

**State of California  
Office of Administrative Law**

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

**Regulatory Action:**

**Title 14, California Code of Regulations**

**Adopt sections:**

**Amend sections: 18660.37, 18660.40**

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL Matter Number: 2021-0923-02**

**OAL Matter Type: Emergency (E)**

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This emergency action is a biennial adjustment of consumer electronic waste recycling fees applicable to covered electronic devices pursuant to Public Resources Code section 42464. The emergency is deemed pursuant to Public Resources Code section 42475.2(b).

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 1/1/2022. Pursuant to Public Resources Code section 42475.2(b) this is a statutorily deemed emergency and the emergency language remains in effect until 1/1/2024 unless a Certificate of Compliance is transmitted to and approved by OAL or the emergency language is revised by the Department prior to that date, whichever occurs sooner. As to a certificate of compliance, since OAL must receive, review, and approve a certificate of compliance to prevent expiration, the last day to submit a certificate of compliance to OAL is 11/17/2023. The last day to submit a new emergency action or an emergency readoption to prevent expiration is 12/22/2023.

Date: October 4, 2021



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Mark Storm  
Senior Attorney

For: Kenneth J. Pogue  
Director

Original: Rachel Machi Wagoner,  
Director

Copy: Irina Kaminer

Handwritten header text, possibly a title or address, including the word "KAMINER" and "IRINA".

First paragraph of handwritten text, starting with "Dear..." and containing several lines of cursive script.

Second paragraph of handwritten text, continuing the narrative or message.

Third paragraph of handwritten text, appearing to be a separate section or a continuation.

Fourth paragraph of handwritten text, possibly a closing or a specific note.

Fifth paragraph of handwritten text, the longest section on the page, containing multiple lines of cursive.

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Handwritten text below the large 'A', possibly a name or a date.

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# EMERGENCY

For use by Secretary of State only

STD: 390 (REV. 10/2019)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2021-0923-02E</b>
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For use by Office of Administrative Law (OAL) only

**ENDORSED - FILED**  
 in the office of the Secretary of State  
 of the State of California

**OCT 04 2021**

**1:30 PM**

OFFICE OF ADMIN. LAW  
 2021 SEP 23 AM 11:15

<p style="text-align: center;">NOTICE</p>	<p style="text-align: center;">REGULATIONS</p>
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AGENCY WITH RULEMAKING AUTHORITY  
 Department of Resources Recycling and Recovery

AGENCY FILE NUMBER (if any)

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

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

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

1a. SUBJECT OF REGULATION(S) <b>Covered Electronic Waste Recycling Fee</b>	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
<b>SECTION(S) AFFECTED</b> (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	18660.37, 18660.40
TITLE(S) <b>14</b>	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input checked="" type="checkbox"/> Other (Specify) <u>Public Resources Code Section 42475.2</u>		

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

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) <b>January 1, 2022</b>

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON <b>Irina Kaminer</b>	TELEPHONE NUMBER <b>916-341-6396</b>	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) <b>Irina.Kaminer@calrecycle.ca.gov</b>
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <b>Matt Henigan</b> <small>Digitally signed by Matt Henigan Date: 2021.09.17 14:45:33 -0700</small>	DATE
TYPED NAME AND TITLE OF SIGNATORY <b>Matt Henigan, Deputy Director</b>	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**OCT 04 2021**

Office of Administrative Law

**Proposed Revised Regulatory Language to Maintain the  
Covered 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, ~~2020~~2022, four dollars (\$4), for each covered electronic device with a screen size of less than 15 inches measured diagonally.
- (b) On or after January 1, ~~2020~~2022, five dollars (\$5), 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, ~~2020~~2022, six dollars (\$6), for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

Authority cited: Sections 40502 and 42475.2, Public Resources Code.

Reference: Sections 42464, 42464.2 and 42464.4, Public Resources Code.

