (12) “CalRecycle” means the Department of Resources Recycling and Recovery.
- (13) “Collection log” means a record maintained by an approved collector that records CEW collection activities as specified in Section 18660.20(j) of this Chapter.
- (14) “Collective Report” means a report submitted to CalRecycle through a trade association, a group of associations, or other organization that represents more than one manufacturer.
- (15) “Commingled” means mixed together and impossible to economically or practically separate.
- (16) “Covered Electronic Device” or “CED” has the same meaning, for the purposes of this Chapter, as a covered electronic device specified in Section 42463(e) of the Public Resources Code.
- (17) “Covered Electronic Waste” or “CEW” means a discarded device that DTSC has determined to be a covered electronic device, as specified by Section 42463(e) of the Public Resources Code.

(18) “Designated Approved Collector” means an approved collector, as defined in subsection (a)(2) of this section, that has been designated by a California local government to provide CEW collection services for or on behalf of the local government in accordance with Article 7 of this Chapter.

(19) “DTSC” means the Department of Toxic Substances Control.

(20) “End-Use Destination” means the location where the treatment residuals from the approved recycler are sent after cancellation.

~~(21) “Further treat” means, for the purposes of this Chapter, activities such as crushing, size reduction, washing, cleaning, smelting, or similar steps taken to process the treatment residual rendering it more marketable and alter its physical form or characteristics. “Further treat” does not mean, for the purposes of this Chapter, receiving, storing, accumulating, consolidating, brokering, shipping, disposing or other similar activities that do not alter the physical form or characteristics of the treatment residual.~~

~~(22) “Handler”, for the purposes of this Chapter, has the same meaning as a universal waste handler or CRT material handler, as applicable, as defined in Section 66273.9 of Title 22 of the California Code of Regulations.~~

~~(23) “Illegal Disposal” means, for the purposes of this Chapter, the disposal or placement of CEWs on a property without the permission of the owner(s) of, or responsible party(ies) for, the property.~~

~~(24) “Initial Destination” means, for the purposes of this Chapter, the location(s) to which treatment residuals are initially shipped by an approved recycler.~~

(24) “Load” means a single transfer (a pick up or delivery) of CEWs, such as from a California source to a collector or from a collector to a recycler.

(25) “Load Check Activities” means, for the purposes of this Chapter, the efforts made to identify, retrieve and divert from the disposed solid waste stream those CEWs that have been illegally discarded by generators. “Load Check Activities” do not include the rejection or acceptance of CEWs due to the lack of source documentation.

(26) “Manufacturer Payment” or “Manufacturer Take Back Payment” means a payment made by CalRecycle to a registered manufacturer that takes back covered electronic wastes (CEWs) from a California source for the purposes of recycling the CEW pursuant to Section 42476(g) of the Public Resources Code.

(27) “Manufacturer Payment Claim” means a registered manufacturer's request submitted to CalRecycle with all required documentation for a manufacturer payment.

(28) “Manufacturer Take Back” means a program administered by a registered manufacturer that accepts CEWs from California sources for the purposes of recycling.

(29) “PBBs” mean Polybrominated Biphenyls

(30) “Processing log” means a record maintained by an approved recycler that records CEW activities associated with CEW cancellation, such as but not limited to weighing, dismantling, documenting ~~crushing, shredding~~, etc., as specified in Section 18660.21(b) of this Chapter.

(31) “Product Category” means the types of covered electronic devices as defined in Section 42463(e) of the Public Resources Code. These categories include, but are not limited to, the following:

(A) Cathode Ray Tubes (CRTs) devices used in televisions,

(B) CRTs devices used in monitors,

(C) Liquid Crystal Display (LCD) monitors,

(D) Laptop computers containing LCD screens,

(E) LCD televisions,

(F) ~~Gas p~~ Plasma display televisions, and

(G) Other video display devices as specified by the DTSC pursuant to Section 25214.10.1(b) of the Health and Safety Code.

(32) “Proof of Approval” means the status of an approved collector or approved recycler, as portrayed on the CalRecycle website, that is associated with the unique identification number and expiration date, issued by CalRecycle that identifies a collector or recycler as being approved pursuant to this Chapter.

(33) “Proof of Designation” means a document issued by a California Local Government to a Designated Approved Collector in accordance with Article 7 of this Chapter.

(34) “Receiving log” means a record maintained by an approved recycler that documents CEW transfers from approved collectors to the approved recycler.

(35) “Recovery payment” means the payment made by an approved recycler to an approved collector in exchange for the transfer of CEWs pursuant to Section 42477 of the Public Resources Code.

(36) “Recovery payment request” means an approved collector's request for recovery payment made to an approved recycler accompanying the transfer of CEWs.

(37) “Recycling payment” means the payment made by CalRecycle to an approved recycler that includes a recovery component related to recycler payments to collectors pursuant to Section 42477 of the Public Resources Code and a recycling component for CEW cancellation pursuant to Section 42478 of the Public Resources Code.

(38) “Recycling payment claim” means an approved recycler's claim that includes all required documentation submitted to CalRecycle for recycling payments for cancelled CEWs.

(39) “Registered Manufacturer” means a manufacturer as defined in Section 42463(m) of the Public Resources Code who registers with CalRecycle pursuant to this Chapter and therefore may be eligible for manufacturer payments from CalRecycle.

(40) “Source-anonymous CEWs” means CEWs whose originating California source cannot be identified in collection log information required pursuant to Section 18660.20(j)(1)(B) of this Chapter.

(41) “Source documentation” means collection logs and other information developed, maintained and transferred pursuant to Section 18660.20(h) of this Chapter that demonstrates the eligibility, originating generator ~~and/or~~ intermediate handlers of collected CEWs as applicable.

(42) “Standard Statewide Recovery Payment Rate” means the amount paid to an approved collector per pound of CEWs transferred to an approved recycler to cover the cost of collection, consolidation and transportation of CEWs as established pursuant to Section 42477 of the Public Resources code.

(43) “Standard Statewide Combined Recycling and Recovery Payment Rate” means the amount paid to an approved recycler per pound of CEWs cancelled and claimed to cover the cost of receiving, processing and recycling CEWs as established pursuant to Section 42478 of the Public Resources Code, and making recovery payments to approved collectors.

(44) “Transfer” or “Transferred” means physically changing possession of CEWs, such as a transfer from a California source to a collector or from a collector to a recycler.

(45) “Transfer documentation” means, for the purposes of this Chapter, records ~~and/or~~ receipts that record the transfer of CEWs from an approved collector to an approved recycler, which include the weight, number, and source of the transferred CEWs, and the date(s) of transfer.

(46) “Treatment ~~Residuals~~” means any material resulting from the dismantling or treatment of a CEW. Treatment residuals are not considered CEWs and are not eligible for recovery or recycling payment, however the costs or revenues associated with managing treatment residuals shall be factored into the net cost of recycling CEW. Treatment residuals may be used to demonstrate the ~~prior~~ processing of CEWs, and documentation demonstrating the subsequent movement or ultimate disposition of the treatment residuals may be required as part of the claim for payment submitted by an approved recycler.

(47) “Ultimate disposition” means, for the purposes of this Chapter, the consumption of a treatment residual into a manufacturing process or the disposal of a treatment residual at a permitted disposal facility. Storage of a treatment residual at a site of generation or at an intermediate facility, or

**Proposed Electronic Waste Regulations—Title 14 CCR Division 7 Chapter 8.2 Section 18660.5 et seq.**

**Administration of the Electronic Waste Recycling Act of 2003; Public Resources Code 42460 et seq.**

**Edited and Amended to Address:**

**Definitions, Program Participation, Treatment Residual Management, Cancellation, Claims, Administrative Civil Liabilities, and General Clean-up**

accumulation of a treatment residual at a location prior to consuming or disposing, is not ultimate disposition.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463, 42465.2, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, records, Audits and Net Cost Report**

**§ 18660.6. Applicability and Limitations.**

(a) Limitations on the types of CEWs eligible for payments:

- (1) An approved collector may request recovery payment only for the types of CEWs specified by DTSC that are transferred to an approved recycler by the collector.
- (2) An approved recycler may claim recycling payment only for the types of CEWs specified by DTSC that are received from an approved collector and are cancelled by the recycler.
- (3) A registered manufacturer may claim manufacturer payment only for the types of CEWs specified by DTSC that the manufacturer takes back for recycling.

(b) Limitations on the timeframes eligible for payments:

- (1) An approved collector, an approved recycler, or a registered manufacturer shall not receive payment for any CEWs transferred from a California source before January 1, 2005.
- (2) An approved collector shall not request recovery payments from recyclers for transfers that occur prior to the approval of the collector's application by CalRecycle.
- (3) An approved recycler shall not claim recycling payments from CalRecycle for CEWs cancelled prior to the approval of the recycler's application by CalRecycle.
- (4) A registered manufacturer shall not claim manufacturer payments from CalRecycle for recycling that occurs prior to the manufacturer's registration with CalRecycle.

(c) Limitations on the Sources of CEWs and CEWs eligible for payments:

- (1) Only CEWs resulting from a California source are eligible for recovery, recycling, or manufacturer payments.
- (2) CEWs owned by a person in California, but used entirely outside of California are not eligible for payments.
- (3) Source-anonymous CEWs, documented pursuant to Section 18660.20(j)(1)(E) of this Chapter, are eligible for recovery and recycling payments if:
  - (A) The source-anonymous CEWs result from load check activities as defined in Section 18660.5(a)(25) conducted at permitted solid waste facilities whose operator is an approved collector or, if not an approved collector, the source-anonymous CEWs are directly transferred from the permitted solid waste facility to an approved collector; or
  - (B) The source-anonymous CEWs result from illegal disposal clean-up activities conducted by an approved collector who is a local government or its designated approved collector; or
  - (C) The source-anonymous CEWs result from illegal disposal on property owned or managed by an approved collector.
- (4) CEWs are transferred to a designated approved collector are not eligible for payments unless the CEWs are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(d) Limitations on the ability of collectors and recyclers to charge a fee:

- (1) If the recovery payment from a recycler does not fully cover the net cost of CEW recovery, and the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector, then an approved collector may charge a fee for CEW recovery.
- (2) If the recovery payment from a recycler fully covers the net cost of CEW recovery, an approved collector shall provide CEW recovery at no charge to California sources or CalRecycle may revoke approval and direct recyclers to deny recovery payments to the collector.
- (3) If the recycling payment from CalRecycle does not fully cover the net cost of CEW recycling, an approved recycler may charge a fee for CEW recycling.

(4) If the recycling payment from CalRecycle fully covers the net cost of CEW recycling, an approved recycler shall provide CEW recycling at no charge to approved collectors or CalRecycle may revoke approval and deny recycling payments to the recycler.

(e) Limitations on recovery payments:

(1) An approved recycler shall make recovery payments at the rate specified in Section 18660.33 of this Chapter to approved collectors for all CEWs transferred to the recycler and that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(2) CalRecycle shall revoke a recycler's approval and deny recycling payments to a recycler that fails to make recovery payments to approved collectors as specified in this Chapter.

(3) An approved recycler shall not make the recovery payments as specified in this Chapter to collectors who are not approved pursuant to this Chapter.

(4) An approved recycler may make other types of payments, not provided for under this Chapter, to a collector regardless of the collector's approval status.

(5) An approved recycler shall not provide recovery payments to a collector other than the approved collector that transfers the CEWs to the recycler, but nothing limits the collectors involved in prior transfers from negotiating payments among themselves unrelated to the recovery payment provisions of this Chapter.

(6) An approved collector is eligible for recovery payments only if the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector.

(7) An approved collector is entitled for recovery payments only for CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

(8) The approved collector shall repay the approved recycler the amount of recovery payment that was paid if an approved collector has received recovery payment from an approved recycler for which the approved collector was not entitled.

(f) Limitations on recycling payments:

(1) CalRecycle shall make recycling payments only to approved recyclers who:

(A) Cancel CEWs using cancellation methods as specified in Section 18660.32 of this Chapter.

(B) Document cancellation and meet the other requirements of this Chapter.

(2) CalRecycle shall not make recycling payments to a recycler other than the approved recycler that cancels the CEWs, but nothing limits the recyclers involved in subsequent transfers from negotiating payments among themselves unrelated to the recycling payment provisions of this Chapter.

(3) CalRecycle shall not make recycling payments for reuse of either a whole CEW or of a partially disassembled CEW, such as a CRT with an attached yoke.

(g) Limitations in relation to current business practices:

(1) CalRecycle shall not limit the ability of approved collectors and approved recyclers to transfer or not transfer CEWs to or from any party.

(2) CalRecycle shall not limit the ability of approved collectors and approved recyclers from entering into contracts with each other or other parties.

(3) CalRecycle shall not limit the ability of collectors to recover CEWs or recyclers to recycle CEWs without participating in the system described in this Chapter.

(4) If collectors wish to receive recovery payments or recyclers wish to receive recycling payments, then they must meet the requirements in this Chapter.

(h) Limitations on the disposition of treatment residuals:

(1) Approved recyclers are not eligible for CEW recycling payments if treatment residuals are managed in a manner noncompliant or nonconforming with applicable law.

(2) Treatment residuals shall be managed for recycling to the extent economically feasible.

(A) Economic feasibility shall be determined by an approved recycler based on current market conditions for legal management options.

(B) CalRecycle may demand demonstration of economic infeasibility in accordance with Public Resources Code section 42479.

(3) Approved recyclers that ship treatment residual CRTs or CRT glass ~~for the purposes of recycling~~ shall be capable of demonstrating to CalRecycle or its designee upon demand that the CRT or CRT glass material has reached an ultimate disposition within one year of the initial shipment, unless the approved recycler is exempt from such demonstration pursuant to Article 7 of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(4) If treatment residuals are disposed, an approved recycler shall ensure and be able to demonstrate that the disposal is compliant with all applicable laws and conforms to any conditions of authorization or approval under which the approved recycler managed the CEW from which the treatment residuals were derived.

(5) CalRecycle may demand demonstration of compliance or conformance with all ~~applicable~~ laws associated with treatment residual shipment, initial destination, or ultimate disposition.

(i) Limitations on the manufacturer payment system:

(1) CalRecycle shall not register any entity other than a manufacturer as defined in Section 42463~~(am)~~ of the Public Resources Code to be a registered manufacturer.

(2) CalRecycle shall not make manufacturer payments to any entity other than a registered manufacturer.

(3) A registered manufacturer shall only claim payment for, and CalRecycle shall only make manufacturer payments for, CEWs received from California sources that are processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(4) A registered manufacturer shall not claim payment for, and CalRecycle shall not make manufacturer payments for, CEWs that are reused, repaired, refurbished or otherwise returned to use.

(j) Limitations on recycling payments on exported CEWs:

(1) CalRecycle shall not approve recyclers located outside the state of California.

(2) CEWs sent to and cancelled by unapproved recyclers are not eligible for recycling payments pursuant to this Chapter regardless of the location of the unapproved recycler.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42472(b), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.7. Document Submittals.**

(a) A collector, a recycler, or a manufacturer shall prepare and submit applications, registrations, claims ~~and/or~~ reports required pursuant to this Chapter in the manner designated by CalRecycle.

(b) CalRecycle shall only accept collector, recycler or dual entity applications, claims and reports containing all the required information and bearing an original signature of the primary applicant, or all persons with signature authority as designated by the primary applicant pursuant to Section 18660.11 of this Chapter.

(c) CalRecycle shall only accept manufacturer registrations, claims and reports containing all the required information and bearing an original signature of the primary registrant, or a person with signature authority as designated by the primary registrant pursuant to Section 18660.35 of this Chapter.

(d) CalRecycle shall provide forms upon request that may be used to meet the requirements for the applications, registrations, and payment claims specified in this Chapter.

