Rulemaking Archives

Electronic Waste-Proposed Emergency Regulatory Language to Maintain the Electronic Waste Recycling Fee

Description

On December 5, 2017, the Office of Administrative Law approved readopted emergency regulations that will affect areas within Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations. They will primarily serve as a vehicle to maintain existing covered electronic waste recycling fee levels and ensure there are no regulatory lapses of applicability. The effective date of the readoption is 1/1/2018.

Affected Regulatory Code Sections

California Code of Regulations, Title 14, Division 7, Chapter 8.2, Article 2.6, Section 18660.40

Historical Information

Rulemaking History

On July 24, 2017, staff secured a request for approval from the director of the Department of Resources Recycling and Recovery (CalRecycle) to maintain the existing covered electronic waste recycling fee levels. Staff filed the emergency rulemaking package with the Office of Administrative Law on November 29, 2017.

On September 22, 2016, the Office of Administrative Law approved emergency regulations governing the covered electronic waste recycling fee that were approved by CalRecycle’s director on July 20, 2016. The regulations became effective immediately.

Documents

- Informative Digest
- Exhibits to Informative Digest
- Finding of Emergency
- Proposed Electronic Waste Recovery and Recycling Regulations
- Form 400
- Form 399
- Statement of Compliance
- Approval of Readoption by the Office of Administrative Law

More Information

INFORMATIVE DIGEST/FINDING OF EMERGENCY

NOTICE OF PROPOSED EMERGENCY ACTION

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. (Title 1, California Code of Regulations (CCR), section 48).

AUTHORITY AND REFERENCE (Gov. Code § 11346.5 (a)(2))

The Department of Resources Recycling and Recovery (CalRecycle) adopts these emergency regulations to remain in effect for two years under the authority granted by the Public Resources Code (PRC) Sections 40502 and 42475.2 and makes reference to specific statutory provisions in PRC Sections 42464, 42464.2, and 42464.4.

The Request for Approval executed July 24, 2017 is included as Exhibit 1.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW (Gov. Code § 11346.5(a)(3))

Existing Laws and Regulations (Gov. Code § 11346.5 (a)(3)(A))

The Electronic Waste Recycling Act of 2003 (PRC § 42460, et seq.) ("the Act") established a variety of measures intended to develop an infrastructure to provide convenient recycling opportunities, reduce the inappropriate disposal of certain electronic products, limit the sale of certain hazardous products in the state, and require notification and/or reporting of product sale and waste management activities.

The most publicly visible aspect of the Act is the covered electronic waste (CEW) recovery and recycling payment system, administered primarily by CalRecycle. This system is funded through a fee paid by consumers of covered electronic devices at the time of retail purchase. Accumulated funds are deposited in the Electronic Waste Recovery and Recycling Account (EWRRA) and used to compensate authorized collectors and recyclers of CEW through standard payment rates designed to offset the cost of providing recovery and recycling services.

The Electronic Waste Recycling Fee ("Fee") was established by the Act. Under Public Resources Code Section 42464(f), CalRecycle has the responsibility to evaluate the program's revenue needs and to adjust the Fee levels as warranted to maintain fund solvency and ensure continued operation of the program.

The adequacy of the Fee may be evaluated by CalRecycle no more frequently than annually, and no less frequently than biennially, and adjusted as warranted. (Pub. Res. Code § 42464(f)). Any necessary adjustments are enacted via CalRecycle's emergency regulation authority. CalRecycle reviewed the Fee pursuant to statute in 2016 and determined that the fee structure was set too low.
CalRecycle increased the Fee to ensure operations solvency and maintain prudent reserves. The Office of Administrative Law (OAL) approved the proposed Fee amounts on September 22, 2016.

The current fee assignments are as follows:

- Five dollars ($5) for each covered electronic device with a screen size of less than 15 inches measured diagonally.
- Six dollars ($6) for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.
- Seven dollars ($7) for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

(Title 14 of the California Code of Regulations (CCR) § 18660.40)

CalRecycle must make necessary determinations regarding the Fee by the statutory date of August 1, and any changes become effective the following January. The existing regulations set forth in Section 18660.40 will expire on September 24, 2018, thereby creating a regulatory lapse from September 25, 2018 through December 31, 2018. CalRecycle intends to re-adopt the current fee assignments thereby avoiding any regulatory lapse.

Please note that although the Act refers to the California Integrated Waste Management Board, Senate Bill 63 (Strickland, 2009) abolished the Board and transferred all of its authority, duties, and responsibilities to the newly-created CalRecycle.

Comparable Federal Regulation or Statute (Gov. Code § 11346.5 (a)(3)(B))

CalRecycle has determined that there are no existing, comparable federal regulations or statutes in this subject area and thus this regulation does not have any significant differences from federal law.

Policy Statement Overview and Benefits (Gov. Code § 11346.5 (a)(3)(C))

The Fee was established by the Act. Under Public Resources Code Section 42464(f), CalRecycle has the responsibility to evaluate the program's revenue needs and to adjust the Fee levels as warranted to maintain fund solvency and ensure continued operation of the program. The objective of the proposed regulation is to maintain the Fee in order to ensure appropriate revenue levels in the EWRRA and therefore fund the statewide Electronic Waste Recycling Program while not charging an excess amount to consumers. Furthermore, the proposed regulations, when approved, will ensure there is no regulatory gap between existing electronic waste recycling fee levels and future levels.