**§ 18660.37. Manufacturer Payment Claims.**

- (a) A registered manufacturer shall base a manufacturer payment claim on the number of CEWs processed for recycling by screen size(s) as listed in Section 42464(a) of the Public Resources Code.
- (b) A registered manufacturer shall submit all of the following general information in a claim for manufacturer payments from CalRecycle:
  - (1) The full name, mailing address, registration number, and federal tax identification number of the registered manufacturer preparing the claim.
  - (2) The name and phone number of a contact person for purposes of the claim.
  - (3) The period of time covered by the claim and date of preparation of the claim.
  - (4) The number of CEW devices claimed:
    - (A) In each product category as defined in Section 18660.5(a)(31).
    - (B) By screen size as listed in Section 42464(a) of the Public Resources Code.
  - (5) The total monetary amount being claimed, as calculated in subsection (f) of this Section.
  - (6) The signature and title of a person with signature authority for payment claims as designated pursuant to Section 18660.35(b)(6) or (7) of this Article. The signature block shall include the following certification statements:
    - (A) "I hereby declare under penalty of perjury that:"
      - 1. "All claimed CEWs were received from California sources through the manufacture take back program described in the manufacturer registration."
      - 2. "All claimed CEWs have been processed for recycling in a manner that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result."

3. "No claimed CEWs were transferred into the recovery and recycling payment system."
  4. "I have certified the number of devices and verified the calculations."
  5. "This payment claim, including any and all accompanying documents, has been examined by me and is true, correct and complete."
  6. "I understand that errors or omissions on my part may result in CalRecycle delaying or denying payment"
  7. "I further understand that fraud could result in revocation of the manufacturer registration."
- (7) The date and place the claim was signed.
- (c) A registered manufacturer shall submit no more than one payment claim per calendar month.
- (d) The claim period for a manufacturer payment claim pursuant to this Section is the time period within which processing occurs and may not exceed three (3) months.
- (e) A registered manufacturer shall attach all of the following to the payment claim:
- (1) A written description of take back program that collected the CEWs for which payment is being claimed, including the type of consumers from whom CEWs were accepted, and a record of the number of CEWs collected by the product categories as defined in Section 18660.5(a)(31) of this Chapter.
  - (2) Records of transfers by load to the registered manufacturer's recycling operation, including signed and dated receipts showing the weight and number of CEWs transferred.
  - (3) Written description of any activity, such as packaging and consolidation, which explains any discrepancy between the CEWs received through the take back program and the CEWs transferred to the manufacturer's recycling operation.
  - (4) Records showing any CEWs received through the take back program that are reused, repaired, refurbished or otherwise returned to use.
  - (5) Records showing any CEWs received through the take back program that are transferred to another entity without being processed for recycling.
  - (6) Records showing the processing for recycling of CEWs by number, screen size, weight, date and recycling method that results in cancellation as specified in Section 18660.32 of this Chapter or an equivalent result.
- (f) A registered manufacturer shall calculate the payment and include the calculation in a manufacturer payment claim as follows:
- (1) The total number of CEWs, by screen size as specified in Section 42464(a) of the Public Resources Code, that are processed for recycling during the claim period.
  - (2) The total payment claimed, calculated by:
    - (A) Multiplying the number of CEWs in each screen size category by the value of the covered electronic waste recycling fee that applies to that category.
    - (B) Adding the calculations in (A) above for each screen size category calculation together.
- (g) An example calculation for a manufacturer claim is included for illustration purposes as follows:

The number CEWs processed for recycling by screen size:

100 devices with less than 15 inch screen size	100 devices
Times the covered electronic waste recycling fee for category	<u>x \$54.00</u>
	<u>\$5400.00</u>
200 devices greater than of equal to 15 inch screen size but less than 35 inch screen size	200 devices
Times the covered electronic waste recycling fee for category	<u>x \$65.00</u>
	<u>\$12000.00</u>

Equals the payment claim for the claim period: (\$5400.00 + \$12000.00) = \$17400.00 Total Claim

- (h) A registered manufacturer shall deliver manufacturer payment claims to CalRecycle's main business office, to the attention of the Accounting Section. A registered manufacturer shall mark the outside of the package containing the claims clearly with "Electronic Manufacturer Claim Enclosed."
- (i) A registered manufacturer shall submit timely manufacturer payment claims so that CalRecycle receives each claim within 45 days of the end of the claim period. CalRecycle may return without payment any claim received more than 45 days after the end of the claim period. CalRecycle shall determine a claim's receipt as either the date of the postmark on the claim package, or the date the claim package was physically received by CalRecycle, whichever is earlier.
- (j) CalRecycle may reject a claim if it fails to comply with the requirements of this Section.
- (k) CalRecycle's rejection of a manufacturer payment claim shall not extend any applicable due date or time period.

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