(e) A collector, a recycler, or manufacturer shall ensure that applications, registrations, claims, reports and all applicable supporting documentation are accurate, complete, and typed or legibly handwritten in English using permanent ink. A collector or a recycler may void errors only by using a single line through the error. A collector or a recycler shall not use correction fluid, correction tape or erasures for correcting errors on any document required by or submitted to CalRecycle.

(f) Any person, including but not limited to a handler, who provides documentation or information to an approved collector or an approved recycler that may be used by the approved collector or approved recycler pursuant to this Chapter shall not make a false statement or representation in the information or documentation provided.

Authority cited: Sections 40502, 42474, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(d), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.8. Records.**

(a) An approved collector, an approved recycler, or a registered manufacturer shall send written notice to CalRecycle regarding any change in location, or intent to establish a new location, of records required by this Chapter no less than 10 days prior to the change. In the written notice, an approved collector or an approved recycler shall include its name and the unique identification number from the proof of approval, the complete present and potential future address of the location of the records, if applicable, ~~and the names and telephone numbers of the individuals responsible for such records.~~

(b) All records maintained pursuant to this Chapter must include the books of account that are ordinarily maintained by a prudent business person engaged in the same activity, together with all bills, receipts, invoices, manifests, cash register tapes, or other documents of original entry supporting the entries in the books of account.

(c) An electronic data processing system must have built into its program a method of producing visible and legible records that will provide the necessary information to determine compliance with the requirements of this Chapter.

(d) An approved collector, an approved recycler, or a registered manufacturer shall maintain records for at least three years.

(e) An approved collector, an approved recycler, or a registered manufacturer shall maintain records that are originals, and typed or legibly handwritten in English.

(f) An approved collector, an approved recycler, or a registered manufacturer shall not store records in an unprotected area, in an outside location, in a motor vehicle or in a location where the records are likely to become contaminated, damaged or stolen.

(g) An approved collector, an approved recycler, or a registered manufacturer shall maintain records suitable for examination prepared and retained in accordance with generally accepted accounting principles and good business practice.

(h) If CalRecycle determines that records do not meet the conditions in this Section, CalRecycle may revoke approval ~~and/or~~ deny payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### § 18660.9. Audits.

(a) CalRecycle, or persons authorized by CalRecycle, may conduct audits of approved collectors, approved recyclers, and registered manufacturers to determine compliance with the requirements of this Chapter.

(b) As part of an audit, CalRecycle may do any one or all of the following in relation to CEW recovery or recycling:

- (1) Review, examine or investigate any books, records, accounts, and/or documentation.
- (2) Observe, review, examine or investigate any on-site activities, operations, processes, CEWs, treatment residuals or other materials.
- (3) Observe and inspect transactions.
- (4) Verify measurements, counts, weights, and calculations.
- (5) Examine and verify revenue, cost and net cost information and calculations.
- (6) Use other examination procedures to investigate recovery payments, recycling payments, manufacturer payments, transfers of CEWs or treatment residuals, costs, revenue, net costs, or other activities related to determining compliance with this Chapter.

(c) An approved collector, an approved recycler, or a registered manufacturer shall provide CalRecycle staff, or persons authorized by CalRecycle, access to location(s) and/or records for the purpose of audits related to the requirements of this Chapter, and for any or all of the following purposes in relation to CEW recovery or recycling:

- (1) To determine compliance with CalRecycle's regulations and with the provisions of the Act.
- (2) To determine the accuracy of the information provided in the application for approval or registration.
- (3) To determine the accuracy of the information, calculations, weights, counts, and other data upon which claims for payments or payments are based.
- (4) For the investigation of complaints related to recovery payments to collectors.
- (5) For the investigation of complaints related to the geographic origin of CEWs.
- (6) To obtain cost data, revenue data and net cost calculations required for CalRecycle to set and adjust the Standard Statewide recovery payment rate, recycler payment rate and consumer fees.
- (7) To obtain sample data to calculate component weight to device weight conversion factors.
- (8) To inspect any records required by this Chapter or the Act.

(d) If an approved collector, an approved recycler, or a registered manufacturer fails to provide reasonable access for audits pursuant to this Section, CalRecycle shall do one or more of the following:

- (1) Deny approval or registration if a renewal is pending.
- (2) Revoke an existing approval or registration.
- (3) Recoup monies previously paid by CalRecycle, which were the subject of the audit, accumulated interest, and any associated penalties.
- (4) Deny current and future claims for payments.

(e) An approved collector, an approved recycler or a registered manufacturer that must repay monies to CalRecycle based on the results of a CalRecycle audit shall pay the entire amount, including the original amount, accumulated interest, and any associated penalties.

(f) An approved collector, an approved recycler or a registered manufacturer shall make any payments, repayments or recoupments in U.S. dollars by check, draft, money order or cashier's check payable to the State of California, Department of Resources Recycling and Recovery, or to a designee selected by CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### § 18660.10. Net Cost Report.

(a) To adjust the statewide recovery and recycling payment rates, establish future payment schedules and adjust the consumer fees, CalRecycle shall periodically update information concerning the net costs of CEW recovery and CEW recycling.

(b) An approved collector or an approved recycler shall maintain records and provide information for use by CalRecycle in the update on their actual net costs to operate.

(c) An approved collector or an approved recycler shall use the following allowable revenues and costs for use in the calculation of net costs:

(1) Revenues in relation to CEW recovery or recycling, other than the payments required pursuant to this Chapter, including but not limited to:

(A) Up-front revenues received, such as from fees charged.

(B) ~~End-use~~ Treatment residual revenues, such as from commodity values.

(2) Costs in relation to CEW recovery or recycling including, but not limited to:

(A) The actual costs of receiving, handling, processing, storing, transferring and transporting CEWs.

(B) The actual costs of canceling CEWs.

(C) Labor.

(D) Property taxes.

(E) Depreciation.

(F) Utilities.

(G) Supplies.

(H) Fuel.

(I) Insurance.

(J) Interest.

(K) General overhead.

(L) Facilities and equipment rent or lease.

(M) Maintenance.

(N) Transportation.

(O) Handling costs.

(P) Disposition costs.

(Q) A reasonable rate of profit or return on investment.

(R) Marketing, promotion and public education.

(d) An approved collector and approved recycler shall submit to CalRecycle a report on the net costs of recovery ~~and/or~~ recycling for the prior calendar year, including:

(1) An annualized summary of the revenues, costs, and net cost (costs minus revenues) of CEW recovery ~~and/or~~ CEW recycling based on the records maintained pursuant to Sections 18660.20(j)(3) and 18660.21(l)(5) of this Chapter.

(2) Name, identification number and mailing address.

(3) The name and phone number of a contact person for purposes of the report.

(4) The reporting year and date of preparation of the report.

(5) The total annualized revenues excluding recovery and recycling payments received from CalRecycle, plus a list of the types of revenues included in the revenue calculation.

(6) The total annualized costs, plus a list of the types of costs included in the cost calculation.

(7) The total annualized net costs (annualized costs minus annualized revenues).

(8) The net cost per pound of CEW recovery and the net cost per pound of CEW recycling.

(9) Provide a description of the types of targeted consumers, and the methods of collection used to obtain CEWs from the California sources, including but not limited to:

- (A) Drop-off at permanent location,
- (B) Temporary event drop off,
- (C) Pick up at source,
- (D) Pick up at handler location,
- (E) Curbside collection,
- (F) Landfill drop off and or load check.

(10) The signature and title of a person with signature authority for net cost reports as designated pursuant to Section 18660.11 of this Chapter.

(11) The signature block shall state and certify the following statement: "I hereby declare under penalty of perjury that this net cost report, including any and all figures, calculations and accompanying documents has been examined by me and is true, correct and complete."

(12) The date and place of the signing of the report.

(e) An approved collector or an approved recycler shall convert any data captured on a per unit basis to a per pound basis for the purposes of determining revenues, costs and net costs.

(f) CalRecycle may revoke approval ~~and/or~~ deny recycling payments for failure to submit a net cost report, or for the submission of a fraudulent report.

(g) The net cost report shall be submitted to CalRecycle on or before March 1, 2006, and each year thereafter.

(1) The requirement to submit a net cost report subsequent to March 1, 2007, shall be determined by CalRecycle at a public hearing.

(2) Notice of the requirement to submit a net cost report subsequent to March 1, 2007, shall be issued by CalRecycle on or before December 31 of the year proceeding the year in which the report is next due.

(h) In addition to the net cost report described by this Section, an approved collector or an approved recycler may submit test results, studies or other information for CalRecycle to consider when the Standard Statewide Recovery Payment Rate ~~and/or~~ the Standard Statewide Combined Recovery and Recycling Payment Rate is reviewed and, if necessary, adjusted pursuant to Sections 18660.33 and 18660.34 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42464, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.1. Electronic Waste Payment System – Applications for Approval**

### **§ 18660.12. Additional Application Requirements for Collectors.**

(a) In addition to the general application information required in Section 18660.11 of this Chapter, a collector shall also include the following information:

(1) The date and the name under which the collector notified DTSC as a CRT ~~and/or~~ universal waste handler.

(2) A description of the existing or proposed collection operation, including but not limited to:

(A) The types of California sources from which the collector may recover CEWs, including but not limited to households, businesses, ~~and/or~~ other collectors.

(B) The type(s) of CEWs that may be recovered by the collector.

(C) Whether the collector may recover CEWs from outside of the State of California.

(D) The cost-free opportunity(ies) established by the collector for a California source to transfer CEWs to the collector as required by Section 42476(f)(~~23~~) of the Public Resources Code.

(3) Certification statements by the collector as follows:

(A) "The undersigned collector agrees under penalty of immediate revocation of approval and denial of recovery payments that as an approved collector:"

1. "I shall make reasonable efforts to ensure that any CEWs for which payment is claimed originate from a California source."
2. "I shall provide free CEW collection to California sources if the payments I receive from recyclers fully covers the net cost of collection, transportation and charges paid to the recycler."
3. "I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions."
4. "I shall establish a cost-free CEW collection opportunity for California sources."
5. "I have read and understand the requirements set forth in the statutes and regulations governing this program."

(B) "The undersigned collector certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct."

(4) The name and signature of the primary applicant who has the authority to sign and bind the collector to this application.

(5) The date and location of application.

(b) A collector shall maintain a physical location within the state of California at which:

(1) CEWs can be handled.

(2) All records required by this Chapter shall be maintained.

(c) CalRecycle shall not approve a collector located outside the United States, unless required to by treaty. If CalRecycle must approve a collector outside the United States, the collector must comply with the requirements of Section 42476.5 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42476.5, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.13. Additional Application Requirements for Recyclers.**

(a) In addition to the general information required in Section 18660.11 of this Chapter, a recycler shall also include the following information:

(1) Documentation that the recycler has fulfilled DTSC notification and authorization requirements regarding the handling and processing of CEWs.

(2) A description of the recycling operation, including:

(A) The method(s) of cancellation used by the recycler.

(B) The types of CEWs cancelled by the recycler, pursuant to Section 18660.32 of this Chapter.

(C) Estimated percentages of cancelled CEWs expected to originate from inside of and from outside of the State of California annually.

(3) An explanation and documentation showing how the demonstrations in Public Resources Code Section 42479(b) have been satisfied, including but not limited to the following:

(A) The recycler is in compliance with applicable requirements of ~~Chapter 23~~ of Division 4.5 of Title 22 of the California Code of Regulations.

(B) The recycler demonstrates to CalRecycle that the recycler's facility meets all of the following standards:

1. The facility has been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A). If a DTSC inspection has been requested but not yet completed, then CalRecycle will review the remainder of the application but withhold approval until the DTSC inspection is completed and the facility found to be in conformance.

2. The facility is accessible during normal business hours for unannounced inspections by state or local agencies.
3. The facility has health and safety, employee training, and environmental compliance plans and certifies compliance with the plans.
4. The facility meets or exceeds the standards specified in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300), of the Labor Code or, if all or part of the work is to be performed in another state, the equivalent requirements of that state.

(4) Unless the recycler is applying as a dual entity, the name, address, contact person's name and telephone number of at least one (1) collector from which the recycler has accepted, has contracted to accept or intends to contract to accept CEWs for cancellation with a letter from the collector certifying under penalty of perjury that California CEWs from that collector will be transferred to the recycler for recycling.

(5) A completed "Payee Data Record" STD. 204 form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.

(6) Certification statements by the recycler as follows:

(A) "The undersigned recycler agrees under penalty of perjury and of immediate revocation of approval and denial of recycling payments that as an approved recycler:"

1. "I shall fully reimburse an approved collector for all CEWs ~~and/or CEWs~~ transferred at the rate specified in this Chapter within 90 days"
2. "Notwithstanding the allowances contained in Section 18660.6(d) of this Chapter, I shall not adjust fees, charges or other contract provisions upward for the purpose of negating the recovery payment to approved collectors."
3. "I shall provide free CEW recycling by accepting without charge CEWs from approved collectors if the payment from CalRecycle fully covers the net cost of CEW recycling."
4. "I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions."
5. "I have read and understand the requirements set forth in the statutes and regulations governing this program."

(B) "The undersigned certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct."

(7) The name and signature of the primary applicant who has the authority to sign and bind the recycler to this application.

(8) The date and location of application.

(b) CalRecycle shall not approve a recycler located outside California.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.15. CalRecycle Review of Applications.**

(a) Upon receipt of the application, CalRecycle will notify the applicant within 30 calendar days if the application is complete or incomplete.

(b) If CalRecycle determines the application is incomplete, with exception of a pending inspection by DTSC, CalRecycle notification will list the missing information, and the applicant will have 30 calendar days from the notification to provide the missing information or CalRecycle will deny the application.

(c) After CalRecycle determines that an application is complete, CalRecycle will notify the applicant within 30 calendar days whether the application has been:

(1) Approved, and if so, issue a proof of approval ~~bearing a unique approval identification number will be provided~~ stating the type of approval granted:

(A) Approved collector, ~~and/or~~

(B) Approved recycler.

(2) Denied, and if so, the cause(s) for denial will be listed. After denial, an application to become approved may be resubmitted at any time after the causes for denial have been corrected.

(d) CalRecycle shall not charge collector or recyclers to process an application.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.16. Approval Term and Applications for Renewal.**

(a) An approved collector's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the collector continues to meet and fulfill the requirements of this Chapter, and the collector continues to operate in conformance with DTSC requirements.

(b) An approved recycler's approval remains valid for 2 years following the date of approval provided that the information in the ~~original~~ approved application remains unchanged, the recycler continues to meet and fulfill the requirements of this Chapter, and the recycler continues to operate in conformance with DTSC requirements and submit to inspections by DTSC.

(c) To renew approval, a collector or recycler shall ~~re-apply~~ reapply to CalRecycle on a biennial basis at least 90 calendar days prior to the expiration date of approval.

(d) If a collector or recycler fails to ~~renew~~ reapply for approval, after the expiration date all of the following conditions apply:

(1) The approval is expired and invalid.

(2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.

(3) The collector or recycler shall immediately cease using the issued unique identification number. ~~return any issued proof of approval to CalRecycle.~~

(e) An approved collector or an approved recycler may withdraw their approved application at any time via written notice to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.17. Prohibited Activities.**

(a) CalRecycle may deny a ~~renewal~~ an application or revoke or suspend the approval of a collector or recycler for any of the following prohibited activities:

(1) Failure by a collector or recycler to operate in conformance with DTSC requirements.

(2) Failure by a recycler to submit to a DTSC inspection within any 12-month period.

(3) Failure by a recycler to provide recovery payments to approved collectors as specified in this Chapter.

(4) Failure to submit to CalRecycle audits as specified by this Chapter.

(5) Failure to submit a net cost report as specified in Section 18660.10.