Evaluation of Compatibility with Existing State Regulations (Gov. Code § 11346.5 (a)(3)(D))

Pursuant to Government Code Section 11346.5(a)(3)(D), CalRecycle performed a search of existing state regulations and finds that this emergency rulemaking is not inconsistent or incompatible with existing state regulations. There are no other state regulations in existence that deal with the level of consumer fees on Covered Electronic Devices. Thus, there can be no conflict, inconsistency, or incompatibility with other regulations.
Proposed Regulations

Please see Exhibit 2. Proposed Title 14, Section 18660.40 of the CCR will maintain the existing three-tier Fee structure effective January 1, 2018:

- Five dollars ($5) for each covered electronic device with a screen size of less than 15 inches measured diagonally.
- Six dollars ($6) for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.
- Seven dollars ($7) for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

Based on both historical trends and future projections of income and expenditures, CalRecycle finds that this Fee structure will maintain the solvency of the program and allow for continued operation while helping to eliminate an excess surplus in the EWRRA.

OTHER MATTERS SPECIFIC TO CALRECYLE (Gov. Code § 11346.5 (a)(4))

CalRecycle has determined that no other matters, as prescribed by statute, need to be addressed.

MANDATES ON LOCAL AGENCIES AND SCHOOL DISTRICTS (Gov. Code § 11346.5 (a)(5))

CalRecycle has determined that adoption of these regulations will create no new local mandates.

ESTIMATES OF POTENTIAL COSTS OR SAVINGS (Gov. Code § 11346.5 (a)(6))

Cost or Savings to Any State Agency

CalRecycle has determined that adoption of these regulations will have no net cost or savings to any state agency. Instead, the Fee levels are set to ensure base solvency for the continued operation of the program with a statutorily-authorized 5% prudent reserve in the EWRRA.

Local Agencies or School Districts Subject to Reimbursement

CalRecycle has determined that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to Government Code Section 17500 et seq., or other non-discretionary costs or savings to local agencies or school districts.

Cost or Savings in Federal Funding to the State

CalRecycle has determined that adoption of these regulations will have no impact on costs or savings in federal funding to the State.
DOCUMENTS RELIED UPON

- Request for Approval executed July 24, 2017 (Exhibit 1)
- Background and Summary of Program Costs and Revenue Need Considerations (Exhibit 3)
- Historical CEW Recycling Claim Volumes (Exhibit 4)
- Fee Model and Analysis (Exhibit 5)
- OAL Notice of Approval of Emergency Regulatory Action (No. 2016-0913-01) (Exhibit 6)
EXHIBIT 1
REQUEST FOR APPROVAL

To: Scott Smithline
   Director

From: Tom Estes
      Deputy Director

Request Date: July 10, 2017

Decision Subject: 2017 Covered Electronic Waste Recycling Fee

Action By: July 20, 2017

Summary of Request: The Electronic Waste Recycling Act of 2003 (Public Resources Code 42460, et seq.) establishes a financing mechanism intended to develop an infrastructure to provide convenient recycling opportunities and reduce the inappropriate disposal of certain electronic products discarded in California. This financing mechanism is funded by a covered electronic waste recycling fee that is assessed on consumers at the time of retail purchase of a new covered electronic device.

Pursuant to Public Resource Code 42464(f), no more frequently than annually, and no less frequently than biennially, CalRecycle has the responsibility to assess the adequacy of the covered electronic waste recycling fee to generate sufficient revenues to fund the operation and administration of the covered electronic waste (CEW) recycling program and all other provisions of the Act. CalRecycle must determine on or before the statutory date of August 1 if any fee adjustments are necessary. Adjustments to the fee that are made on or before August 1 shall apply to the calendar year beginning the following January 1.

Recommendation: Based on its analysis, Staff recommends that the covered electronic waste recycling fee remain unchanged, and that the following fee amounts be re-adopted:

- **Five dollars ($5)** for each covered electronic device with a screen size greater than 4 inches but less than 15 inches measured diagonally.
- **Six dollars ($6)** for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.
- **Seven dollars ($7)** for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

The existing regulations set forth in Title 14 of the California Code of Regulations (CCR), section 18660.40 will expire on September 24, 2018, thereby creating a regulatory lapse from September 25, 2018 through December 31, 2018. Therefore, staff further recommends that Title 14 CCR section 18660.40 be re-adopted to ensure that there is no regulatory gap between the existing electronic waste recycling fee levels and future levels.
The recommendation to maintain existing fee levels is based on an analysis of the following:

- The CEW recovery and recycling trends to estimate possible payment obligations
- The covered electronic device sales trends to project revenue potential
- Program-related operational costs
- Available fund reserves

Upon approval of this recommendation, staff will work with the CalRecycle Legal Office to promulgate emergency regulations, as authorized by PRC 42475.2.

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**Director Action:** On the basis of the information, analysis, and findings in this Request for Approval, I hereby approve the staff recommendation outlined above that the electronic waste recycling fee levels be maintained and, in doing so, fulfill CalRecycle’s obligations pursuant to PRC 42464(f) to review the fee as necessary to ensure operational solvency and maintain prudent reserves. Furthermore, I direct the CEW program to work with the Legal Office to file for re-adoption of Title 14 CCR 18660.40 with the Office of Administrative Law so as to avoid any future regulatory lapse.

Dated: 

[Signature] 

Scott Smithling  
Director  

7-24-17  

Date Signed

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**Attachments:**

1. Background and Summary of Program Costs and Revenue Need Considerations
2. Historical CEW Recycling Claim Volumes
3. Fee Model and Analysis
4. Proposed Revised Regulatory Language to Maintain the Electronic Waste Recycling Fee
REQUEST FOR APPROVAL

To: Scott Smithline  
   Director

From: Tom Estes  
   Deputy Director

Request Date: July 18, 2017

Decision Subject: Consideration of the Electronic Waste Recycling Fee

Action By: July 20, 2017

Summary of Request: The Electronic Waste Recycling Act of 2003 (Public Resources Code 42460, et seq.) establishes a financing mechanism intended to develop an infrastructure to provide convenient recycling opportunities and reduce the inappropriate disposal of certain electronic products discarded in California. This financing mechanism is funded by a covered electronic waste recycling fee that is assessed on consumers at the time of retail purchase of a new covered electronic device.

