



April 14, 2023

Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA, 95814

**Subject: Justification of Changes Without Regulatory Effect: Title 14, California Code of Regulations, Sections 18660.5-18660.50**

The Department of Resources Recycling and Recovery (CalRecycle) requests that the Office of Administrative Law (OAL) approve the enclosed changes without regulatory effect pursuant to California Code of Regulations (CCR), title 1, section 100. The proposed regulatory changes are appropriate under section 100 because, as described below, they are required for existing regulations to be consistent with recent changes to the statute that the regulation implements and to fix some previous errors. As required by section 100, CalRecycle has no discretion to adopt changes that differ in substance from the ones proposed.

Additionally, CalRecycle is making changes without regulatory effect that are unrelated to recent statutory changes. These proposed amendments are nonsubstantive and can be considered “changes without regulatory effect” as they do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

**Statutory Changes Necessitating Changes Without Regulatory Effect**

Chapter 8.5 of Part 3 of Division 30 of the Public Resources Code (PRC), also known as the Electronic Waste Recycling Act (Act), created the Covered Electronic Waste (CEW) Recycling Program (Program). The Program requires consumers to pay a fee at the time of purchase of a covered electronic device (CED) and allows collectors and recyclers of CEW to receive payment for collecting and processing (cancelling) CEW.

In 2022, Governor Newsom signed Senate Bill No. 1215 (SB 1215), adding battery-embedded products to the Program, changing several more requirements for video display devices that had already been part of the Program, and rearranging/renumbering many statutory section numbers as a result. Several revisions are necessary to show that the current regulations only apply to video display devices. The statutory changes require CalRecycle to make changes without regulatory effect to existing regulations.

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Note that all of the regulatory sections listed appear in Title 14, CCR. Changes are marked as follows: additions with an underline and deletions with a ~~strike through~~.

## Explanation of Changes

### 1. 14 CCR section 18660.5(a)(4)

The definition of “covered electronic waste recycler” has been renumbered to PRC section 42463(j) from 42463(h), necessitating the regulatory change below. The regulatory provision is inconsistent with and superseded by the changed statute and CalRecycle has no discretion to adopt a change which differs in substance from the proposed change.

(4) “Approved Recycler” means a “covered electronic waste recycler” as defined in Section 42463(~~j~~)(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.

### 2. 14 CCR section 18660.5(a)(11)

The definition of “person” has been renumbered to PRC section 42463(r) from section 42463(n), necessitating the regulatory change below. The regulatory provision is inconsistent with and superseded by the changed statute and CalRecycle has no discretion to adopt a change which differs in substance from the proposed change.

(11) “California Source” means persons, as defined in Section 42463(~~r~~)(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.

### 3. 14 CCR section 18660.5(a)(16)

The definition of “covered electronic device” must be limited to video display devices because the current regulations do not yet apply to battery-embedded products. CalRecycle’s deadline to establish an acceptable cancellation (recycling) process for battery-embedded products is January 1, 2025, as required by SB 1215 (PRC Section 42478(b)(1)). CalRecycle will not establish the covered battery-embedded waste recycling fee until October 1, 2025, and consumers will not pay the fee until January 1, 2026 (see SB 1215 additions at PRC sections 42464(b)(3) and (b)(1), respectively). Finally, CalRecycle will only begin to accept payment claims for covered electronic waste derived from battery-embedded products on April 1, 2026, for collection occurring

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on or after January 1, 2026 (see SB 1215 additions at PRC section 42478(b)(2)). The revision does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

(16) “Covered Electronic Device” or “CED”, through and including December 31, 2024, has the same meaning, for the purposes of this Chapter, as a covered electronic device specified in Section 42463(e)(g)(1)(A) of the Public Resources Code.

#### **4. 14 CCR section 18660.5(a)(17)**

The definition of “covered electronic waste” must be revised to limit it to CEW derived from video display devices because the current regulations do not yet apply to battery-embedded products. CalRecycle’s deadline to establish an acceptable cancellation (recycling) process for battery-embedded products is January 1, 2025, as required by SB 1215 (PRC Section 42478(b)(1)). CalRecycle will not establish the covered battery-embedded waste recycling fee until October 1, 2025, and consumers will not pay the fee until January 1, 2026 (see SB 1215 additions at PRC sections 42464(b)(3) and (b)(1), respectively). Finally, CalRecycle will only begin to accept payment claims for covered electronic waste derived from battery-embedded products on April 1, 2026, for collection occurring on or after January 1, 2026 (see SB 1215 additions at PRC section 42478(b)(2)). The revision does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision

(17) “Covered Electronic Waste” or “CEW”, through and including December 31, 2024, means a discarded device that DTSC has determined to be a covered electronic device, as specified by Section 42463(e)(g)(1)(A) of the Public Resources Code.

#### **5. 14 CCR section 18660.5(a)(26)**

The regulations had an incorrect statutory reference to PRC section 42476(g), which should be changed to (h). This change is unrelated to SB 1215. The statutory reference was correct when SB 50 (Sher), Chapter 863 of Statutes of 2004 was in effect, but the reference changed when PRC section 42476 was amended by AB 549 (Carter), Chapter 523 of Statutes 2012. The regulatory provision is inconsistent with and superseded by the changed statute and CalRecycle has no discretion to adopt a change which differs in substance from the proposed change.