- (6) Transferring an approval or proof of approval to any other person.
- (7) ~~Altering the proof of~~ Misrepresenting an approval status.
- (8) A material breach of any of the certification statements contained in the approved application.
- (9) Fraudulently requesting a recovery payment.
- (10) Fraudulently claiming a recycling payment.
- (11) Submitting a fraudulent net cost report.
- (12) Failure to secure, maintain ~~and/or~~ transfer documentation as specified by this Chapter.
- (13) Failure to notify CalRecycle of changes to information contained in the approved application.
- (14) Making a false statement or representation in a document filed, submitted, maintained or used for purposes of compliance with this chapter or Division 30, Part 3, Chapter 8.5 of the Public Resources Code.

(b) If CalRecycle denies an application renewal or revokes an approval for prohibited activities, all of the following conditions apply:

- (1) The approval is immediately invalid.
- (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter.
- (3) The collector or recycler shall immediately cease using the issued unique identification number.  
~~return any issued proof of approval to CalRecycle.~~

(c) A collector or recycler may not reapply for approval until 180 calendar days after denial or revocation for prohibited activities.

(d) If CalRecycle suspends an approval for prohibited activities, all the following conditions apply until CalRecycle determines that the cause for suspension has been remedied:

- (1) The approval is temporarily invalid.
- (2) The collector or recycler shall be ineligible for all payments set forth in this Chapter for recovery ~~and/or~~ recycling activities conducted during the suspension of approval.

(e) An application for approval or renewal from a collector or recycler or an individual identified in the application who has a history demonstrating a pattern of operation in conflict with the requirements of this chapter and Division 30, Part 3, Chapter 8.5 of the Public Resources Code may be denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.18. Changes to Information Contained in an Approved Application.**

(a) An approved collector or an approved recycler shall ~~reapply~~ notify to CalRecycle ~~for approval in writing of~~ changes to information contained in an approved application at least ~~90~~ 30 calendar days prior to the effective date of any proposed changes. ~~change taking effect, if one of the following changes may occur:~~

- (1) ~~A change in recovery, recycling or business practices that will prevent the approved collector or approved recycler from meeting the requirements of this Chapter.~~
- (2) ~~A change in recovery, recycling or business practices that will result in the breach of a certified statement on the application or in a prohibited activity as specified in Section 18660.17 of this Chapter.~~

(b) If an unforeseen change occurs an approved collector or an approved recycler shall notify CalRecycle in writing of the change within ten calendar days after the unforeseen change. ~~In cases of notification after a change specified in subsections (1) or (2) in part (a) of this Section, CalRecycle may revoke the approval immediately or may require the collector or recycler to reapply for approval.~~

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.19. Appeal of Denial, Suspension or Revocation of Approval.**

- (a) If CalRecycle denies an application for approval or suspends or revokes an approval, the collector or recycler shall appeal that decision and request a hearing within 30 calendar days after the date of the denial, suspension or revocation. Any appeal received by CalRecycle after 30 calendar days from the date of the denial, suspension or revocation shall be denied without a hearing or consideration of the appeal.
- (b) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.
- (c) The collector or recycler requesting a hearing must submit the appeal in writing and ensure that it is received by CalRecycle's main business office, to the attention of the Legal Office. The collector or recycler shall clearly mark the outside of the package containing the appeal with: "~~e-Waste~~ Covered Electronic Waste Application Appeal Enclosed".
- (d) In an appeal, a collector or recycler shall include, at a minimum, all of the following:
- (1) The collector's or recycler's name, mailing address, contact name and daytime telephone number.
  - (2) The type of approval: collector, recycler or both.
  - (3) The location and street address.
  - (4) The date on the notification from CalRecycle and the stated reasons for denial, suspension or revocation.
  - (5) A statement of the basis for objecting to the denial, suspension or revocation.
- (e) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.
- (f) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the application, the reasons for denial, suspension or revocation, and any additional relevant information presented by the applicant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.
- (g) CalRecycle will notify the collector or recycler of the determination in writing within 20 calendar days from the date of the decision.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463(b), 42474(e)(3) and 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

## **Article 2.2. Electronic Waste Payment System – Business Requirements**

### **§ 18660.20. Requirements for an Approved Collector.**

- (a) Upon CalRecycle approval of its application, an approved collector may begin requesting recovery payments for CEWs documented and transferred to approved recyclers pursuant to the requirements of this Chapter after the approval.
- (b) An approved collector shall comply with the requirements of this Chapter, including:
- (1) Begin collection activities from California sources within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to begin collection activities within 180 days.
  - (2) Transfer at least one (1) load of CEWs to an approved recycler within 180 calendar days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one

load of CEWs within 180 calendar days of approval. CalRecycle may revoke approval if a collector fails to transfer at least one load of CEWs within 180 calendar days of approval.

- (c) An approved collector shall make reasonable efforts to determine if CEWs it collects are from California sources or from non-California sources and shall keep track of those materials separately. Reasonable efforts may include any of the following, but are not limited to:
- (1) Posting signs and asking California sources.
  - (2) Conducting spot checks ~~and~~/or surveys.
  - (3) Checking for a valid California identification of a person, a California license plate on a vehicle, ~~and~~/or a bill of lading showing a California origin.
  - (4) Requiring additional documentation from California sources or collectors delivering large numbers of CEWs.
  - (5) Instituting measures to prevent CEWs from being dropped-off anonymously or illegally disposed at the approved collector's facilities or operations.
- (d) An approved collector shall not request recovery payment for non-California CEWs.
- (e) An approved collector shall determine if CEWs they transfer to recyclers have already been cancelled, and shall keep track of those materials separately.
- (f) An approved collector shall not request recovery payment for previously cancelled CEWs.
- (g) An approved collector shall provide the CalRecycle-issued proof of approval identification number when transferring CEWs to or requesting recovery payments from an approved recycler. If an approved collector, or its agent, fails to provide the unique identification number from the proof of approval, the approved recycler may deny recovery payment.
- (h) An approved collector shall provide to any approved collector or approved recycler to whom it transfers CEWs information on the origin (California or non-California) and cancellation status of CEWs transferred, including but not limited to the following:
- (1) Signed statement listing the sources(s) of the transferred CEWs as recorded pursuant to subsection (j) of this section.
  - (2) A copy(ies) of the applicable portions of the collection log specified in subsection (j) of this section that describe the collection activities that resulted in the transferred CEWs.
  - (3) Written description of any activity, such as storage, repair, refurbishment, resale, reuse, transfer, packaging ~~and~~/or consolidation, that explains any discrepancy between the CEWs transferred and the CEWs collected as recorded in a log specified in subsection (j) of this section.
  - (4) A copy of any applicable Proof of Designation, issued pursuant to and used in accordance with Article 7 of this Chapter, associated with CEWs collected while acting as a designated approved collector for a local government.
- (i) An approved collector shall operate in accordance with all Federal, State and local laws and regulations.
- (j) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved collector shall maintain the following records:
- (1) A collection log containing:
    - (A) For each collection activity or event that results in CEWs transferred to the approved collector, a brief written description of the collection activity or event, including the type of California sources targeted for collection, the date and location the activity or event occurred, the number of CRT CEWs or non-CRT CEWs collected, and an estimate of the weight of CEWs collected.
    - (B) Approved collectors that are not California local governments, nor entities acting as the Designated Approved Collector for a California local government, shall maintain a list of all California sources who discarded the CEWs transferred to the approved collector, including the

name and address of the California source and the number and type(s) of CEWs discarded by the California source.

(C) When receiving five (5) or more CEWs units discarded from a non-residential California source, an approved collector shall record the name of the non-residential organization, an address, a contact person and a telephone number.

(D) A list of other handlers and approved collectors who transferred CEWs to the approved collector in any month, including the name and address of the other handler and approved collector and the number of CEWs transferred and the sources of those CEWs as recorded pursuant to parts (A) and (B) of this Section.

(E) When collecting source-anonymous CEWs, all approved collectors shall:

1. Log the source-anonymous CEW collection activity separately.
2. Provide a brief written description of the activity or incident that resulted in the source-anonymous CEWs.
3. Record the date and location of the activity or incident, the number and an estimate of the weight of source-anonymous CEWs collected from the location of the activity or incident.
4. Record the name, organizational affiliation, address and phone number of a person responsible for the site of the activity or incident.

(2) Records of transfers by load to, and recovery payments from, approved recyclers, including:

(A) Inventory records that document the relationship between the CEWs received from all sources and the CEWs transferred to the approved recycler or to other handlers.

(B) Signed and dated receipts showing the number and weight of CEWs transferred. The approved collector shall identify and record each approved recycler using the name and identification number from the recycler's "proof of approval."

(3) Records on the costs, revenues and net costs associated with the collection, transportation and disposition of all CEWs handled as specified in Section 18660.10 of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

#### **§ 18660.21. Requirements for an Approved Recycler.**

(a) Upon CalRecycle approval of its application, an approved recycler may begin claiming recycling payments for CEWs received from an approved collector and cancelled after the approval.

(b) An approved recycler shall comply with the requirements of this Chapter, including:

(1) Begin CEW cancellation activities within 180 calendar days of approval. CalRecycle may revoke approval if a recycler fails to begin CEW cancellation within 180 days.

(2) Accept transfer of and cancel at least one (1) load of CEWs from an approved collector within 180 days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 days of approval. CalRecycle may revoke approval if a recycler fails to cancel at least one load within 180 days of approval.

(3) Record each approved collector's proof of approval identification number and provide a receipt showing the weight and number of CEWs transferred and the amount of the corresponding recovery payment due to the collector.

(4) Make recovery payments to approved collectors, or their agents, for all CEWs transferred, in accordance with this Chapter, at the time of transfer of CEWs, or at a later time specified in a written

contract between the approved collector and approved recycler, but not more than 90 days from the date of transfer.

(5) Cancel CEWs by one or more of the manners prescribed in Section 18660.32 of this Chapter.

(A) An approved recycler shall maintain a processing log that records the date, method of cancellation, and quantity in pounds of CEWs cancelled.

(B) An approved recycler shall maintain inventory records that document the relationship between CEWs received from approved collectors, CEWs processed and cancelled by the approved recycler, and treatment residuals shipped to ~~end-use~~ initial destinations or ultimate dispositions, as applicable.

(6) Submit recycling payment claims to CalRecycle as specified in Sections 18660.22 through 18660.31 of this Chapter.

(7) Submit to and obtain a DTSC inspection, within any 12-month period.

(c) Based on information supplied by approved collectors, an approved recycler shall, at a minimum, keep track of the weight of CEWs from both California and non-California sources transferred from approved collectors and ensure that recycling payments are not claimed for non-California source materials.

(d) An approved recycler shall not provide recovery payment to approved collectors for CEWs from non-California sources, or to approved collectors that fail to provide complete and applicable source documentation on CEW origin pursuant to Section 18660.20(h) of this Chapter.

(e) An approved recycler shall not claim recycling payments for non-California CEWs.

(f) Approved recyclers shall determine if CEWs they accept from collectors have already been cancelled and shall keep track of the weight of those materials and ensure that recycling payments are not claimed for these materials.

(g) An approved recycler shall not provide recovery payment to approved collectors for previously cancelled material.

(h) An approved recycler shall not claim recycling payments for previously cancelled material.

(i) An approved recycler may deny recovery payments for commingled loads in which CEWs cannot be distinguished from other materials.

(j) An approved recycler shall operate in accordance with all Federal, State and local laws and regulations.

(k) An approved recycler shall:

(1) Be equipped with scales and be a weighmaster in accordance with Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.

(2) Measure, record and report weights in pounds and issue certified weights.

(3) Weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 (commencing with Section 12500) of the Business and Professions Code.

(l) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved recycler shall maintain the following records:

(1) A receiving log containing a brief written description of CEW transfers by load from approved collectors, the certified number of units and the certified weight of CEWs transferred, and the dates the transfers from collectors occurred.

(2) Records of CEW transfers, including all documentation received from an approved collector as specified in Section 18660.20(h), and recovery payments made ~~and/or~~ owed to approved collectors, including signed and dated receipts showing the certified number of units and the certified weight of CEWs transferred.

(A) The approved recycler shall identify and record each approved collector using the name and identification number from the collector's "proof of approval."

(B) The approved recycler shall record separately the number of units and sum of estimated weights of source-anonymous CEWs reported by and transferred from an approved collector.

(3) A processing log showing the definitive cancellation of CEWs by weight, date and cancellation method, as specified in Section 18660.32 of this Chapter, upon which a payment claim is based.

(4) Applicable records for all shipments of treatment residuals, including but not limited to weight certificates, packing lists, bills of lading, manifests, destination receipts, invoices, and payments. Applicable records shall be maintained pursuant to Section 18660.8 of this Chapter and be capable of demonstrating the following information:

(A) Date of shipment.

(B) Quantity and material type in shipment.

(C) The full name and address of shipping service.

(D) The full name and address of the buyer or other transferee, and destination name and address if different.

(E) Identification and description of the initial destinations or ultimate disposition of the treatment residuals, as applicable.

(5) Records on the net costs associated with the disposition of all CEWs handled, the net costs of accepting the transfer of CEWs, the net costs of each cancellation method used, and any additional administrative costs of providing recovery payments to approved collectors.

(6) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **Article 2.3. Electronic Waste Payment System – Recycling Payment Claims** **§ 18660.22. General Requirements for Recycling Payment Claims.**

(a) An approved recycler shall submit all of the following general information in a claim for recycling payments from CalRecycle:

(1) The full name, mailing address, and federal tax identification number of the recycler preparing the report.

(2) The name and phone number of a contact person for purposes of the report.

(3) The reporting month (calendar month and year) and date of preparation of the report.

(4) The claim activity period, listing the start and end dates.

(5) The total weight of CEW claimed, as calculated in Sections ~~18660.23~~, 18660.24, and 18660.25 of this Chapter.

(6) The total monetary amount being claimed.

(7) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.11 of this Chapter. The signature block shall include the following certification statements:

(A) "I hereby declare under penalty of perjury that:"

1. "The approved recycler whom I represent is currently in compliance with all Federal, State and local requirements, including compliance with the requirements of the Act and this Chapter."

2. "All claimed CEWs have been cancelled as specified in Section 18660.32 and are unable to re-enter the payment system, and all treatment residuals specified in Section 18660.22(c) derived from the claimed CEWs have been shipped off-site to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of those treatment residuals."

Edited and Amended to Address:

Definitions, Program Participation, Treatment Residual Management, Cancellation, Claims, Administrative Civil Liabilities, and General Clean-up

3. "I have certified the weights and verified the calculations, including the adjustments for CEWs from non-California sources and for prior cancellation."
4. "This payment claim, including any and all accompanying documents has been examined by me and is true and correct."
5. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
6. "I further understand that fraud could result in revocation of the recycler's approval."

(8) The date and place of the signing of the claim.

(b) For each cancellation method used, an approved recycler shall submit no more than one recycling payment claim per calendar month and may only include one reporting month, as specified by Sections ~~18660.23~~, 18660.24 and 18660.25 of this Chapter, in a single recycling payment claim. An approved recycler shall prepare payment claims for different cancellation methods separately, but may submit a package containing all the claims for a reporting month.

(c) Prior to submitting a payment claim for cancelled CEWs, an approved recycler shall:

(1) Ship off-site all the following treatment residuals derived from the cancelled and claimed CEWs to an ~~end-use~~ initial destination authorized to receive and further treat or legally dispose of the treatment residual:

~~(A) CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through crushing or shredding.~~

~~(B) (A) Bare CRTs or CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~

(B) CRT glass cullet.

1. CRT glass, CRT funnel glass, and CRT panel glass, as defined in Section 66273.9 of Chapter 23 of Title 22 of the California Code of Regulations, shall be accounted for separately, as applicable.