Pursuant to Public Resource Code 42464(f), no more frequently than annually, and no less frequently than biennially, CalRecycle has the responsibility to assess the adequacy of the covered electronic waste recycling fee to generate sufficient revenues to fund the operation and administration of the covered electronic waste (CEW) recycling program and all other provisions of the Act. CalRecycle must determine on or before the statutory date of August 1 if any fee adjustments are necessary. Adjustments to the fee that are made on or before August 1 shall apply to the calendar year beginning the following January 1.

Recommendation: Based on its analysis, staff recommends that the covered electronic waste recycling fee remain unchanged, and that the following fee amounts be re-adopted:

- **Five dollars ($5)** for each covered electronic device with a screen size greater than 4 inches but less than 15 inches measured diagonally.
- **Six dollars ($6)** for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.
- **Seven dollars ($7)** for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

The existing regulations set forth in Title 14 of the California Code of Regulations (CCR), section 18660.40 will expire on September 24, 2018, thereby creating a regulatory lapse from September 25, 2018 through December 31, 2018. Therefore, staff further recommends that Title 14 CCR section 18660.40 be re-adopted to ensure that there is no regulatory gap between the existing electronic waste recycling fee levels and future levels.
The recommendation to maintain existing fee levels is based on an analysis of the following:

- The CEW recovery and recycling trends to estimate possible payment obligations
- The covered electronic device sales trends to project revenue potential
- Program-related operational costs
- Available fund reserves

Upon approval of this recommendation, staff will work with the CalRecycle Legal Office to promulgate emergency regulations, as authorized by PRC 42475.2.

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**Director Action:** On the basis of the information, analysis, and findings in this Request for Approval, I hereby approve the staff recommendation outlined above that the electronic waste recycling fee levels be maintained and, in doing so, fulfill CalRecycle's obligations pursuant to PRC 42464(f) to review the fee as necessary to ensure operational solvency and maintain prudent reserves. Furthermore I direct program to work with the Legal Office to file for re-adoption of Title 14 CCR 18660.40 with the Office of Administrative Law so as to avoid any future regulatory lapse.

**Dated:**

________________________________________ __________________________
Scott Smithline Date Signed
Director

**Attachments:**

1. Background and Summary of Program Costs and Revenue Need Considerations
2. Historical CEW Recycling Claim Volumes
3. Fee Model and Analysis
4. Proposed Revised Regulatory Language to Maintain the Electronic Waste Recycling Fee
EXHIBIT 2
Regulatory Language to Maintain the Electronic Waste Recycling Fee

California Code of Regulations - Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery (CalRecycle)
Chapter 8.2 Electronic Waste Recovery and Recycling

Article 2.6. Covered Electronic Waste Recycling Fee

§ 18660.40. Fee Amounts

The covered electronic waste recycling fee paid by a consumer upon the purchase of a new or refurbished covered electronic device pursuant to Section 42464 of the Public Resources Code shall be the following amounts:

(a) On or after January 1, 2017, five dollars ($5), for each covered electronic device with a screen size of less than 15 inches measured diagonally.

(b) On or after January 1, 2017, six dollars ($6), for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(c) On or after January 1, 2017, seven dollars ($7), for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

Note: Authority cited: Sections 40502 and 42475.2, Public Resources Code.
Reference: Sections 42464, 42464.2 and 42464.4, Public Resources Code.
Covered Electronic Waste Recycling Program

Background and Summary of Program Costs and Revenue Need Considerations

The Electronic Waste Recycling Act of 2003 (Act), as amended, established a comprehensive program to finance the end-of-life management of certain (covered) electronic devices. The program is financed through an Electronic Waste Recycling Fee (fee) paid by consumers at the point of retail sale of new covered electronic devices. Fees collected are used to administer the programs established by the Act, including the disbursement of recovery and recycling payments to approved collectors and recyclers of covered electronic waste (CEW).

CalRecycle has the responsibility to evaluate the program’s revenue needs and adjust the fee levels as warranted to maintain fund solvency and ensure continued operation of the program. Pursuant to Public Resource Code 42464(d), no more frequently than annually, and no less frequently than biennially, CalRecycle shall review at a public hearing the covered electronic waste recycling fee and shall make any adjustments to the fee to ensure that there are sufficient revenues in the account to fund the CEW recycling program established pursuant to the Act.

CalRecycle must make necessary determinations regarding the fee by the statutory date of August 1. Any changes would become effective the following January.

The existing regulations set forth in Title 14 of the California Code of Regulations (CCR), section 18660.40 will expire on September 24, 2018, thereby creating a regulatory lapse from September 25, 2018 through December 31, 2018. CalRecycle intends to re-adopt the current fee assignments, as detailed below, thereby avoiding any regulatory lapse.