(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)~~(h) of the Public Resources Code.

**6. 14 CCR section 18660.5(a)(31)**

The definition of “product category” must be revised to limit it to video display devices because the definition focuses solely on these devices and has nothing to do with battery-embedded products. The list of product categories includes solely video display devices which are excluded from the definition of battery-embedded products (see SB 1215 addition at PRC Section 42463(f)(2)(B)). The revision does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

(31) “Product Category”, through and including December 31, 2024, means the types of covered electronic devices as defined in Section 42463~~(e)~~(g)(1)(A) of the Public Resources Code. These categories include, but are not limited to, the following:

**7. 14 CCR section 18660.5(a)(39)**

The definition of “manufacturer” has been renumbered to PRC section 42463(q) from PRC section 42463(m), necessitating the regulatory change below. The regulatory provision is inconsistent with and superseded by the changed statute and CalRecycle has no discretion to adopt a change which differs in substance from the proposed change.

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

**8. 14 CCR section 18660.6(i)(1)**

The definition of “manufacturer” has been renumbered to PRC section 42463(q) from PRC section 42463(m), necessitating the regulatory change below. The regulatory provision is inconsistent with and superseded by the changed statute and CalRecycle has no discretion to adopt a change which differs in substance from the proposed change.

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

**9. 14 CCR section 18660.9(c)(6)**

Certain words in the regulatory section below must be capitalized to denote the full capitalized phrase and to be consistent with capitalization of other phrases related to rates in the regulations. The full defined term is “Standard Statewide Recovery Payment Rate”. These changes are without regulatory effect because they revise grammar and punctuation errors in the regulations.

(6) To obtain cost data, revenue data and net cost calculations required for CalRecycle to set and adjust the Standard Statewide Recovery Payment Rate, recycler payment rate and consumer fees.

**10. 14 CCR Section 18660.24(f)**

Certain words in the table below must be capitalized to denote the full capitalized phrase and to be consistent with capitalization of other phrases related to rates in the regulations. The full defined term is “Standard Statewide Combined Recovery and Recycling Payment Rate”. These changes are without regulatory effect because they revise grammar and punctuation errors in the regulations.

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

*The weight of CRT-containing CEWs cancelled:*

*Times the per pound Standard Statewide Combined Recovery and Recycling Payment Rate:*

*Equals the payment claim for the reporting period:*

**11. 14 CCR Section 18660.25(f)**

The capitalization of “standard statewide” in the table is inconsistent with other defined terms in the regulatory text which are capitalized. The full defined term is “Standard Statewide Recovery Payment Rate”. These changes are without regulatory effect because they revise grammar and punctuation errors in the regulations.

(f) An example calculation for canceling non-CRT containing CEWs through dismantling to a bare panel is included for illustration purposes as follows:

*The weight of non-CRT-containing CEWs cancelled:*

*Times the per pound Standard Statewide Combined Recovery and Recycling Payment Rate:*

*Equals the payment claim for the reporting period:*

**12. 14 CCR section 18660.34(c)**

The word “Combined” must be added to the regulatory text below, as shown, because it’s erroneously missing. The full correct term is “Standard Statewide Combined Recovery and Recycling Payment Rates” as stated in 14 CCR section 18660.5(a)(43), however this term is missing the word “combined” in section 18660.34. The change is without regulatory effect because it revises an incorrect, regulatory cross-reference (see 1 CCR Section 100(a)(4)).

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

**13. Preamble to 14 CCR section 18660.41**

The definition of “manufacturer” has been renumbered to PRC section 42463(q) from PRC section 42463(m), necessitating the regulatory change below. The regulatory provision is inconsistent with and superseded by the changed statute and CalRecycle has no discretion to adopt a change which differs in substance from the proposed change.

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

**14. 14 CCR section 18660.41(d)**

The regulatory language below must be updated from “recyclable content” to “recycled content” as amended by SB 1215, specifically PRC Section 42465.2(a)(1)(C). The regulatory provision is inconsistent with and superseded by the changed statute and CalRecycle has no discretion to adopt a change which differs in substance from the proposed change.

(d) Recyclable content reporting shall include:

- (1) Estimates on the amount in tons of recycled content materials (e.g., plastics, glass, and metals) contained in covered electronic devices;
- (2) The increase from the previous year in the use of recycled content materials; and

(3) An explanation of the methodology used to estimate recycled~~able~~ content.

## Conclusion

These proposed changes are appropriate pursuant to CCR, Title 1, Section 100. As a result of the passage of SB 1215, several provisions within existing regulations are now inconsistent with and superseded by the changed statute, and therefore CalRecycle has no discretion to adopt changes which differ in substance from the proposed changes. The additional amendments explained within this document are nonsubstantive and can be considered “changes without regulatory effect” as they do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Sincerely,

**Irina  
Kaminer**

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