2. The shipped CRT glass cullet shall account for the amount derived from the cancelled and claimed CEW.

~~(C) Gas plasma display glass cullet if conducting non-CRT-containing CEW cancellation through crushing or shredding.~~

~~(D) Bare gas plasma display panels if conducting non-CRT-containing CEW cancellation through dismantling to a bare panel.~~

(2) For each claimed ~~cancelled~~ non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and scale weight of each device prior to cancellation.

(A) If the non-CRT-containing CEWs contain a plasma display, records relating to quantity of the bare panel(s) and ultimate disposition shall be maintained.

(B) If the non-CRT-containing CEWs contain cold cathode fluorescent lamps, records relating to quantity of the lamps and ultimate disposition shall be maintained.

(C) Records maintained pursuant to (A) and (B) above shall be made available upon request by CalRecycle or its designee.

(3) Only those CEWs that have been processed and documented pursuant to the applicable requirements of subsections (c)(1) and (c)(2) of this section shall be claimed for payment.

(d) An approved recycler shall attach all of the following to the payment claim:

(1) For all CEWs received from collectors during the claim activity period that are cancelled and included in the current claim, a report that includes:

(A) A list of approved collectors from which the transfers of CEWs were accepted with the name and proof of approval identification number of each.

(B) The total weight of CEWs in all loads transferred from each approved collector. Note that this weight may not equal the weight claimed for recycling payment because recovery payments are made on the weight of all CEWs transferred while recycling payments are made on the weight of only those CEWs cancelled.

(C) Signed and dated receipts documenting all CEW transfers from approved collectors.

(D) A copy(ies) of the applicable records specified in Section 18660.21(l)(1)-(4) pertaining to the collection, transfer, and processing activities involving the CEWs cancelled and being claimed for payment.

1. Source documentation not associated with the claimed CEWs shall not be included in the report.

2. Transfer documentation not associated with the claimed CEWs shall not be included in the report.

(E) A sum of the estimated weight of source-anonymous CEWs as reported by and transferred from approved collectors.

(2) For all CEWs cancelled during the claim activity period and that are included in the current claim, a description of cancellation activities that includes:

(A) The type(s) of cancellation method used.

(B) The date(s) when cancellation occurred.

(C) The amount of CEWs processed by dismantling, ~~crushing or shredding~~ by date in pounds.

(D) The dates and destinations of all treatment residual shipments required prior to submitting a claim as specified in subsection (c) of this section.

(3) For all CEWs received from collectors during the claim activity period that are not included in a prior claim and that are not cancelled, a description and quantification of those activities including but not limited to storage, repair, refurbishment, resale, reuse, transfer ~~and/or~~ export.

(e) An approved recycler shall deliver recycling payment claims to CalRecycle's main business office, to the attention of the Accounting Section. An approved recycler shall mark the outside of the package containing the claims clearly with "~~e-Waste~~ Covered Electronic Waste Claim Enclosed."

(f) An approved recycler shall submit timely recycling payment claims so that CalRecycle receives each claim within 45 days of the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle may return without payment any claim received more than 45 days after the end of the reporting month, as specified by Sections ~~18660.23~~, 18660.24 ~~and or~~ 18660.25 of this Chapter. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.

(g) CalRecycle may reject a claim if it fails to comply with the general requirements of this Section, or the additional requirements in the applicable provisions regarding cancellation methods in Sections ~~18660.23~~, 18660.24 ~~and/or~~ 18660.25 of this Chapter.

(h) CalRecycle's rejection of a recycling payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.23. ~~RESERVED Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Crushing or Shredding.~~**

~~(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT-containing CEWs through crushing or shredding as specified in Section 18660.32 of this Chapter.~~

- (b) An approved recycler shall base recycling payment claims on the weight of CRT containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of CRT glass cullet were sent to an end use destination.
- (d) The reporting month for a recycling payment claim pursuant to this Section is the month in which shipment(s) of CRT glass cullet were made.
- (e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT containing CEWs through crushing or shredding as follows:
- (1) The total weight of CRT containing CEWs cancelled for the reporting month from which all treatment residuals specified in Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use destination authorized to receive and further treat or legally dispose of those treatment residuals.
  - (2) The total payment claimed, calculated by multiplying the weight of CRT containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.
  - (3) If the amount in subsection (e)(1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.
- (f) An example calculation for canceling CRT containing CEWs through crushing or shredding is included for illustration purposes as follows:

*The weight of CRT containing CEWs cancelled:* \_\_\_\_\_ *1000 pounds*  
*Times the per pound Standard Statewide combined*  
*—recovery and recycling payment rate:* \_\_\_\_\_ *X \$0.49*  
*Equals the payment claim for the reporting period:* \_\_\_\_\_ *= \$490.00 Total Claim*

- (g) An approved recycler shall attach to the payment claim the following documentation from all shipments of CRT glass cullet made during the reporting period of a calendar month:
- (1) Shipping reports to end-use destinations, including the names of the shipping recycler and the receiving end-use destination.
  - (2) The date of the shipment and the weight of the CRT glass cullet.
  - (3) Weight tickets of individual shipments of CRT glass cullet.
  - (4) Verification of post-cancellation disposition, including:
    - (A) For shipments by sea, the proof of disposition to an end-use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.
    - (B) For other shipments, the proof of disposition to an end-use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.
    - (C) For all shipments of CRT glass cullet, information pertaining to the ultimate disposition of the material shipped demonstrating that the disposition is compliant with applicable law and conformant with the recycler's conditions of authorization.
      1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.
      2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and quantification of the disposition of other treatment residuals derived from cancellation of the CRT containing CEWs, including but not limited to metals, plastics, fibers and wood.

Edited and Amended to Address:

Definitions, Program Participation, Treatment Residual Management, Cancellation, Claims, Administrative Civil Liabilities, and General Clean-up

Authority cited: Sections ~~40502, 42475(b), and 42475.2, Public Resources Code.~~

Reference: Sections ~~42475(a), 42476, 42477, 42478, and 42479, Public Resources Code.~~

**§ 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum.**

- (a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum as specified in Section 18660.32 of this Chapter.
- (b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar reporting month in which one or more shipments of bare CRTs or CRT glass cullet were sent to an end-use destination.
- (d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first makes shipment(s) to an initial destination of bare CRTs or CRT glass cullet derived from the claimed CEWs were made.
- (e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through dismantling to a bare CRT as follows:
- (1) The total weight of CRT-containing CEWs cancelled from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use initial destination authorized to receive and further treat or legally dispose of those treatment residuals.
  - (2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.
  - (3) If the amount in subsection (1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.
- (f) An example calculation for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum is included for illustration purposes as follows:

<i>The weight of CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

- (g) An approved recycler shall attach the following documentation for all shipments of bare CRTs or CRT glass cullet made during the reporting claim activity period ~~of a calendar month:~~
- (1) Shipping reports to end-use initial destinations, including the names of the shipping recycler and the receiving end-use initial destination.
  - (2) The date of the shipment and the weight of the bare CRTs or CRT glass cullet.
  - (3) Certified weights tickets ~~of individual shipments of bare CRTs or CRT glass cullet.~~
  - (4) Verification of post cancellation disposition, including:
    - (A) For shipments by sea, the proof of disposition transfer to an end-use initial destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.

(B) For other shipments, the proof of ~~disposition transfer~~ to an end-use initial destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading, manifest, etc.

(C) For all shipments of bare CRTs or CRT glass cullet, information pertaining to the ~~ultimate initial destination or the ultimate~~ disposition of the material shipped ~~demonstrating that the disposition is compliant with applicable law and conformant with the recycler's conditions of authorization.~~

1. All documentation necessary to demonstrate compliant material ~~disposition handling and shipment~~ shall be included in the ~~discussion claim~~.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of shipped material disposition status.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b), and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478, and 42479, Public Resources Code.

#### **§ 18660.25. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of Non-CRT-Containing CEWs.**

(a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as specified in Section 18660.32 of this Chapter.

(b) An approved recycler shall base recycling payment claims on the weight of the cancelled non-CRT-containing CEWs.

(c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a ~~calendar reporting month in which it cancels non-CRT-containing CEWs.~~

(d) The reporting month for a recycling payment claim pursuant to this Section is the calendar month in which the approved recycler first cancels any of the non-CRT CEW being claimed ~~cancellation occurs.~~

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling non-CRT-containing CEWs through dismantling to a bare panel ~~or crushing/shredding of the entire CEW~~ as follows:

(1) The total weight of cancelled non-CRT-containing CEWs for the reporting month for which records specified in Section 18660.22(c)(2) of this Chapter have been established and maintained ~~from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped to an end-use destination authorized to receive and further treat those treatment residuals.~~ Note that non-CRT-containing CEWs commingled with other material are ineligible for recycling payment.

(2) The total payment claimed, calculated by multiplying the weight of non-CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (1) of this Section includes CEWs from outside California or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(4) For each cancelled non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, ~~serial number~~ and the scale weight of each device prior to cancellation.

(f) An example calculation for canceling non-CRT-containing CEWs through dismantling to a bare panel or ~~crushing/shredding of the entire CEW~~ is included for illustration purposes as follows:

<i>The weight of non-CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.49</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$490.00 Total Claim</i>

(g) An approved recycler shall attach the following documentation for all ~~shipments of circuit boards bare plasma panels and lamps derived~~ from non-CRT-containing CEWs ~~made~~ during the reporting claim activity period of a calendar month:

- (1) Shipping reports to ~~end use~~ initial destinations, including the names of the shipping recycler and the receiving ~~end use~~ initial destination.
- (2) The accumulation start date(s) of the bare plasma panels or lamps shipped or stored shipment and the weight of the circuit boards.
- (3) ~~W~~ Certified weights tickets of individual shipments ~~of the circuit boards~~.
- (4) Verification of post cancellation disposition, including:
  - (A) For shipments by sea, the proof of disposition transfer to an ~~end use~~ initial destination shall be the on-board bill of lading or manifest, as applicable.
  - (B) For other shipments, the proof of disposition transfer to an ~~end use~~ initial destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading or manifest.
  - (C) For all shipments of bare plasma panels and lamps derived from non-CRT-containing CEWs circuit boards, a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is ~~not disposal to land, water or air~~ compliant with applicable law and conforms with the approved recycler’s conditions of authorization.
    1. All documentation necessary to demonstrate compliant material handling and shipment shall be included in the claim.
    2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of shipped material status.
- (5) The quantities of treatment residuals recorded pursuant to section 18660.22(c)(2)(A) and (B) shall be included in the claim.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals derived from cancellation of the non-CRT-containing CEWs, including but not limited to circuit boards, other video display panels, metals, plastics, and fibers.

Authority cited: Sections 40502, 42475(b), and 42475.2, Public Resources Code.  
 Reference: Sections 42475(a), 42476, 42477, 42478, and 42479, Public Resources Code.

**§ 18660.30. CalRecycle Review of Recycling Payment Claims.**

(a) CalRecycle shall review a recycling payment claim and determine if a recycling payment is due pursuant to this Chapter. If CalRecycle has cause to investigate any aspect of a claim, the review may be extended until resolution of all issues aspects under investigation.

(b) CalRecycle may deny or adjust payment for any of the following reasons:

- (1) CalRecycle determines that:

- (A) The signature on the claim is not that of a person with signature authority for recycling payment claims as designated pursuant to Section 18660.11 of this Chapter.
- (B) The recycler did not have current approval for the reporting period and/or the cancellation period in the claim.
- (C) The approved recycler failed to meet the requirements in this Chapter or committed an activity prohibited in this Chapter.
- (D) The payment claim contains a numerical discrepancy between values or calculations reported on the claim and CalRecycle verified values and calculations.
- (E) The facility has not been inspected by DTSC within the past 12 months, as specified in Section 42479(b)(2)(A) of the Public Resources Code.
- (F) The recycler is ineligible for payment pursuant to Section 42479(b)(1) of the Public Resources Code.
- (G) The payment claim is deficient with regard to any of the following:
  - 1. CEW source documentation
  - 2. CEW transfer documentation
  - 3. CEW processing documentation
  - 4. Treatment residual disposition documentation
  - 5. Any other documentation required as part of a payment claim as specified in Sections 18660.22 through 18660.25 of this Chapter.

(2) CalRecycle has prevailed against the claimant in a civil or administrative action and money is owed to CalRecycle as a result of the action.

(3) CalRecycle discovers, as part of an application review, claim review or an audit, significant inconsistencies or fraud.

(c) If CalRecycle adjusts or denies a payment claim based on deficiencies in documentation specified in subsection (b)(1)(G) of this section, an approved recycler shall not resubmit as part of a future claim that same documentation, or any revised form of that documentation, seeking payment for those CEWs for which payment had been denied.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.31. Appeal of Denied or Adjusted Recycling Payment Claims.**

(a) An approved recycler shall submit an appeal in writing and ensure that it is received by the CalRecycle main business office, to the attention of the Legal Office, file a formal appeal by writing to CalRecycle within 30 calendar days of the date of the notice denying or adjusting the claim. The recycler shall clearly mark the outside of the package containing the appeal with: "Covered Electronic Waste Claim Appeal Enclosed".

(b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice letter from CalRecycle ~~on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.

(c) An approved recycler shall include all of the following information in a written appeal:

- (1) The recycler's name and identification number from its proof of approval.
- (2) The month(s) and year(s) in question.
- (3) A copy of the recycling payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
- (4) An explanation of why the adjustment or denial was in error.
- (5) Any other documentation that supports the appeal.

(d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.

(e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.

(f) CalRecycle will notify the recycler of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474(e)(3), 42479, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

**Article 2.4. Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**  
**§ 18660.32. Cancellation Methods.**

(a) CalRecycle shall not pay recycling payment claims unless the cancellation method used meets the requirements of this Section.

(b) An approved recycler shall not use or propose cancellation methods that are inconsistent with any DTSC requirements for handling or otherwise processing CEWs.

(c) An approved recycler may use the following standard CEW cancellation methods that qualify for recycling payments as specified in the requirements of this Chapter:

~~(1) CRT or CRT-containing CEW cancellation through crushing or shredding.~~

~~(2) CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.~~

~~(3) Cancellation of non-CRT-containing CEWs through crushing/shredding of the entire CEW.~~

~~(4) (2) Cancellation of non-CRT-containing CEWs through dismantling to a bare panel.~~

(d) An approved recycler may submit proposals for alternative cancellation methods to CalRecycle for review on a case-by-case basis. CalRecycle, in consultation with DTSC, shall act within ~~180~~ 90 calendar days to disapprove an alternative method, approve an alternative method for use only by the requesting recycler, or approve an alternative method for use by all recyclers.

(e) An approved recycler shall not claim, and CalRecycle shall not pay, recycling payments for CEWs “cancelled” with an alternative method unless CalRecycle has previously approved the alternative method. CalRecycle shall deny payment on any CEWs “cancelled” with an alternative method prior to CalRecycle approval.