The current fee assignments are as follows:

- **Five dollars ($5)** for each covered electronic device with a screen size greater than 4 inches but less than 15 inches measured diagonally.
- **Six dollars ($6)** for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.
- **Seven dollars ($7)** for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

Covered electronic devices are defined by statute as video display devices with a screen size greater than four inches that are identified by the Department of Toxic Substances Control (DTSC) after testing determines that they are hazardous when disposed. Currently, covered electronic devices include:

- Cathode ray tubes (CRT) and CRT-containing devices (including CRT televisions and computer monitors);
- Liquid Crystal Display (LCD) containing televisions and monitors;
- Laptop computers containing LCD screens;
- Gas plasma display televisions; and
- Personal DVD players.
Monies paid by consumers are remitted by retailers to the Board of Equalization (BOE) and deposited in the Electronic Waste and Recovery and Recycling Account (EWRRA). The EWRRA was established by the Act within the Integrated Waste Management Fund. While the EWRRA is used to pay for the specific program operations of CalRecycle, DTSC, BOE, and some State Controller’s Office (SCO) payment services, the vast majority of expenditure demand comes from electronic waste recycling payment claims submitted by recyclers.

Pursuant to PRC 42464(f), no more frequently than annually, and no less frequently than biennially, CalRecycle has the responsibility to assess the adequacy of the covered electronic waste recycling fee to generate sufficient revenues to fund the operation and administration of the covered electronic waste (CEW) recycling program and all other provisions of the Act.

CalRecycle must consider:

- How much expenditure demand can be expected in the near-future?
- How much revenue is necessary to ensure continued program solvency?
- What are covered electronic device sales projections?
- How should any changes in the fee be structured to best achieve adequate and stable revenue levels?

Revenue and Expenditures

California’s covered electronic waste recovery and recycling payment system is financed through a fee that is assessed on the retail sale of covered electronic devices. The fee level was initially set via the Act at $6, $8, and $10, depending on the screen size of the device. In early 2008, it was projected that payment claim demands would exceed revenue and exhaust the existing fund balance at some point in FY 2008/09. These projections were based on the historical pace of program growth, the original recovery and recycling payment rates, and the level of revenue anticipated from new device sales trends. In response, the California Integrated Waste Management Board (CIWMB) acted in June 2008 to adjust upward the consumer fee levels, pursuant to statutory provisions, to a new range of $8, $16, and $25, aligned with the existing three-tiered screen size structure. This adjustment was determined to be appropriate at the time based on historical growth in claim volumes submitted by recyclers.

Until mid-2008, the program had been growing at the average rate of an additional four million pounds of CEW claimed each quarter. However, contrary to the continued growth that was factored into predicting revenue need for the 2008 fee adjustments, CEW claim volumes began fluctuating after peaking in first quarter 2009. Ultimately CEW volumes settled into a variable plateau, with even an occasional slight decrease. Please refer to Attachment 2 for a graphic depiction of historical quarter-to-quarter program volumes and a brief discussion of factors affecting CEW recovery and recycling volumes. As a result of revenues outpacing the
expenditures of the program, CalRecycle restored the fee levels to the original $6, $8, $10 fee structure which became effective January 1, 2011. The following year, CalRecycle completed the statutorily mandated assessment of the fund and found that reducing the original fee structure by 50% would allow CalRecycle to continue program operation while drawing down the excess fund balance. The $3, $4, and $5 fee levels became effective January 1, 2013.

Based on continuing sufficient funds, CalRecycle made no fee adjustments in 2014. However, with declining revenues CalRecycle did act in 2016 to increase fee levels to $5, $6, and $7 depending on device screen size. This fee became effective January 1, 2017.

Since January 2005, CalRecycle has received more than 3,560 claims totaling approximately $917 million. This represents the recovery and recycling of approximately 2.15 billion pounds of CEW. CalRecycle projects approximately 160 million pounds of CEW will be claimed annually during the next several years.

In order to maintain sufficient fund balance in the BWRRA, CalRecycle recommends maintaining the existing $5, $6, $7 fee structure.

Historical and projected program revenues are as follows:

- FY 2004/05: $31,000,000
- FY 2005/06: $78,000,000
- FY 2006/07: $80,000,000
- FY 2007/08: $77,000,000
- FY 2008/09: $108,000,000
- FY 2009/10: $175,808,000
- FY 2010/11: $156,278,000
- FY 2011/12: $110,242,000
- FY 2012/13: $86,884,000
- FY 2013/14: $54,148,000
- FY 2014/15: $59,367,000
- FY 2015/16: $62,292,000
- FY 2016/17: $76,696,000 (Projected with current fee structure)
- FY 2017/18: $94,693,000 (Projected with current fee structure)

Fee Levels: Maintaining Solvency

As CalRecycle administers the financial aspects of the CEW payment system, it is obligated to maintain a fund balance that allows it to make recovery and recycling payments, as well as to provide funding for its own program specific operations and certain operations of both DTSC and BOE. CalRecycle has the authority and responsibility to revisit and revise fee levels annually, as warranted, to maintain adequate funds in the EWRRA. If CalRecycle maintains the existing fee levels, the next opportunity to make adjustments will be on or before August 1, 2018.
CalRecycle's specific authority is contained in Public Resources Code section 42464(f):

"On or before August 1, 2003, and, thereafter, no more frequently than annually, and no less frequently than biennially, the board (CalRecycle), in collaboration with the department (DTSC), shall review, at a public hearing, the covered electronic waste recycling fee and shall make any adjustments to the fee to ensure that there are sufficient revenues in the account to fund the covered electronic waste recycling program established pursuant to this chapter. Adjustments to the fee that are made on or before August 1, shall apply to the calendar year beginning the following January 1. The board shall base an adjustment of the covered electronic waste recycling fee on both of the following factors:

1. The sufficiency, and any surplus, of revenues in the account to fund the collection, consolidation, and recycling of covered electronic waste that is projected to be recycled in the state.

2. The sufficiency of revenues in the account for the board and the department to administer, enforce, and promote the program established pursuant to this chapter, plus a prudent reserve not to exceed 5 percent of the amount in the account."

