

**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: 18660.5, 18660.10,
18660.21, 18660.34

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2020-0318-04

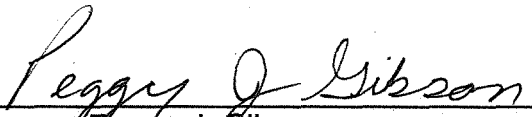
OAL Matter Type: Emergency Readopt (EE)

This emergency readopt rulemaking by the Department of Resource Recycling and Recovery splits the existing Covered Electronic Waste (CEW) recycling payment rate into separate payment rates for Cathode Ray Tubes (CRTs) and non-CRT CEW and also adds a requirement that recyclers report separately the net costs associated with recycling CRT CEW and with recycling non-CRT CEW.

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 5/10/2020 and will expire on 5/11/2022. The Certificate of Compliance for this action is due no later than 5/10/2022.

Date: March 24, 2020



Peggy J. Gibson
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Ken DaRosa, Acting Director
Copy: Irina Kaminer

**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.**

Title 14 Natural Resources

Division 7 California Department of Resources Recycling and Recovery

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

18660.10. Net Cost Report

Article 2.2 Electronic Waste Payment System - Business Requirements

18660.21. Requirements for an Approved Recycler

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

18660.34. Standard Statewide Combined Recovery and Recycling Payment Rates

**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.**

Article 1

§ 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, 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.

**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.**

(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) "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 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.

(21) "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.

(22) "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.

**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.**

(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, 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) 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 a unique identification number issued by CalRecycle to identify 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.

**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.**

(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 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 Rates" 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 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 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.

Note: 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.

**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.**

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

§ 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) 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 or approved recycler shall submit to CalRecycle a report on the net costs of recovering CEW 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 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).

**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.**

- (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 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 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 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.

Note: 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 2.2. 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.

**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.**

(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 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 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 owed to approved collectors, including signed and dated receipts showing the certified number of units and the certified weight of CEWs transferred.

**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.**

(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 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.

Note: 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 2.4. Electronic Waste Payment System - Cancellation Methods, Recovery Payment Rate, and Combined Recovery and Recycling Payment Rate

§ 18660.34. Standard Statewide Combined Recovery and Recycling Payment Rates.

(a) CalRecycle shall pay an approved recycler Standard Statewide Combined Recovery and Recycling Payment Rates for the weight of CRT and non-CRT CEW cancelled and claimed pursuant to the requirements of this Chapter, which includes a component for recovery costs and a component for recycling costs.

(b) Beginning July 1, 2018, the Standard Statewide Combined Recovery and Recycling Payment Rates are:

(1) \$0.49 per pound for CRT CEW.

(2) \$0.60 per pound for non-CRT CEW.

(c) CalRecycle shall review the Standard Statewide Recovery and Recycling Payment Rate at a public meeting and establish the rate pursuant to Sections 42477 and 42478 of the Public Resources Code.

Note: Authority cited: Sections 40502, 42475(b) and 42475.2, Public Resources Code. Reference: Sections 42475(a), 42476, 42477, 42478 and 42479, Public Resources Code.