(f) Reuse of either an intact CEW or of a partially disassembled CEW, such as a CRT with an attached yoke, is not cancellation and is not eligible for recycling payments.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

### **§ 18660.33. Standard Statewide Recovery Payment Rate.**

- (a) An approved recycler shall pay an approved collector the Standard Statewide ~~Combined~~ Recovery Payment Rate for all CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter regardless of the real or anticipated disposition of the CEWs.
- (b) Beginning July 1, 2016, the Standard Statewide Recovery Payment Rate is \$0.19 per pound.
- (c) CalRecycle shall review the Standard Statewide Recovery Payment Rate at a public meeting ~~of the Board~~ and establish the rate pursuant to Section 42477 of the Public Resources Code.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.5. Electronic Waste Payment System – Manufacturer Payments**

### **§ 18660.35. Manufacturer Registration.**

- (a) A manufacturer may apply to become registered, to renew an existing registration, or to revise an existing registration at any time by submitting a complete application.
- (b) In an application for registration, manufacturers shall provide the following general information:
- (1) Name of manufacturer.
  - (2) Mailing address and physical address.
  - (3) Name of the employee or officer of the manufacturer who is the contact person.
  - (4) Telephone number(s) of the contact person.
  - (5) An e-mail address of the contact person.
  - (6) Name of the employee or officer of the manufacturer who is the primary applicant authorized to sign:
    - (A) Payment claims.
    - (B) Reports.
    - (C) Other payment-related documentation ~~and/or~~ correspondence required by CalRecycle.
  - (7) Name of the employee or officer of the manufacturer (if any), in addition to the primary applicant, who is authorized to sign:
    - (A) Payment claims.
    - (B) Reports.
    - (C) Other-payment related documentation ~~and/or~~ correspondence required by CalRecycle.
  - (8) An indication of whether the manufacturer wishes to be included in an on-line registry.
  - (9) The location in which the records required by this Chapter will be maintained.
- (c) In an application for registration, a manufacturer shall also include the following information about its take back program or activities, including but not limited to:
- (1) The types of California sources from which the manufacturer may take back CEWs, including but not limited to households, businesses, ~~and/or~~ other collectors.
  - (2) The type(s) of CEWs that the manufacturer may take back for recycling.
  - (3) The mechanism(s) by which the manufacturer will accept CEWs into the take back program, such as mail-in, drop-off, trade-in, or pick-up.
  - (4) Any conditions the manufacturer may place on accepting CEWs.
  - (5) Whether the manufacturer may recover for the purposes of recycling discarded electronic devices similar to CEWs from outside of the State of California.
- (d) In an application for registration, a manufacturer shall also include the following information regarding the recycling of the CEWs received into its take back program:

- (1) The name and address of the recycling facility(ies) used by the manufacturer.
  - (2) A description of the recycling operation used by the manufacturer, including the recycling process that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (e) In an application for registration, a manufacturer shall make the following certification statements:
- (1) “The undersigned manufacturer agrees under penalty of immediate revocation of registration and denial of manufacturer payments that as an registered manufacturer:”
    - (A) “I shall ensure that any CEWs for which payment is claimed originate from a California source.”
    - (B) “I shall only claim payment for those CEWs that I take back and process for recycling.”
    - (C) “I shall operate in compliance with the requirements of this Chapter, the Act and with all applicable local, state and federal regulatory provisions.”
  - (2) “The undersigned manufacturer certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct.”
    - (A) The name and signature of the primary applicant who has the authority to sign and bind the manufacturer to this application.
    - (B) The date and location of application execution.
- (f) In an application for registration, a manufacturer shall submit a completed “Payee Data Record” STD. 204 Form (Rev. 6-2003 or as revised) - Department of Finance, State of California with an original signature of the primary applicant. The form will be provided by CalRecycle and is hereby incorporated by reference.
- (g) Within 30 calendar days upon receipt of the application for registration, CalRecycle will notify the manufacturer if the applicant is a registered manufacturer and provide a registration number to be used in all correspondence and claims.
- (h) A registered manufacturer's registration remains valid for 2 years following the date of registration provided that the information in the original application remains unchanged and the manufacturer continues to meet and fulfill the requirements of this Chapter.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a) and 42476, Public Resources Code.

### **§ 18660.36. Requirements for a Registered Manufacturer.**

- (a) Upon registration with CalRecycle, a registered manufacturer may claim manufacturer payments for those CEWs received by the manufacturer's take back program after the effective date of registration and processed for recycling as specified in Section 18660.6(i)(3) of this Chapter.
- (b) A registered manufacturer shall determine if CEWs received by the manufacturer's take back program and processed for recycling are from California sources or from non-California sources and shall keep track of those materials separately.
- (c) A registered manufacturer shall not request payment for non-California CEWs.
- (d) A registered manufacturer shall not request payment for previously cancelled CEWs.
- (e) A registered manufacturer shall ensure that any CEW on which the manufacturer has claimed manufacturer payment does not enter the recovery and recycling payment system.
- (f) The recycling operation used by a registered manufacturer shall operate in accordance with all Federal, State and local laws and regulations.
- (g) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, a registered manufacturer shall obtain and maintain the following records:
  - (1) A written description of the take back program, including the type of consumers from whom CEWs are accepted for take back.

(2) A record of the number of CEWs collected by the product categories defined in Section 18660.5(a)(31) of this Chapter.

(3) Records of transfers by load to the recycling operation used by the registered manufacturer, including signed and dated receipts showing the weight and number of CEWs transferred.

(4) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the recycling operation used by the manufacturer.

(5) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.

(6) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.

(7) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(8) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

(h) A registered manufacturer shall measure, record and report weights in pounds. A registered manufacturer shall weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 of the Business and Professions Code (Weights and Measures) or in accordance with comparable standards of the state in which the registered manufacturer is located.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

### **§ 18660.37. Manufacturer Payment Claims.**

(a) A registered manufacturer shall base a manufacturer payment claim on the number of CEWs processed for recycling by screen size(s) as listed in Section 42464(a) of the Public Resources Code.

(b) A registered manufacturer shall submit all of the following general information in a claim for manufacturer payments from CalRecycle:

(1) The full name, mailing address, registration number, and federal tax identification number of the registered manufacturer preparing the claim.

(2) The name and phone number of a contact person for purposes of the claim.

(3) The period of time covered by the claim and date of preparation of the claim.

(4) The number of CEW devices claimed:

(A) In each product category as defined in Section 18660.5(a)(31).

(B) By screen size as listed in Section 42464(a) of the Public Resources Code.

(5) The total monetary amount being claimed, as calculated in subsection (f) of this Section.

(6) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.35(b)(6) or (7) of this Article. The signature block shall include the following certification statements:

(A) "I hereby declare under penalty of perjury that:"

1. "All claimed CEWs were received from California sources through the manufacture take back program described in the manufacturer registration."

2. "All claimed CEWs have been processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result."

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3. "No claimed CEWs were transferred into the recovery and recycling payment system."
4. "I have certified the number of devices and verified the calculations."
5. "This payment claim, including any and all accompanying documents, has been examined by me and is true, correct and complete."
6. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
7. "I further understand that fraud could result in revocation of the manufacturer registration."

(7) The date and place the claim was signed.

(c) A registered manufacturer shall submit no more than one payment claim per calendar month.

(d) The claim period for a manufacturer payment claim pursuant to this Section is the time period within which processing occurs and may not exceed three (3) months.

(e) A registered manufacturer shall attach all of the following to the payment claim:

- (1) A written description of take back program that collected the CEWs for which payment is being claimed, including the type of consumers from whom CEWs were accepted, and a record of the number of CEWs collected by the product categories as defined in Section 18660.5(a)(31) of this Chapter.
- (2) Records of transfers by load to the registered manufacturer's recycling operation, including signed and dated receipts showing the weight and number of CEWs transferred.
- (3) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the manufacturer's recycling operation.
- (4) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
- (5) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
- (6) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.

(f) A registered manufacturer shall calculate the payment and include the calculation in a manufacturer payment claim as follows:

- (1) The total number of CEWs, by screen size as specified in Section 42464(a) of the Public Resources Code, that are processed for recycling during the claim period.
- (2) The total payment claimed, calculated by:
  - (A) Multiplying the number of CEWs in each screen size category by the value of the covered electronic waste recycling fee that applies to that category.
  - (B) Adding the calculations in (A) above for each screen size category calculation together.

(g) An example calculation for a manufacturer claim is included for illustration purposes as follows:

*The number CEWs processed for recycling by screen size:*

*100 devices with less than 15 inch screen size  
Times the covered electronic waste recycling  
fee for category*

*100 devices  
  
X ~~\$6.00~~ \$5.00  
=~~\$600.00~~ \$500.00*

*200 devices greater than or equal to 15 inch*

<i>screen size but less than 35 inch screen size</i>	<i>200 devices</i>
<i>Times the covered electronic waste recycling</i>	
<i>fee for category</i>	<i>X <del>\$8.00</del> \$6.00</i>
	<i><del>\$1600.00</del> \$1200.00</i>

*Equals the payment claim for the claim period: (~~\$6500.00~~ + ~~\$161200.00~~) = \$221700.00 Total Claim*

- (h) A registered manufacturer shall deliver manufacturer payment claims to CalRecycle’s main business office, to the attention of the Accounting Section. A registered manufacturer shall mark the outside of the package containing the claims clearly with “Electronic Manufacturer e-Waste Claim Enclosed.”
- (i) A registered manufacturer shall submit timely manufacturer payment claims so that CalRecycle receives each claim within 45 days of the end of the claim period. CalRecycle may return without payment any claim received more than 45 days after the end of the claim period. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.
- (j) CalRecycle may reject a claim if it fails to comply with the requirements of this Section.
- (k) CalRecycle’s rejection of a manufacturer payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.  
 Reference: Sections 42475(a), 42476 and 42479, Public Resources Code.

**§ 18660.39. Appeal of Denied or Adjusted Manufacturer Payment Claims.**

- (a) A registered manufacturer may submit an appeal in writing and ensure that it is received by the CalRecycle main business office, to the attention of the Legal Office, file a formal appeal by writing to CalRecycle within 30 calendar days of the date of the notice denying or adjusting the claim. The registered manufacturer shall clearly mark the outside of the package containing the appeal with: “Electronic Manufacturer Claim Appeal Enclosed”.
- (b) Any appeal received by CalRecycle after 30 calendar days from the date of the claim denial or adjustment notice letter from CalRecycle ~~on an adjusted payment or the date of the notice denying the claim~~ shall be denied without a hearing or consideration of the appeal.
- (c) A registered manufacturer shall include all of the following information in a written appeal:
  - (1) The registered manufacturer's name and registration.
  - (2) The month(s) and year(s) in question.
  - (3) A copy of the manufacturer payment claim and the notice denying the claim, or a copy of the remittance advice if a payment adjustment is being appealed.
  - (4) An explanation of why the adjustment or denial was in error.
  - (5) Any other documentation that supports the appeal.
- (d) At any time during the proceeding, before a decision is issued, CalRecycle, with the consent of the petitioner, may refer the matter to mediation, or binding or non-binding arbitration, consistent with the provisions of Government Code Section 11420.10.
- (e) CalRecycle shall provide a hearing before the director, or his or her designee, who shall act as a hearing officer. The hearing officer shall consider the claim, the reasons for payment denial or payment adjustment, and any additional relevant information presented by the claimant or CalRecycle staff. The hearing officer shall issue a written decision stating the factual and legal basis for the decision.
- (f) CalRecycle will notify the registered manufacturer of the determination in writing within 20 calendar days from the date of the decision.

(g) This appeal provided for in this Section is also governed by the general administrative adjudication provisions of the California Administrative Procedure Act, found at Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. This appeal is not subject to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11500.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, Public Resources Code; and Sections 11400.20 and 11415.10, Government Code.

### **Article 3. Manufacturer Reporting**

#### **§ 18660.41. Reporting Requirements.**

Each manufacturer as defined by Section 42463(m) of the Public Resources Code shall submit an annual report to CalRecycle on or before July 1, 2005, and annually thereafter, for the period of the previous calendar year. Each manufacturer shall report information by brand name of covered electronic devices sold in the state.

(a) The report shall include the following:

(1) Name and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer.

(2) The information elements, as described in Section 42465.2 of the Public Resources Code and specified in Sections 18660.41(b) through (f), below.

(b) The sales reporting shall include:

(1) Data on the number of covered electronic devices sold in the state by product category.

(2) An explanation of the methodology used to estimate data.

(c) The materials reporting shall include:

(1) An estimated average amount in milligrams for mercury, cadmium, lead, hexavalent chromium, including their alloys and compounds, and PBBs used in covered electronic devices, and all their component parts by product category.

(2) Estimates may be based on either physical testing or maximum tolerance levels of the material in product design specifications.

(3) An explanation of the methodology used to estimate data.

(d) Recyclable content reporting shall include:

(1) Estimates on the amount in tons of recyclable content materials (e.g., plastics, glass, and metals) contained in covered electronic devices;

(2) The increase from the previous year in the use of recyclable content materials; and

(3) An explanation of the methodology used to estimate recyclable content.

(e) Design for recycling reporting shall include:

(1) Information on current activities and future plans related to the design of covered electronic devices, including but not limited to, the following:

(A) Ease of disassembly of covered electronic devices;

(B) Identification of resin types; and

(C) Improved materials efficiency through reduction in hazardous materials use or other approaches.

(f) List of retailers noticed pursuant to Section 42465.2(a)(1)(E) of the Public Resources Code shall include:

(1) The contact information used by the manufacturer to perform the notice, such as the name, address, contact person, phone number and ~~or~~ email address of the retailer to which the notice was made.

(2) The list of covered products contained in the notice.

(g) Manufacturers shall individually submit to CalRecycle samples of the consumer information and description of all methods used to comply with Section 18660.42 of this Chapter. Manufacturers shall submit this information at the same time they comply with Section 18660.41(a) through (e), above.

(h) Each manufacturer shall maintain the report and all supporting documentation for three years after the report is submitted. If CalRecycle or DTSC requests a copy of the supporting documentation the manufacturer shall submit the supporting documentation within 10 days of the request.

(i) Each manufacturer shall provide a certification under penalty of perjury that the information is true and correct.

(j) Collective reporting - Compliance with the reporting required in Sections 18660.41(b) through (f), above, is the individual responsibility of each manufacturer. A manufacturer may comply with the reporting requirements in subsections (b) and (c), above, by submitting a collective report for the subsections containing sales and materials information, if the following conditions are met:

(1) A collective report must contain all of the information required in Sections 18660.41(b) and (c), above, but may combine the information for those manufacturers submitting information for the collective report;

(2) The collective report shall contain a list of all manufacturers whose reports are included in the collective report. This list shall include the name of the manufacturer and address of the manufacturer; and name, address, phone number, and email address for a contact person of the manufacturer;

(3) Each manufacturer shall provide a certification under penalty of perjury that the information provided for the collective report is true and correct; and

(4) Notwithstanding Section 18660.41(j)(1) through (3), above, CalRecycle may request, on a case-by-case basis, a manufacturer to submit an individual report with the information required in Sections 18660.41(b) and (c), above, and all supporting documentation of the information contained in the report. In response to CalRecycle's request, the manufacturer shall submit an individual report and supporting documentation within ten days of receiving CalRecycle's request.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Section 42465.2, Public Resources Code.

## **Article 6. Administrative Civil Penalties**

### **§ 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

(a) Administrative civil penalties authorized by Public Resources Code Section 42474(d) shall be assessed in accordance with the procedures set forth in this Section.

(b) The penalties shall be assessed as follows:

(1) A "Minor" violation means first-time violations where the gravity of the violation is severe. The penalties for this type of violation would be no less than five hundred dollars (\$500) and no more than four thousand dollars (\$4,000).

(2) A "Moderate" violation means subsequent or multiple violations. The penalties for this type of violation would be no less than four thousand dollars (\$4,000) and no more than fifteen thousand dollars (\$15,000).

(3) A "Major" violation means violations that indicate a pattern and practice of noncompliance, or intentional violations. The penalties for this type of violation would be no less than fifteen thousand dollars (\$15,000) and no more than twenty-five thousand dollars (\$25,000).

(c) CalRecycle may consider any or all of the following when imposing an administrative civil penalty:

(1) The nature, circumstances, extent, and/or gravity of the violation;

(2) The value of the actual or potential economic benefit to the violator associated with the violation;

- (3) The amount of actual or potential harm to CalRecycle, financial or otherwise;
- (4) Any prior history of noncompliance with this Chapter, including but not limited to any prior violations of a similar nature;
- (5) Truthful and forthright cooperation during any relevant investigation, including but not limited to any measures taken by the violator to remedy the current violation or prevent future violations;
- (6) The violator's ability to pay the proposed penalty;
- (7) The deterrent effect that the imposition of the proposed penalty would have on the community as a whole and the violator; and
- (8) Any other matters that justice may require.