As noted earlier in this document, the current level of CEW recycling payment claim demands compared to annual revenues and existing reserves suggest that the current fee structure is sufficient for resources to continue program operation at this time.

Additional Factors in Reserve and Fee Considerations

The Governor's Budget for FY 2017/18 indicates a starting reserve balance in the EWRRA of approximately $77 million and an ending reserve balance of approximately $64 million, assuming current revenue and expenditure rates. As a part of the FY 2010/11 Governor's Budget, $80 million dollars was loaned from the EWRRA reserve to the General Fund. An additional $27 million was loaned that same fiscal year through Chapter 13/2011. These outstanding loans have been repaid in full in 2015/16 Fiscal Year, and have been factored into the fund balance in the Governor's Budget, and for the purposes of the evaluation of the electronic waste recycling fee.

The Mechanics of Adjusting Fee Levels

CalRecycle has the authority to adjust, pursuant to timeframes and considerations contained in statute, the fee assessed on consumers. Adjustments to the fee would be considered regulations under the Administrative Procedures Act (APA). CalRecycle has authority to make such adjustments pursuant to an emergency rulemaking. Public Resources Code Section 42475.2 grants CalRecycle the authority to promulgate all regulations under the Act as emergency regulations that remain in effect for two years. This timeframe will allow any fee changes to remain in effect until the next time CalRecycle is authorized to revisit and revise them.
EXHIBIT 4
CalRecycle - Request for Approval
July 2017

CEW Recycling Program Consumer Fee Adjustments
Attachment 2

Covered Electronic Waste Recycling Program - Historical CEW Recycling Claim Volumes

CalRecycle tracks the volume of covered electronic waste (CEW) recovered and recycled within the program through data submitted along with recycling payment claims. The depiction of claim volumes in the chart below reflects the general growth trends of the program since its inception in January 2005 on a quarterly basis. Factors affecting the fluctuating volumes have potentially included the lowered payment rate (effective July 2008), economic uncertainty, the digital television broadcast transition in first half of 2009, and the fundamental availability of recycling opportunities over the past ten years that has recovered much of the legacy stockpile.

Most notably, in October 2009, cathode ray tube (CRT) glass market disruptions involving Mexican processors significantly affected the volume of claims submitted in and immediately after 4th quarter 2009. (A condition of submitting a payment claim is that all CRT glass derived from recycling CEW is shipped to an authorized destination.) However, participating collectors and recyclers continued overall CEW recovery and recycling activities and the volume of processed and claimed CEW rebounded.

In recent years, the amount of recovered and recycled CRT devices has continued to decline, as the amount of non-CRT devices increases. Changes in the make-up of CEW entering the recovery and recycling program due to evolving video technologies may affect the future weights claimed, as heavy CRT devices give way to lighter flat panels. Conversely, the costs of processing non-CRT devices likely has challenges for dismantling, and in many cases, these devices also have lower commodity value. The net cost of processing such varied devices has yet to be clearly determined. CalRecycle is currently conducting analysis in preparation of future recycling payment rate considerations.

Graphic depicts amounts of CEW claimed from the beginning of 2005 to the end of 2016.
Covered Electronic Waste Recycling Program – Fee Model and Analysis

The Electronic Waste Recycling Act of 2003 (Act) requires CalRecycle to review and to adjust, as necessary, the Covered Electronic Waste Recycling Fee (fee) that funds the covered electronic waste (CEW) recycling program provided for by the Act. The fee is paid by consumers at the time of retail purchase of a new covered electronic device (CED), and is remitted to the State via the Board of Equalization. CalRecycle must annually ensure that sufficient revenue is realized from the fee to make CEW recovery and recycling payments to approved CEW collectors and recyclers, as well as fund specific functions at State agencies (CalRecycle, Department of Toxic Substances Control, Board of Equalization, and State Controller’s Office) that administer the Act.

Due to recent trends in the volume of CEW recovered, recycled, and claimed within the program, the Electronic Waste Recovery and Recycling Account (EWRRA) is facing a markedly different solvency challenge than it did in FY 2011/12. Today the future threat of exhaustion is real, and the EWRRA must eventually increase the reserves through increasing the fee levels. However, as this point, it appears that the fee levels may be able to maintain for one more year before requiring an increase. Note that decisions on any adjustment of the consumer fee must be made before August 1 of a given year to meet statutory deadlines, with changes to the fee levels taking effect on the following January 1.

The table presented on the following page models the fiscal effects of maintaining a $5, $6, and $7 fee structure. The model assumes certain variables, most of which remain generally constant over time for the purpose of analysis. It is acknowledged that, while CalRecycle has some degree of control over certain of the assumed variables, such as the recovery and recycling payment rate that can be reset biennially, other variables can only be speculated. Furthermore, issues such as recovery and recycling payment rates are driven by statutory considerations to fulfill the Act and are not to be used to maintain a fund balance.

Variables assumed to remain constant include the projected volume of CED sales (approximately 16.3 million units annually—based on data reported along with most recent fee remittals from retailers) and the mix of screen-sizes that will be sold. Another potential variable in the model is the projected volume of CEW managed through the program (approximately 160 million pounds annually).

The model incorporates the CEW combined recovery and recycling payment rate of $0.49 per pound as readopted by CalRecycle in June 2016. The model also presumes the goal of continued fund solvency assurance through FY 2017/18, while working toward maintaining a 5% prudent reserve provided for by statute (PRC 42464(f)(2)). It is expected that the recovery or recycling payment rates will change, however the degree of change is uncertain.

The model presumes a targeted average per CED unit revenue level that results in the described impacts on the condition of the EWRRA through FY 2018/19. (The average per CED unit revenue level has been approximately $3.55 under the current $5, $6, and $7 fee level and historical CED sales volume.)