(d) In any case in which it is determined that more than one person or entity is responsible and liable for a violation, each such person may be held jointly and severally liable for an administrative civil penalty.

(e) Prior to the issuance of an accusation, CalRecycle may issue a ~~prior~~ written notice of violation (NOV), ~~alleging with specificity:~~

(1) The NOV shall allege with specificity the following:

- ~~(A1)~~ A description of the violation or violations;
- ~~(B2)~~ The ~~proposed potential~~ penalty amount, ~~if any~~; ~~(b)~~
- ~~(C3)~~ The facts considered in determining the type of violation and potential penalty amount;
- ~~(D4)~~ A list of The corrective action(s) to be taken by the violator; and
- ~~(E5)~~ An acknowledgement of receipt and review to be executed by the violator.

(2) The NOV and all accompanying documents may be served by certified mail.

(f) CalRecycle shall issue an accusation, as defined in Government Code Section 11503, seeking an administrative penalty or penalties pursuant to this Section. The accusation and all accompanying documents may be served by personal service or registered mail.

(g) Within fifteen (15) days after service upon the respondent of the accusation seeking any administrative civil penalty, respondent may request a hearing by filing a Notice of Defense pursuant to Government Code Sections 11505 and 11506. The request for hearing may be made by delivering or mailing the Notice of Defense to CalRecycle. Failure to file a Notice of Defense within fifteen (15) days of service of the accusation shall constitute a waiver of the respondent's right to a hearing and CalRecycle may proceed upon the accusation without a hearing.

(h) CalRecycle shall provide a hearing before the director or his or her designee, who shall act as hearing officer. At any time during the proceeding, before a decision is issued, CalRecycle and the respondent(s) may engage in settlement of the matter.

(i) The hearing officer shall consider the notice of violation (if applicable), the accusation, the Notice of Defense, and all other relevant evidence presented by CalRecycle and the respondent. The hearing officer shall specify relevant procedures to be conducted during the proceeding, which include but are not limited to, informing the parties as to whether the hearing officer will consider witness testimony, and whether there shall be written ~~and/or~~ oral arguments. The hearing officer shall issue a written decision stating the factual and legal basis for the decision within thirty (30) days of the hearing. If the hearing officer determines that any penalties are owed, the hearing officer shall include in the written decision the date payment of the assessed penalties shall be due and paid.

(j) The respondent's failure to comply with the hearing officer's written decision may be grounds for suspension or revocation of their status as an approved collector ~~and/or~~ approved recycler.

(k) Except as otherwise specified herein, the hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. The hearing shall take place in Sacramento, California unless a location is otherwise specified by the hearing officer. If respondent wishes to request an alternate location, the respondent must make that request in the Notice of Defense and provide a justification of undue burden.

(f) Penalties assessed in a hearing officer’s decision may be in addition to any adjustments made pursuant to Section 18660.30 and may be offset by CalRecycle against any other amounts that are otherwise due to the respondent(s) for payment claims. In the event of settlement, the parties may agree to offset provisions in the settlement agreement.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

(a) The administrative procedure set forth in Section 18660.44(c)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(a).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.**

(a) The administrative procedure set forth in Section 18660.44(b)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(c).

(b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**Proposed Revised Regulations—14 CCR 18660.5 et seq  
Amended by CalRecycle to Address Residual CRT Disposition (Revised June 15, 2015)  
Implementation of the Electronic Waste Recycling Act of 2003; Public Resources Code 42460 et seq**

**Title 14 Natural Resources  
Division 7 California Integrated Waste Management Board (CalRecycle)  
Chapter 8.2 Electronic Waste Recovery and Recycling**

**Article 1 General**

**18660.5 Definitions**

**Article 2.0 Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

**18660.6 Applicability and Limitations**

18660.7 Document Submittals

18660.8 Records

18660.9 Audits

18660.10 Net Cost Report

**Article 2.1 Electronic Waste Payment System - Applications for Approval**

18660.11 General Application Requirements

18660.12 Additional Application Requirements for Collectors

18660.13 Additional Application Requirements for Recyclers

18660.14 Additional Application Requirements for Dual Entities

18660.15 CalRecycle Review of an Application

18660.16 Approval Term and Applications for Renewal

18660.17 Prohibited Activities

18660.18 Changes to an Approved Application

18660.19 Appeal of Denial or Revocation of Approval

**Article 2.2 Electronic Waste Payment System - Business Requirements**

18660.20 Requirements for an Approved Collector

**18660.21 Requirements for an Approved Recycler**

**Article 2.3 Electronic Waste Payment System - Recycling Payment Claims**

**18660.22 General Requirements for Recycling Payment Claims**

**18660.23 Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of CRTs through  
Crushing or Shredding**

**18660.24 Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of CRTs through  
dismantling to a bare CRT after relieving the vacuum**

18660.25 Additional Requirements for Recycling Payment Claims to demonstrate Cancellation of non-CRT-containing  
CEWs

18660.30 CalRecycle Review of Recycling Payment Claims

18660.31 Appeal of Denied or Adjusted Recycling Payment Claims

**Article 2.4 Electronic Waste Payment System – Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate**

18660.32 Cancellation Methods

18660.33 Standard Statewide Recovery Payment Rate

18660.34 Standard Statewide Combined Recovery and Recycling Payment Rate

**Article 2.5 Electronic Waste Payment System – Manufacturer Payments**

18660.35 Manufacturer Registration

18660.36 Requirements for a Registered Manufacturer

18660.37 Manufacturer Payment Claims

18660.38 CalRecycle Review of Manufacturer Payment Claims

18660.39 Appeal of Denied or Adjusted Manufacturer Payment Claims

**Article 2.6. Covered Electronic Waste Recycling Fee**

18660.40. Fee Amounts

**Article 3. Manufacturer Reporting**

18660.41 Reporting Requirements

**Article 4. Consumer Information Required of A Manufacturer**

18660.42 Requirements

**Article 5. Confidential, Proprietary and Trade Secret Information**

18660.43 Requirements

Title 14 Natural Resources  
Division 7 California Integrated Waste Management Board (CalRecycle)  
Chapter 8.2 Electronic Waste Recovery and Recycling

SELECTED SECTIONS AFFECTED BY PROPOSED CHANGES ONLY

For reference, this document shows proposed regulatory revisions via underline and ~~striketrough~~ in the following sections of Title 14 of the California Code of Regulations:

- 18660.5(a)(46)&(47) -- Definitions
- 18660.6(h)&(j) -- Applicability and Limitations
- 18660.21(l)(4) -- Requirements for an Approved Recycler
- 18660.22(a) & (c) -- General Requirements for Recycling Payment Claims
- 18660.23(e), (g) & (h) -- Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Crushing or Shredding
- 18660.24 (c), (d), (e), (g) & (h) -- Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum

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**Article 1. General**  
**§ 18660.5. Definitions.**

(a) For the purposes of this Chapter, the following shall apply:

- (1) "Act" or "the Act" means the Electronic Waste Recycling Act of 2003 (Senate Bill 20, Chapter 526, Statutes of 2003), as amended.
- (2) "Approved Collector" means an authorized collector as defined in Section 42463(b) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recovery payments from approved recyclers.
- (3) "Approved Dual Entity" means an entity that is both an "approved collector" and an "approved recycler" as defined in this Section.
- (4) "Approved Recycler" means a "covered electronic waste recycler" as defined in Section 42463(h) of the Public Resources Code who applies to CalRecycle for approval and whose application is approved pursuant to this Chapter and therefore may be eligible for recycling payments from CalRecycle.
- (5) "Bare CRT" means a Cathode Ray Tube with the vacuum relieved and the yoke removed that has been separated from the device housing and has had all circuit boards, wiring and other components detached from the tube.

- (6) “Bare Panel” means an LCD, gas plasma, or other non-CRT video display panel that has been separated from the device housing and has had all circuit boards, lamps, wiring and other components detached from the panel.
- (7) “Cancellation” means a processing or treatment method that qualifies CEWs for recycling payments, removes the CEWs from the payment system eliminating the possibility of double payments, dismantles or destroys the original CEW, and results in treatment residuals as specified in Section 18660.32 of this Chapter.
- (8) “Claim Activity Period” means the span of time during which an approved recycler received CEWs from approved collectors, processed and cancelled CEWs, and shipped treatment residuals that results in a recycling payment claim being submitted to CalRecycle.
- (9) “CRT” means a Cathode Ray Tube with the yoke still attached that has been separated from a CRT device.
- (10) “CRT device” means a whole covered electronic device containing a Cathode Ray Tube.
- (11) “California Source” means persons, as defined in Section 42463(n) of the Public Resources Code, located in California who generate CEWs after their own use of a CED. Persons who receive, accumulate, consolidate, store, or otherwise handle discarded, donated or collected CEWs are not the California sources of those CEWs.
- (12) “CalRecycle” means the Department of Resources Recycling and Recovery.
- (13) “Collection log” means a record maintained by an approved collector that records CEW collection activities as specified in Section 18660.20(j) of this Chapter.
- (14) “Collective Report” means a report submitted to CalRecycle through a trade association, a group of associations, or other organization that represents more than one manufacturer.
- (15) “Commingled” means mixed together and impossible to economically or practically separate.
- (16) “Covered Electronic Device” or “CED” has the same meaning, for the purposes of this Chapter, as a covered electronic device specified in Section 42463(e) of the Public Resources Code.
- (17) “Covered Electronic Waste” or “CEW” means a discarded device that DTSC has determined to be a covered electronic device, as specified by Section 42463(e) of the Public Resources Code.
- (18) “Designated Approved Collector” means an approved collector, as defined in subsection (a)(2) of this section, that has been designated by a California local government to provide CEW collection services for or on behalf of the local government and who, in the course of providing the services for the local government, would not be subject to the source documentation requirements pursuant to Section 18660.20(j)(1)(B) of this Chapter.
- (19) “DTSC” means the Department of Toxic Substances Control.
- (20) “End-Use Destination” means the location where the treatment residuals from the approved recycler are sent after cancellation.
- (21) “Further treat” means, for the purposes of this Chapter, activities such as crushing, size reduction, washing, cleaning, smelting, or similar steps taken to process the treatment residual rendering it more marketable. “Further treat” does not mean, for the purposes of this Chapter, receiving, storing, accumulating, consolidating, brokering, shipping, disposing or other similar activities that do not alter the form of the treatment residual.
- (22) “Handler”, for the purposes of this Chapter, has the same meaning as a universal waste handler or CRT material handler, as applicable, as defined in Section 66273.9 of Title 22 of the California Code of Regulations.

(23) “Illegal Disposal” means, for the purposes of this Chapter, the disposal or placement of CEWs on a property without the permission of the owner(s) of, or responsible party(ies) for, the property.

(24) “Load” means a single transfer (a pick up or delivery) of CEWs, such as from a California source to a collector or from a collector to a recycler.

(25) “Load Check Activities” means, for the purposes of this Chapter, the efforts made to identify, retrieve and divert from the disposed solid waste stream those CEWs that have been illegally discarded by generators. “Load Check Activities” do not include the rejection or acceptance of CEWs due to the lack of source documentation.

(26) “Manufacturer Payment” or “Manufacturer Take Back Payment” means a payment made by CalRecycle to a registered manufacturer that takes back covered electronic wastes (CEWs) from a California source for the purposes of recycling the CEW pursuant to Section 42476(g) of the Public Resources Code.

(27) “Manufacturer Payment Claim” means a registered manufacturer's request submitted to CalRecycle with all required documentation for a manufacturer payment.

(28) “Manufacturer Take Back” means a program administered by a registered manufacturer that accepts CEWs from California sources for the purposes of recycling.

(29) “PBBs” mean Polybrominated Biphenyls

(30) “Processing log” means a record maintained by an approved recycler that records CEW activities associated with CEW cancellation, such as but not limited to weighing, dismantling, crushing, shredding, etc., as specified in Section 18660.21(b) of this Chapter.

(31) “Product Category” means the types of covered electronic devices as defined in Section 42463(e) of the Public Resources Code. These categories include, but are not limited to, the following:

- (A) Cathode Ray Tubes (CRTs) devices used in televisions,
- (B) CRTs devices used in monitors,
- (C) Liquid Crystal Display (LCD) monitors,
- (D) Laptop computers containing LCD screens,
- (E) LCD televisions,
- (F) Gas plasma display televisions, and
- (G) Other video display devices as specified by the DTSC pursuant to Section 25214.10.1(b) of the Health and Safety Code.

(32) “Proof of approval” means the unique identification number and expiration date, issued by CalRecycle that identifies a collector or recycler as being approved pursuant to this Chapter.

(33) “Proof of designation” means a letter or other document that must be secured by a designated approved collector from a California local government that, at a minimum, specifies the following information:

- (A) The beginning and end dates of the designation.
- (B) The geographic area within which the designated approved collector is providing CEW collection services for the local government and the locations(s) at which the collection service is provided.
- (C) The customer type to be served by the designated approved collector (i.e. residential, commercial, etc).
- (D) The nature of collections activities to be provided by the designated approved collector (i.e. drop-off receipt, curbside service, illegal disposal clean-up, etc).
- (E) Contact information for the designating authority.

(F) If the proof of designation secured by the designated approved collector is a document other than a letter from the local government, the proof must also include the designated approved collector's written notification to the local government that such other document has been used. The written notification provided to the local government must be accompanied by a copy of the document being used to demonstrate designation.

(G) If, after January 1, 2005, and before the effective date of this regulation, a designated approved collector has secured a document from a local government that does not meet the definition of proof of designation as specified in this Section, such document may be used by a designated approved collector to comply with applicable requirements of this Chapter through March 31, 2006.

(34) "Receiving log" means a record maintained by an approved recycler that documents CEW transfers from approved collectors to the approved recycler.

(35) "Recovery payment" means the payment made by an approved recycler to an approved collector in exchange for the transfer of CEWs pursuant to Section 42477 of the Public Resources Code.

(36) "Recovery payment request" means an approved collector's request for recovery payment made to an approved recycler accompanying the transfer of CEWs.

(37) "Recycling payment" means the payment made by CalRecycle to an approved recycler that includes a recovery component related to recycler payments to collectors pursuant to Section 42477 of the Public Resources Code and a recycling component for CEW cancellation pursuant to Section 42478 of the Public Resources Code.

(38) "Recycling payment claim" means an approved recycler's claim that includes all required documentation submitted to CalRecycle for recycling payments for cancelled CEWs.

(39) "Registered Manufacturer" means a manufacturer as defined in Section 42463(m) of the Public Resources Code who registers with CalRecycle pursuant to this Chapter and therefore may be eligible for manufacturer payments from CalRecycle.

(40) "Source-anonymous CEWs" means CEWs whose originating California source cannot be identified in collection log information required pursuant to Section 18660.20(j)(1)(B) of this Chapter.

(41) "Source documentation" means collection logs and other information developed, maintained and transferred pursuant to Section 18660.20(h) of this Chapter that demonstrates the eligibility, originating generator and/or intermediate handlers of collected CEWs as applicable.

(42) "Standard Statewide Recovery Payment Rate" means the amount paid to an approved collector per pound of CEWs transferred to an approved recycler to cover the cost of collection, consolidation and transportation of CEWs as established pursuant to Section 42477 of the Public Resources code.

(43) "Standard Statewide Combined Recycling and Recovery Payment Rate" means the amount paid to an approved recycler per pound of CEWs cancelled and claimed to cover the cost of receiving, processing and recycling CEWs as established pursuant to Section 42478 of the Public Resources Code, and making recovery payments to approved collectors.

(44) "Transfer" or "Transferred" means physically changing possession of CEWs, such as a transfer from a California source to a collector or from a collector to a recycler.