The model presented in Table 1 shows that the $5, $6, and $7 fee structure will keep the EWRRA fund reserve at an adequate level, while allowing for contingencies in the event of unexpected fiscal developments. The ability of CalRecycle to adjust the fee annually, as necessary, provides significant flexibility in fulfilling statutory obligations and ensuring program solvency by selecting fiscally prudent options in the near-term.
Proposed Maintenance to the Fee Structure

The following table presents the fiscal effect of maintaining the existing fee structure of $5, $6, and $7. This model is intended to illustrate fund condition evolution under assumed program administration costs, General Fund loan repayments, CEW recovery and recycling volumes, new recycling payment rates, and CED sales. Initial fund conditions are aligned with fiscal data contained in the Governor's Budget for FY 2017/18. The model assumes adherence to the existing three-tiered fee levels within established CED screen sizes categories (4” to <15”, 15” to <35”, and 35” or greater).

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Devices Sold</th>
<th>Avg Fee Revenue per Device</th>
<th>Revenues</th>
<th>Recycling Payments</th>
<th>All Other Expenditures</th>
<th>General Fund Loan Repayments</th>
<th>Fund Balance at FY End</th>
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</thead>
<tbody>
<tr>
<td>FY 2015/16</td>
<td>16,786</td>
<td>$3.55</td>
<td>$62,292</td>
<td>$(70,339)</td>
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<td>$(88,200)</td>
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<td>FY 2017/18</td>
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<td>$4.68</td>
<td>$94,933</td>
<td>$(88,200)</td>
<td>$23,049</td>
<td>$</td>
<td>$66,888</td>
</tr>
<tr>
<td>FY 2018/19</td>
<td>16,391</td>
<td>$4.68</td>
<td>$94,933</td>
<td>$(88,200)</td>
<td>$21,497</td>
<td>$</td>
<td>$52,177</td>
</tr>
</tbody>
</table>

*Note: Within the above table, all figures are presented in terms of thousands, except for amount of average revenue per device sold.*

**Assumptions:**

- **No Growth in Pounds of CEW Recovered / Recycled:** Volumes stay flat at approximately 180 million pounds per year
- **Number of Devices Sold to Remain Stable:** Approximately 16,391,000 per year (sales reported with recent fee remittals)
- **Targeted Average Revenue per Device:** $4.68 (based on projected percentages sold per CED size category, less 3% retailer withhold)
- **Combined Recovery and Recycling Payment:** $0.49 per pound
EXHIBIT 6
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: 18660.40
Amend sections: 18660.40
Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY REGULATORY ACTION

Government Code Sections 11346.1 and 11349.6

OAL Matter Number: 2016-0913-01

OAL Matter Type: Emergency Readopt (EE)

This emergency filing by the Department of Resources Recycling and Recovery ("CalRecycle") amends 14 CCR §18660.40, which lists the Electronic Waste Recycling Fees for certain electronic devices. Specifically, this emergency rulemaking action is a biennial adjustment of the recycling and recovery fees paid by consumers on purchases of electronic devices containing video screens. CalRecycle reviews and adjusts the amounts of these fees for the purpose of maintaining the appropriate revenue levels in the Electronic Waste Recovery and Recycling Account to fund the statewide Electronic Waste Recycling Program. This rulemaking action increases the current fees established during CalRecycle's 2014 emergency rulemaking effort and effective January 1, 2017.

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 9/23/2016 and will expire on 9/24/2018. The Certificate of Compliance for this action is due no later than 9/23/2018.

Date: September 22, 2016

Peggy J. Gibson
Senior Attorney

For: Debra M. Coerne
Director

Original: Scott Smithline
Copy: Meagan Wilson
### A. PUBLICATION OF NOTICE (Complete for publication in legal newspapers)

#### 1. B. SUBMISSION OF NOTICE
- **Date of Filing:** September 2, 2016
- **Office of:** Administrative Law
- **Chieft:** Approved
- **Endorsed Filed:** SEP 22, 2016
- **NOTICE:** Department of Resources Recovery and Recycling (CalRecycle), 1000 15th Street, Sacramento, CA 95811

#### 2. **Publication**
- **Publication Period:** September 13-19, 2016
- **Publication Method:** 1, 2, 3, 4, 5, 6, 7, 8, 9, 10
- **Publication Details:**
  - **Publication 1:** Legal Pubs., Using Notices
  - **Publication 2:** Legal Pubs., Using Notices
  - **Publication 3:** Legal Pubs., Using Notices
  - **Publication 4:** Legal Pubs., Using Notices
  - **Publication 5:** Legal Pubs., Using Notices
  - **Publication 6:** Legal Pubs., Using Notices
  - **Publication 7:** Legal Pubs., Using Notices
  - **Publication 8:** Legal Pubs., Using Notices
  - **Publication 9:** Legal Pubs., Using Notices

#### 3. **Publication Requirements**
- **Legal Publication:** Required
- **Electronic Publication:** Optional

#### 4. **Notice Details**
- **Notice Number:** 20160914
- **Sec.:** 15359
- **Purpose:** To announce the adoption of the proposed regulation(s) identified in this filing, which is true and correct copy of the regulation(s) identified in the form and manner prescribed by the notice, and to provide all interested persons with adequate time and opportunity to comment on the regulation(s).

#### 5. **Contact Information**
- **Agency:** Department of Resources Recovery and Recycling (CalRecycle)
- **Contact Person:** Megan Wilson
- **Contact Address:** 1000 15th Street, Sacramento, CA 95811
- **Phone:** (916) 324-8977
- **Fax:** (916) 322-1115

#### 6. **Filing Information**
- **Filing Date:** September 2, 2016
- **Filing Time:** 4:00 PM
- **Filing Number:** 20160914

#### 7. **Comments**
- **Comment Period:** From September 2, 2016, to September 19, 2016
- **Comment Address:** Department of Resources Recovery and Recycling (CalRecycle), 1000 15th Street, Sacramento, CA 95811

#### 8. **Additional Information**
- **Purpose:** To inform stakeholders about the proposed regulation and provide an opportunity for public comment.
California Code of Regulations - Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery (CalRecycle)
Chapter 8.2 Electronic Waste Recovery and Recycling

Article 2.6. Covered Electronic Waste Recycling Fee

§ 18660.40. Fee Amounts

The covered electronic waste recycling fee paid by a consumer upon the purchase of a new or refurbished covered electronic device pursuant to Section 42464 of the Public Resources Code shall be the following amounts:

(a) On or after January 1, 20132017, three five dollars ($35), for each covered electronic device with a screen size of less than 15 inches measured diagonally.

(b) On or after January 1, 20132017, four six dollars ($46), for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(c) On or after January 1, 20132017, five seven dollars ($57), for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

Note:
Authority cited: Sections 40502 and 42475.2, Public Resources Code.
Reference: Sections 42464, 42464.2 and 42464.4, Public Resources Code.
MEMORANDUM

To: Office of Administrative Law  
Date: October 19, 2017

From: Meagan Wilson, Senior Staff Counsel  
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

Subject: FINDING OF STATUTORY EMERGENCY / EMERGENCY REGULATIONS EFFECTIVE FOR TWO YEARS OR UNTIL REVISED BY THE DEPARTMENT

The attached regulations, approved by Director Scott Smithline on July 24, 2017, are being submitted as emergency regulations pursuant to a statutory emergency. The Legislature gave authority for the Department to adopt emergency regulations for all aspects of the Electronic Waste Recycling Program and mandated that such regulations remain in effect for two years or until revised by the Department, whichever occurs sooner.

Public Resources Code Section 42475.2 states:

42475.2. Emergency Regulations
(a) The board and the department may each adopt regulations to implement and enforce this chapter as emergency regulations.
(b) The emergency regulations adopted pursuant to this chapter shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the board or the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department or the board, whichever occurs sooner.
Regulatory Language to Maintain the Electronic Waste Recycling Fee

California Code of Regulations - Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery (CalRecycle)
Chapter 8.2 Electronic Waste Recovery and Recycling

Article 2.6. Covered Electronic Waste Recycling Fee

§ 18660.40. Fee Amounts

The covered electronic waste recycling fee paid by a consumer upon the purchase of a new or refurbished covered electronic device pursuant to Section 42464 of the Public Resources Code shall be the following amounts:

(a) On or after January 1, 2017, five dollars ($5), for each covered electronic device with a screen size of less than 15 inches measured diagonally.

(b) On or after January 1, 2017, six dollars ($6), for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(c) On or after January 1, 2017, seven dollars ($7), for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

Note: Authority cited: Sections 40502 and 42475.2, Public Resources Code.
Reference: Sections 42464, 42464.2 and 42464.4, Public Resources Code.
**EMERGENCY**

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

**STD. 400 (REV. 03-2010)**

**For use by Secretary of State only**

**OAL FILE NUMBERS**

**Z.**

**NOTICE FILE NUMBER**

**REGULATORY ACTION NUMBER**

**2017-1129-05E**

**EMERGENCY NUMBER**

**2017 NOV 29 3:01**

**OFFICE OF ADMINISTRATIVE LAW**

**NOTICE**

**REGULATIONS**

**AGENCY WITH RULEMAKING AUTHORITY**

Department of Resources Recycling and Recovery (CalRecycle)

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. **SUBJECT OF NOTICE**

   Title(s)

2. **REQUESTED PUBLICATION DATE**

   2017-1129-05E

3. **NOTICE TYPE**

   - [ ] Notice of Proposed Regulatory Action
   - [ ] Other

4. **AGENCY CONTACT PERSON**

   **TELEPHONE NUMBER**

   **FAX NUMBER** (Optional)

5. **OAL USE ONLY**

   - [ ] Approved as Submitted
   - [ ] Approved as Modified
   - [ ] Disapproved/Withdrawn

   **NOTICE REGISTER NUMBER**

   **PUBLICATION DATE**

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

1a. **SUBJECT OF REGULATION(S)**

   Covered Electronic Waste Recycling Fees

2. **SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTIONS** (including Title 26, if toxic related)

   **SECTION(S) AFFECTED**

   (List all section number(s) individually. Attach additional sheet if needed.)

   **AMEND**

   Section 18660.40

   **ADOPT**

   **REPEAL**

   14

3. **TYPE OF FILING**

   - [ ] Regular Rulemaking (Gov. Code §11346)
   - [ ] Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11346.2, 11349.4)
   - [X] Emergency (Gov. Code §11346.1)

   **Certificate of Compliance**

   The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 before the emergency regulation was adopted or within the time period required by statute.