(45) “Transfer documentation” means, for the purposes of this Chapter, records and/or receipts that record the transfer of CEWs from an approved collector to an approved recycler, which include the weight, number, and source of the transferred CEWs, and the date(s) of transfer.

(46) “Treatment residuals” means any material resulting from the dismantling or treatment of a CEW. Treatment residuals are not considered CEWs and are not eligible for payment, however the costs or revenues associated with managing treatment residuals shall be factored into the net cost of recycling CEW. ~~In some cases, t~~ Treatment residuals may be used to demonstrate the prior processing of CEWs, and bills of lading for documentation demonstrating the subsequent movement or ultimate disposition of the material treatment residuals may be required as part of the claim for payment submitted by an approved recycler.

(47) “Ultimate disposition” means, for the purposes of this Chapter, the consumption of a treatment residual into a manufacturing process or the disposal of a treatment residual at a permitted disposal facility. Storage of a treatment residual at a site of generation or at an intermediate facility, or accumulation of a treatment residual at a location prior to consuming or disposing, is not ultimate disposition.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42463, 42465.2, 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, records, Audits and Net Cost Report**  
**§ 18660.6. Applicability and Limitations.**

(a) Limitations on the types of CEWs eligible for payments:

(1) An approved collector may request recovery payment only for the types of CEWs specified by DTSC that are transferred to an approved recycler by the collector.

(2) An approved recycler may claim recycling payment only for the types of CEWs specified by DTSC that are received from an approved collector and are cancelled by the recycler.

(3) A registered manufacturer may claim manufacturer payment only for the types of CEWs specified by DTSC that the manufacturer takes back for recycling.

(b) Limitations on the timeframes eligible for payments:

(1) An approved collector, an approved recycler, or a registered manufacturer shall not receive payment for any CEWs transferred from a California source before January 1, 2005.

(2) An approved collector shall not request recovery payments from recyclers for transfers that occur prior to the approval of the collector's application by CalRecycle.

(3) An approved recycler shall not claim recycling payments from CalRecycle for CEWs cancelled prior to the approval of the recycler's application by CalRecycle.

(4) A registered manufacturer shall not claim manufacturer payments from CalRecycle for recycling that occurs prior to the manufacturer's registration with CalRecycle.

(c) Limitations on the Sources of CEWs and CEWs eligible for payments:

(1) Only CEWs resulting from a California source are eligible for recovery, recycling, or manufacturer payments.

(2) CEWs owned by a person in California, but used entirely outside of California are not eligible for payments.

- (3) Source-anonymous CEWs, documented pursuant to Section 18660.20(j)(1)(E) of this Chapter, are eligible for recovery and recycling payments if:
- (A) The source-anonymous CEWs result from load check activities as defined in Section 18660.5(a)(25) conducted at permitted solid waste facilities whose operator is an approved collector or, if not an approved collector, the source-anonymous CEWs are directly transferred from the permitted solid waste facility to an approved collector; or
  - (B) The source-anonymous CEWs result from illegal disposal clean-up activities conducted by an approved collector who is a local government or its designated approved collector; or
  - (C) The source-anonymous CEWs result from illegal disposal on property owned or managed by an approved collector.
- (4) CEWs are transferred to a designated approved collector are not eligible for payments unless the CEWs are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.
- (d) Limitations on the ability of collectors and recyclers to charge a fee:
- (1) If the recovery payment from a recycler does not fully cover the net cost of CEW recovery, and the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector, then an approved collector may charge a fee for CEW recovery.
  - (2) If the recovery payment from a recycler fully covers the net cost of CEW recovery, an approved collector shall provide CEW recovery at no charge to California sources or CalRecycle may revoke approval and direct recyclers to deny recovery payments to the collector.
  - (3) If the recycling payment from CalRecycle does not fully cover the net cost of CEW recycling, an approved recycler may charge a fee for CEW recycling.
  - (4) If the recycling payment from CalRecycle fully covers the net cost of CEW recycling, an approved recycler shall provide CEW recycling at no charge to approved collectors or CalRecycle may revoke approval and deny recycling payments to the recycler.
- (e) Limitations on recovery payments:
- (1) An approved recycler shall make recovery payments at the rate specified in Section 18660.33 of this Chapter to approved collectors for all CEWs transferred to the recycler and that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.
  - (2) CalRecycle shall revoke a recycler's approval and deny recycling payments to a recycler that fails to make recovery payments to approved collectors as specified in this Chapter.
  - (3) An approved recycler shall not make the recovery payments as specified in this Chapter to collectors who are not approved pursuant to this Chapter.
  - (4) An approved recycler may make other types of payments, not provided for under this Chapter, to a collector regardless of the collector's approval status.
  - (5) An approved recycler shall not provide recovery payments to a collector other than the approved collector that transfers the CEWs to the recycler, but nothing limits the collectors involved in prior transfers from negotiating payments among themselves unrelated to the recovery payment provisions of this Chapter.
  - (6) An approved collector is eligible for recovery payments only if the collector establishes a cost-free opportunity for a California source to transfer CEWs to the collector.
  - (7) An approved collector is entitled for recovery payments only for CEWs transferred to the recycler that are accompanied by applicable source documentation pursuant to Section 18660.20(h) of this Chapter.

- (8) The approved collector shall repay the approved recycler the amount of recovery payment that was paid if an approved collector has received recovery payment from an approved recycler for which the approved collector was not entitled.
- (f) Limitations on recycling payments:
- (1) CalRecycle shall make recycling payments only to approved recyclers who:
    - (A) Cancel CEWs using cancellation methods as specified in Section 18660.32 of this Chapter.
    - (B) Document cancellation and meet the other requirements of this Chapter.
  - (2) CalRecycle shall not make recycling payments to a recycler other than the approved recycler that cancels the CEWs, but nothing limits the recyclers involved in subsequent transfers from negotiating payments among themselves unrelated to the recycling payment provisions of this Chapter.
  - (3) CalRecycle shall not make recycling payments for reuse of either a whole CEW or of a partially disassembled CEW, such as a CRT with an attached yoke.
- (g) Limitations in relation to current business practices:
- (1) CalRecycle shall not limit the ability of approved collectors and approved recyclers to transfer or not transfer CEWs to or from any party.
  - (2) CalRecycle shall not limit the ability of approved collectors and approved recyclers from entering into contracts with each other or other parties.
  - (3) CalRecycle shall not limit the ability of collectors to recover CEWs or recyclers to recycle CEWs without participating in the system described in this Chapter.
  - (4) If collectors wish to receive recovery payments or recyclers wish to receive recycling payments, then they must meet the requirements in this Chapter.
- (h) Limitations on recycling payments on exported CEWs and the disposition of treatment residuals:
- ~~(1) CalRecycle shall not approve recyclers located outside the State. CEWs sent to and cancelled by unapproved recyclers are not eligible for payments pursuant to this Chapter regardless of the location of the unapproved recycler.~~
- ~~(2) If treatment residuals are disposed to land, water or air, then a recycler shall not be eligible for recycling payments for the original CEWs unless the treatment residual is not economically feasible to recycle and/or cannot be recycled because it would pose a hazard to public health, safety or the environment.~~
- (1) Approved recyclers are not eligible for CEW recycling payments if treatment residuals are managed in a manner noncompliant or nonconforming with applicable law.
- (2) Treatment residuals shall be managed for recycling to the extent economically feasible.
- (A) Economic feasibility shall be determined by an approved recycler based on current market conditions for legal management options.
- (B) CalRecycle may demand demonstration of economic infeasibility.
- (3) Approved recyclers that ship treatment residual CRTs or CRT glass for the purposes of recycling shall be capable of demonstrating to CalRecycle or its designee upon demand that the material has reached an ultimate disposition within one year of the initial shipment.
- (4) If treatment residuals are disposed, an approved recycler shall ensure that the disposal is compliant with all applicable laws and conforms to any conditions of authorization or approval under which the approved recycler managed the CEW from which the treatment residuals were derived.
- (5) CalRecycle may demand demonstration of compliance or conformance with all laws associated with treatment residual disposition.

(i) Limitations on the manufacturer payment system:

- (1) CalRecycle shall not register any entity other than a manufacturer as defined in Section 42463(m) of the Public Resources Code to be a registered manufacturer.
- (2) CalRecycle shall not make manufacturer payments to any entity other than a registered manufacturer.
- (3) A registered manufacturer shall only claim payment for, and CalRecycle shall only make manufacturer payments for, CEWs received from California sources that are processed for recycling that in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (4) A registered manufacturer shall not claim payment for, and CalRecycle shall not make manufacturer payments for, CEWs that are reused, repaired, refurbished or otherwise returned to use.

(j) Limitations on recycling payments on exported CEWs:

- (1) CalRecycle shall not approve recyclers located outside the state of California.
- (2) CEWs sent to and cancelled by unapproved recyclers are not eligible for recycling payments pursuant to this Chapter regardless of the location of the unapproved recycler.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42472(b), 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

## **Article 2.2. Electronic Waste Payment System – Business Requirements**

### **§ 18660.21. Requirements for an Approved Recycler.**

- (a) Upon CalRecycle approval of its application, an approved recycler may begin claiming recycling payments for CEWs received from an approved collector and cancelled after the approval.
- (b) An approved recycler shall comply with the requirements of this Chapter, including:
  - (1) Begin CEW cancellation activities within 180 calendar days of approval. CalRecycle may revoke approval if a recycler fails to begin CEW cancellation within 180 days.
  - (2) Accept transfer of and cancel at least one (1) load of CEWs from an approved collector within 180 days of approval. Approved dual entities may also meet this requirement by both collecting and canceling at least one load of CEWs within 180 days of approval. CalRecycle may revoke approval if a recycler fails to cancel at least one load within 180 days of approval.
  - (3) Record each approved collector's proof of approval identification number and provide a receipt showing the weight and number of CEWs transferred and the amount of the corresponding recovery payment due to the collector.
  - (4) Make recovery payments to approved collectors, or their agents, for all CEWs transferred, in accordance with this Chapter, at the time of transfer of CEWs, or at a later time specified in a written contract between the approved collector and approved recycler, but not more than 90 days from the date of transfer.
  - (5) Cancel CEWs by one or more of the manners prescribed in Section 18660.32 of this Chapter.
    - (A) An approved recycler shall maintain a processing log that records the date, method of cancellation, and quantity in pounds of CEWs cancelled.
    - (B) An approved recycler shall maintain inventory records that document the relationship between CEWs received from approved collectors, CEWs processed and

cancelled by the approved recycler, and treatment residuals shipped to end-use destinations.

- (6) Submit recycling payment claims to CalRecycle as specified in Sections 18660.22 through 18660.31 of this Chapter.
- (7) Submit to and obtain a DTSC inspection, within any 12-month period.
- (c) Based on information supplied by approved collectors, an approved recycler shall, at a minimum, keep track of the weight of CEWs from both California and non-California sources transferred from approved collectors and ensure that recycling payments are not claimed for non-California source materials.
- (d) An approved recycler shall not provide recovery payment to approved collectors for CEWs from non-California sources, or to approved collectors that fail to provide complete and applicable source documentation on CEW origin pursuant to Section 18660.20(h) of this Chapter.
- (e) An approved recycler shall not claim recycling payments for non-California CEWs.
- (f) Approved recyclers shall determine if CEWs they accept from collectors have already been cancelled and shall keep track of the weight of those materials and ensure that recycling payments are not claimed for these materials.
- (g) An approved recycler shall not provide recovery payment to approved collectors for previously cancelled material.
- (h) An approved recycler shall not claim recycling payments for previously cancelled material.
- (i) An approved recycler may deny recovery payments for commingled loads in which CEWs cannot be distinguished from other materials.
- (j) An approved recycler shall operate in accordance with all Federal, State and local laws and regulations.
- (k) An approved recycler shall:
  - (1) Be equipped with scales and be a weighmaster in accordance with Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.
  - (2) Measure, record and report weights in pounds and issue certified weights.
  - (3) Weigh CEWs and/or treatment residuals on a scale or other device approved, tested and sealed in accordance with Division 5 (commencing with Section 12500) of the Business and Professions Code.
- (l) In addition to the general record keeping requirements in Section 18660.8 of this Chapter, an approved recycler shall maintain the following records:
  - (1) A receiving log containing a brief written description of CEW transfers by load from approved collectors, the number and weight of CEWs transferred, and the dates the transfers from collectors occurred.
  - (2) Records of CEW transfers, including all documentation received from an approved collector as specified in Section 18660.20(h), and recovery payments made and/or owed to approved collectors, including signed and dated receipts showing the number and weight of CEWs transferred.
    - (A) The approved recycler shall identify and record each approved collector using the name and identification number from the collector's "proof of approval."
    - (B) The approved recycler shall record separately the sum of estimated weights of source-anonymous CEWs reported by and transferred from an approved collector.
  - (3) A processing log showing the definitive cancellation of CEWs by weight, date and cancellation method, as specified in Section 18660.32 of this Chapter, upon which a payment claim is based.

- ~~(4) Records for all bills of lading for treatment residuals including the following information:~~  
(4) Applicable records for all shipments of treatment residuals, including but not limited to weight certificates, packing lists, bills of lading, manifests, destination receipts, invoices, and payments. Applicable records shall be maintained pursuant to Section 18660.8 of this Chapter and be capable of demonstrating the following information:
- (A) Date of shipment.
  - (B) Quantity and material type in shipment.
  - (C) The full name and address of shipping service.
  - (D) The full name and address of the buyer or other transferee, and destination name and address if different.
  - (E) Identification and description of the ultimate disposition of the treatment residuals.
- (5) Records on the net costs associated with the disposition of all CEWs handled, the net costs of accepting the transfer of CEWs, the net costs of each cancellation method used, and any additional administrative costs of providing recovery payments to approved collectors.
- (6) Complete records of all claims, attachments and supporting documentation for all recycling payment claims made to CalRecycle.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**Article 2.3. Electronic Waste Payment System – Recycling Payment Claims**  
**§ 18660.22. General Requirements for Recycling Payment Claims.**

- (a) An approved recycler shall submit all of the following general information in a claim for recycling payments from CalRecycle:
- (1) The full name, mailing address, and federal tax identification number of the recycler preparing the report.
  - (2) The name and phone number of a contact person for purposes of the report.
  - (3) The reporting month (calendar month and year) and date of preparation of the report.
  - (4) The claim activity period, listing the start and end dates.
  - (5) The total weight of CEW claimed, as calculated in Sections 18660.23, 18660.24, and 18660.25 of this Chapter.
  - (6) The total monetary amount being claimed.
  - (7) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.11 of this Chapter. The signature block shall include the following certification statements:
    - (A) “I hereby declare under penalty of perjury that:”
      - 1. “The approved recycler whom I represent is currently in compliance with all Federal, State and local requirements, including compliance with the requirements of the Act and this Chapter.”
      - 2. “All claimed CEWs have been cancelled as specified in Section 18660.32 and are unable to re-enter the payment system, and all treatment residuals specified in Section 18660.22(c) derived from the claimed CEWs have been shipped off-site to an end-use destination authorized to receive and further treat or legally dispose of those treatment residuals.”

3. "I have certified the weights and verified the calculations, including the adjustments for CEWs from non-California sources and for prior cancellation."
4. "This payment claim, including any and all accompanying documents has been examined by me and is true, and correct ~~and complete~~."
5. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
6. "I further understand that fraud could result in revocation of the recycler's approval."

(8) The date and place of the signing of the claim.

(b) For each cancellation method used, an approved recycler shall submit no more than one recycling payment claim per calendar month and may only include one reporting month, as specified by Sections 18660.23, 18660.24 and 18660.25 of this Chapter, in a single recycling payment claim. An approved recycler shall prepare payment claims for different cancellation methods separately, but may submit a package containing all the claims for a reporting month.

(c) Prior to submitting a payment claim for cancelled CEWs, an approved recycler shall:

(1) Ship off-site all the following treatment residuals derived from the cancelled CEWs to an end-use destination authorized to receive and further treat or legally dispose of the treatment residual:

(A) CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through crushing or shredding.

(B) Bare CRTs or CRT glass cullet if conducting CRT or CRT-containing CEW cancellation through dismantling to a bare CRT after relieving the vacuum.

(C) Gas plasma display glass cullet if conducting non-CRT-containing CEW cancellation through crushing or shredding.

(D) Bare gas plasma display panels if conducting non-CRT-containing CEW cancellation through dismantling to a bare panel.

(2) For each cancelled non-CRT-containing CEWs, the recycler shall record and report the manufacturer name, model number, serial number and weight prior to cancellation.

(3) Only those CEWs that have been processed and documented pursuant to the applicable requirements of subsections (c)(1) and (c)(2) of this section shall be claimed for payment.

(d) An approved recycler shall attach all of the following to the payment claim:

(1) For all CEWs received from collectors during the claim activity period that are cancelled and included in the current claim, a report that includes:

(A) A list of approved collectors from which the transfers of CEWs were accepted with the name and proof of approval identification number of each.

(B) The total weight of CEWs in all loads transferred from each approved collector. Note that this weight may not equal the weight claimed for recycling payment because recovery payments are made on the weight of all CEWs transferred while recycling payments are made on the weight of only those CEWs cancelled.

(C) Signed and dated receipts documenting all CEW transfers from approved collectors.

(D) A copy(ies) of the applicable records specified in Section 18660.21(l)(1)-(4) pertaining to the collection and processing activities involving the CEWs cancelled and being claimed for payment.

1. Source documentation not associated with the claimed CEWs shall not be included in the report.

2. Transfer documentation not associated with the claimed CEWs shall not be included in the report.
  - (E) A sum of the estimated weight of source-anonymous CEWs as reported by and transferred from approved collectors.
- (2) For all CEWs cancelled during the claim activity period and that are included in the current claim, a description of cancellation activities that includes:
  - (A) The type(s) of cancellation method used.
  - (B) The date(s) when cancellation occurred.
  - (C) The amount of CEWs processed by dismantling, crushing or shredding by date in pounds.
  - (D) The dates and destinations of all treatment residual shipments required prior to submitting a claim as specified in subsection (c) of this section.
- (3) For all CEWs received from collectors during the claim activity period that are not included in a prior claim and that are not cancelled, a description and quantification of those activities including but not limited to storage, repair, refurbishment, resale, reuse, transfer and/or export.
- (e) An approved recycler shall deliver recycling payment claims to CalRecycle's main business office, to the attention of the Accounting Section. An approved recycler shall mark the outside of the package containing the claims clearly with "e-Waste Claim Enclosed."
- (f) An approved recycler shall submit timely recycling payment claims so that CalRecycle receives each claim within 45 days of the end of the reporting month, as specified by Sections 18660.23, 18660.24 and 18660.25 of this Chapter. CalRecycle may return without payment any claim received more than 45 days after the end of the reporting month, as specified by Sections 18660.23, 18660.24 and 18660.25 of this Chapter. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.
- (g) CalRecycle may reject a claim if it fails to comply with the general requirements of this Section, or the additional requirements in the applicable provisions regarding cancellation methods in Sections 18660.23, 18660.24 and/or 18660.25 of this Chapter.
- (h) CalRecycle's rejection of a recycling payment claim shall not extend any applicable due date or time period.

Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.23. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Crushing or Shredding.**

- (a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT-containing CEWs through crushing or shredding as specified in Section 18660.32 of this Chapter.
- (b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of CRT glass cullet were sent to an end use destination.
- (d) The reporting month for a recycling payment claim pursuant to this Section is the month in which shipment(s) of CRT glass cullet were made.

(e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through crushing or shredding as follows:

(1) The total weight of CRT-containing CEWs cancelled for the reporting month from which all treatment residuals specified in Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use destination authorized to receive and further treat or legally dispose of those treatment residuals.

(2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.

(3) If the amount in subsection (e)(1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.

(f) An example calculation for canceling CRT-containing CEWs through crushing or shredding is included for illustration purposes as follows:

<i>The weight of CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.44</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$440.00 Total Claim</i>

(g) An approved recycler shall attach to the payment claim the following documentation from all shipments of CRT glass cullet made during the reporting period of a calendar month:

(1) Shipping reports to end-use destinations, including the names of the shipping recycler and the receiving end-use destination.

(2) The date of the shipment and the weight of the CRT glass cullet.

(3) Weight tickets of individual shipments of CRT glass cullet.

(4) Verification of post cancellation disposition, including:

(A) For shipments by sea, the proof of disposition to an end-use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.

(B) For other shipments, the proof of disposition to an end-use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.

(C) For all shipments of CRT glass cullet, information pertaining to a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is ~~not~~ disposal to land, water or air compliant with applicable law and conformant with the approved recycler's conditions of authorization.

1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b), and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478, and 42479, Public Resources Code.

**§ 18660.24. Additional Requirements for Recycling Payment Claims to Demonstrate Cancellation of CRTs or CRT-Containing CEWs through Dismantling to a Bare CRT After Relieving the Vacuum.**

- (a) In addition to the general information required in Section 18660.22 of this Chapter, an approved recycler shall include the information in this Section to claim recycling payments for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum as specified in Section 18660.32 of this Chapter.
- (b) An approved recycler shall base recycling payment claims on the weight of CRT-containing CEWs cancelled.
- (c) An approved recycler shall submit a recycling payment claim within 45 calendar days of the end of a calendar month in which one or more shipments of bare CRTs or CRT glass cullet were sent to an end use destination.
- (d) The reporting month for a recycling payment claim pursuant to this Section is the month in which the shipment(s) of bare CRTs or CRT glass cullet were made.
- (e) An approved recycler shall calculate the payment and include the calculation in a recycling payment claim specific to canceling CRT-containing CEWs through dismantling to a bare CRT as follows:
- (1) The total weight of CRT-containing CEWs cancelled from which all treatment residuals specified pursuant to Section 18660.22(c)(1) of this Chapter have been shipped off-site to an end-use destination authorized to receive and further treat or legally dispose of those treatment residuals.
  - (2) The total payment claimed, calculated by multiplying the weight of CRT-containing CEWs specified in subsection (e)(1) of this Section by the Standard Statewide Combined Recovery and Recycling Payment Rate.
  - (3) If the amount in subsection (1) of this Section includes CEWs from outside California, CEWs without source documentation, or previously cancelled materials, then the recycler shall reduce the payment claim to reflect these corrections by adjusting the weights.
- (f) An example calculation for canceling CRT containing CEWs through dismantling to a bare CRT after relieving the vacuum is included for illustration purposes as follows:

<i>The weight of CRT-containing CEWs cancelled:</i>	<i>1000 pounds</i>
<i>Times the per pound Standard Statewide combined recovery and recycling payment rate:</i>	<i>X \$0.44</i>
<i>Equals the payment claim for the reporting period:</i>	<i>= \$440.00 Total Claim</i>

- (g) An approved recycler shall attach the following documentation for all shipments of bare CRTs or CRT glass cullet made during the reporting period of a calendar month:
- (1) Shipping reports to end-use destinations, including the names of the shipping recycler and the receiving end-use destination.
  - (2) The date of the shipment and the weight of the bare CRTs or CRT glass cullet.
  - (3) Weight tickets of individual shipments of bare CRTs or CRT glass cullet.
  - (4) Verification of post cancellation disposition, including:

(A) For shipments by sea, the proof of disposition to an end-use destination shall be the on-board bill of lading and an executed contract or other documentation from the intended recipient of the shipment.

(B) For other shipments, the proof of disposition to an end-use destination shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.

(C) For all shipments of bare CRTs or CRT glass cullet, information pertaining to a discussion of the ultimate disposition of the material shipped demonstrating that the disposition is ~~not disposal to land, water or air~~ compliant with applicable law and conformant with the approved recycler's conditions of authorization.

1. All documentation necessary to demonstrate compliant material disposition shall be included in the discussion.

2. CalRecycle may demand additional documentation as necessary from an approved recycler to determine the legality of material disposition.

(h) In addition to the documentation required in subsection (g), an approved recycler shall attach to the payment claim a description and ~~qualification~~ quantification of the disposition of other treatment residuals derived from cancellation of the CRT-containing CEWs, including but not limited to metals, plastics, fibers and wood.

Authority cited: Sections 40502, 42475(b), and 42475.2, Public Resources Code.

Reference: Sections 42475(a), 42476, 42477, 42478, and 42479, Public Resources Code.

**PROPOSED - California Code of Regulations**

**Title 14. Natural Resources**

**Division 7. Department of Resources Recycling and Recovery**

**Chapter 8.2. Electronic Waste Recovery and Recycling**

For reference, this document shows proposed regulatory revisions and adoptions via underline:

**Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document Submittals, Records, Audits and Net Cost Report**

**§ 18660.7. Document Submittals.**

- (a) A collector, a recycler, or a manufacturer shall prepare and submit applications, registrations, claims and/or reports required pursuant to this Chapter in the manner designated by CalRecycle.
- (b) CalRecycle shall only accept collector, recycler or dual entity applications, claims and reports containing all the required information and bearing an original signature of the primary applicant, or a person with signature authority as designated by the primary applicant pursuant to Section 18660.11 of this Chapter.
- (c) CalRecycle shall only accept manufacturer registrations, claims and reports containing all the required information and bearing an original signature of the primary registrant, or a person with signature authority as designated by the primary registrant pursuant to Section 18660.35 of this Chapter.
- (d) CalRecycle shall provide forms upon request that may be used to meet the requirements for the applications, registrations, and payment claims specified in this Chapter.
- (e) A collector, a recycler, or manufacturer shall ensure that applications, registrations, claims, reports and all applicable supporting documentation are accurate, complete, and typed or legibly handwritten in English using permanent ink. A collector or a recycler may void errors only by using a single line through the error. A collector or a recycler shall not use correction fluid, correction tape or erasures for correcting errors on any document required by or submitted to CalRecycle.
- (f) Any person, including but not limited to a handler, who provides documentation or information to an approved collector or an approved recycler that may be used by the approved collector or approved recycler pursuant to this Chapter shall not make a false statement or representation in the information or documentation provided.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42476, 42477, 42478 and 42479, Public Resources Code.

**Article 6. Administrative Civil Penalties**

**§ 18660.44. Procedure for Imposing Civil Liabilities for False Statements or Representations.**

- (a) Administrative civil penalties authorized by Public Resources Code Section 42474(d) shall be assessed in accordance with the procedures set forth in this Section.
- (b) The penalties shall be assessed as follows:
  - (1) A “Minor” violation means first-time violations where the gravity of the violation is severe. The penalties for this type of violation would be no less than five hundred dollars (\$500) and no more than four thousand dollars (\$4,000).
  - (2) A “Moderate” violation means subsequent or multiple violations. The penalties for this type of violation would be no less than four thousand dollars (\$4,000) and no more than fifteen thousand dollars (\$15,000).

**PROPOSED - California Code of Regulations**

**Title 14. Natural Resources**

**Division 7. Department of Resources Recycling and Recovery**

**Chapter 8.2. Electronic Waste Recovery and Recycling**

- (3) A "Major" violation means violations that indicate a pattern and practice of noncompliance, or intentional violations. The penalties for this type of violation would be no less than fifteen thousand dollars (\$15,000) and no more than twenty-five thousand dollars (\$25,000).
- (c) CalRecycle may consider any or all of the following when imposing an administrative civil penalty:
- (1) The nature, circumstances, extent, and/or gravity of the violation;
  - (2) The value of the actual or potential economic benefit to the violator associated with the violation;
  - (3) The amount of actual or potential harm to CalRecycle, financial or otherwise;
  - (4) Any prior history of noncompliance with this Chapter, including but not limited to any prior violations of a similar nature;
  - (5) Truthful and forthright cooperation during any relevant investigation, including but not limited to any measures taken by the violator to remedy the current violation or prevent future violations;
  - (6) The violator's ability to pay the proposed penalty;
  - (7) The deterrent effect that the imposition of the proposed penalty would have on the community as a whole and the violator; and
  - (8) Any other matters that justice may require.
- (d) In any case in which it is determined that more than one person or entity is responsible and liable for a violation, each such person may be held jointly and severally liable for an administrative civil penalty.
- (e) Prior to the issuance of an accusation, CalRecycle may issue a prior written notice of violation alleging with specificity:
- (1) A description of the violation or violations;
  - (2) The proposed penalty amount, if any; (b)
  - (3) The facts considered in determining the violation and penalty amount;
  - (4) A list of corrective actions to be taken by the violator; and
  - (5) An acknowledgement of receipt to be executed by the violator.
- (f) CalRecycle shall issue an accusation, as defined in Government Code Section 11503, seeking an administrative penalty or penalties pursuant to this Section. The accusation and all accompanying documents may be served by personal service or registered mail.
- (g) Within fifteen (15) days after service upon the respondent of the accusation seeking any administrative civil penalty, respondent may request a hearing by filing a Notice of Defense pursuant to Government Code Sections 11505 and 11506. The request for hearing may be made by delivering or mailing the Notice of Defense to CalRecycle. Failure to file a Notice of Defense within fifteen (15) days of service of the accusation shall constitute a waiver of the respondent's right to a hearing and CalRecycle may proceed upon the accusation without a hearing.
- (h) CalRecycle shall provide a hearing before the director or his or her designee, who shall act as hearing officer. At any time during the proceeding, before a decision is issued, CalRecycle and the respondent(s) may engage in settlement of the matter.
- (i) The hearing officer shall consider the notice of violation (if applicable), the accusation, the Notice of Defense, and all other relevant evidence presented by CalRecycle and the respondent. The hearing officer shall specify relevant procedures to be conducted during the proceeding, which include but are not limited to, informing the parties as to whether the hearing officer will consider witness testimony, and whether there shall be written and/or oral arguments. The hearing officer shall issue a written decision stating the factual and legal basis for the decision within thirty (30) days of the

**PROPOSED - California Code of Regulations**

**Title 14. Natural Resources**

**Division 7. Department of Resources Recycling and Recovery**

**Chapter 8.2. Electronic Waste Recovery and Recycling**

hearing. If the hearing officer determines that any penalties are owed, the hearing officer shall include in the written decision the date payment of the assessed penalties shall be due and paid.

- (j) The respondent's failure to comply with the hearing officer's written decision may be grounds for suspension or revocation of their status as an approved collector and/or approved recycler.
- (k) Except as otherwise specified herein, the hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400. The hearing shall take place in Sacramento, California unless a location is otherwise specified by the hearing officer. If respondent wishes to request an alternate location, the respondent must make that request in the Notice of Defense and provide a justification of undue burden.
- (l) Penalties assessed in a hearing officer's decision may be in addition to any adjustments made pursuant to Section 18660.30 and may be offset by CalRecycle against any other amounts that are otherwise due to the respondent(s) for payment claims. In the event of settlement, the parties may agree to offset provisions in the settlement agreement.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.45. Procedure for Imposing Civil Liabilities for Failure to Pay a Covered Electronic Waste Recycling Fee.**

- (a) The administrative procedure set forth in Section 18660.44(c)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(a).
- (b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.

**§ 18660.46. Procedure for Imposing Civil Liabilities for Failure to Comply with Requirements for Manufacturers.**

- (a) The administrative procedure set forth in Section 18660.44(b)-(i) shall apply to any civil liability administratively imposed pursuant to Public Resources Code Section 42474(c).
- (b) The hearing shall be governed by the informal administrative hearing procedures in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, commencing with Section 11400.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code.

Reference: Sections 42474, 42476, 42477, 42478 and 42479, Public Resources Code.