   **Emergency Readopt** (Gov. Code, §11346.1(h))

   - [ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)

   **Other** (Specify)

   **Print Only**

   **Effective Date of Changes** (Gov. Code, §§11346.1(h), 13346.1(j), Cal. Code Regs., title 1, §100)

   - [ ] Effective January 1, April 1, July 1, or October 1 (Gov. Code §§11346.4, 11349.4)
   - [ ] Effective on filing with Secretary of State
   - [X] Effective on filing with Secretary of State
   - [ ] Effective on filing with Secretary of State

   **January 1, 2018**

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

   - [ ] Department of Finance Form STD. 399 (SAM §6660)
   - [ ] Fair Political Practices Commission
   - [ ] State Fire Marshal
   - [ ] Other (Specify)

7. **CONTACT PERSON**

   Meagan Wilson

   **TELEPHONE NUMBER**

   (916)341-6077

   **FAX NUMBER** (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.**

   **SIGNATURE OF AGENCY HEAD OR DESIGNEE**

   [Signature]

   **DATE**

   11/29/17

   **TYPE AND TITLE OF SIGNATORY**

   Elliot Block, Chief Counsel

   **For use by Office of Administrative Law (OAL) only**
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:
   □ a. Impacts business and/or employees
   □ b. Impacts small businesses
   □ c. Impacts jobs or occupations
   □ d. Impacts California competitiveness
   □ e. Imposes reporting requirements
   □ f. Imposes prescriptive instead of performance
   □ g. Impacts individuals
   □ h. None of the above (Explain below):

   Emergency regulations pursuant to Public Resources Code 42475.2

   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.

2. The ___________ (Agency/Department) estimates that the economic impact of this regulation (which includes the fiscal impact) is:
   □ 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:

   Describe the types of businesses (Include nonprofits):
   Enter the number or percentage of total businesses impacted that are small businesses:

4. Enter the number of businesses that will be created: ___________ eliminated: ___________

   Explain:

5. Indicate the geographic extent of impacts:
   □ Statewide
   □ Local or regional (List areas):

6. Enter the number of jobs created: ___________ and eliminated: ___________

   Describe the types of jobs or occupations impacted:

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 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? $ 
   a. Initial costs for a small business: $ 
      Annual ongoing costs: $ 
      Years: 
   b. Initial costs for a typical business: $ 
      Annual ongoing costs: $ 
      Years: 
   c. Initial costs for an individual: $ 
      Annual ongoing costs: $ 
      Years: 
   d. Describe other economic costs that may occur:

2. If multiple industries are impacted, enter the share of total costs for each industry:

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. $ 

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:

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $ 

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:

2. Are the benefits the result of: ❑ specific statutory requirements, or ❑ goals developed by the agency based on broad statutory authority? 
   Explain:

3. What are the total statewide benefits from this regulation over its lifetime? $ 

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation:

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:
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: $ ____________________ Cost: $ ____________________
Alternative 1: Benefit: $ ____________________ Cost: $ ____________________
Alternative 2: Benefit: $ ____________________ Cost: $ ____________________

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:


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:

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(g) 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:
   ________________________________________________________________
   
   The incentive for innovation in products, materials or processes:
   ________________________________________________________________
   
   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:
   ________________________________________________________________
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 __________________________ 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 __________________________
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

[Signature]

DATE 23 OCT. 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

[Signature]

DATE 11/28/17

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

[Signature]

DATE
MEMORANDUM

To: Office of Administrative Law

From: Meagan Wilson, Senior Staff Counsel
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

Date: October 19, 2017

Subject: STATEMENT OF COMPLIANCE WITH EMERGENCY RULEMAKING NOTICE UNDER GOVERNMENT CODE SECTION 11346.1(a)(2)

The Department of Resources Recycling and Recovery (CalRecycle) has no record of any person who has filed a request for notice of regulatory action with the agency. Therefore, no notice was sent pursuant to Government Code Section 11346.1(a)(2).

However, as described in the Request for Approval executed July 24, 2017, a public meeting was held to receive comments on the proposed emergency regulations.
In re: NOTICE OF APPROVAL OF EMERGENCY REGULATORY ACTION

Department of Resources Recycling and Recovery

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections: 18660.40
Amend sections: 18660.40
Repeal sections:

Government Code Sections 11346.1 and 11349.6

OAL Matter Number: 2017-1129-05

OAL Matter Type: Emergency (E)

This action readopts, beginning January 1, 2018, at current levels, the electronic waste recycling fees that are assessed on consumers at the time of retail purchase of covered electronic devices.

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 1/1/2018 and will expire on 1/1/2020. The Certificate of Compliance for this action is due no later than 12/31/2019.

Date: December 5, 2017

Dale P. Mentink
Senior Attorney

For: Debra M. Cornez
Director

Original: Scott Smithline, Director
Copy: Meagan Wilson
## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE

2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE

4. AGENCY CONTACT PERSON

5. AGENCY FILE NUMBER

## 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 TITLES AND SECTIONS

3. TYPE OF FILING

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE

5. EFFECTIVE DATE OF CHANGES

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

7. CONTACT PERSON

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

Elliott Block, Chief Counsel

DATE: 11/29/17

Office of Administrative Law
Regulatory Language to Maintain the Electronic Waste Recycling Fee

California Code of Regulations - Title 14 Natural Resources
Division 7 Department of Resources Recycling and Recovery (CalRecycle)
Chapter 8.2 Electronic Waste Recovery and Recycling

Article 2.6. Covered Electronic Waste Recycling Fee

§ 18660.40. Fee Amounts

The covered electronic waste recycling fee paid by a consumer upon the purchase of a new or refurbished covered electronic device pursuant to Section 42464 of the Public Resources Code shall be the following amounts:

(a) On or after January 1, 2017, five dollars ($5), for each covered electronic device with a screen size of less than 15 inches measured diagonally.

(b) On or after January 1, 2018, six dollars ($6), for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(c) On or after January 1, 2018, seven dollars ($7), for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

Note: Authority cited: Sections 40502 and 42475.2, Public Resources Code.
Reference: Sections 42464, 42464.2 and 42464.4, Public Resources Code.