

REQUEST FOR ACTION

To: Zoe Heller
Director

From: Kate Nitta
Assistant Chief Counsel, Legal Affairs Office

Request Date: October 16, 2024

Subject: Adoption of SB 1215 Battery-Embedded Products Emergency Regulations

Action By: October 30, 2024

Summary of Request

Senate Bill (SB) 1215 (Newman, Chapter 370, Statutes of 2022) amended and expanded the Electronic Waste Recycling Act of 2003 by adding battery-embedded products as covered electronic devices that qualify for recovery and recycling payments pursuant to California's Covered Electronic Waste Recycling Program. The goals of SB 1215 are to provide a cost free and convenient system for consumers to return and recycle battery-embedded products, encourage manufacturers to phase out the use of hazardous materials in their products, and design products for extended life, repair, and reuse.

CalRecycle staff are requesting approval of the proposed SB 1215 regulations, which have a narrow scope that is predominantly focused on meeting CalRecycle's most immediate SB 1215 statutory mandates, which include the following:

- Public Resources Code (PRC) section 42478(b)(1) requires CalRecycle to adopt regulations, effective January 1, 2025, establishing a process for covered electronic waste recyclers to submit payment claims for covered electronic waste (including battery-embedded products) resulting from discarded covered electronic devices.
- PRC Section 42466.2 requires that, on or before July 1, 2025, a manufacturer of a covered battery-embedded product shall send a notice to any retailer that sells that device, as well as any covered electronic device it manufactures that is exempt from the covered battery-embedded product definition. Manufacturers of covered battery-embedded products must also send a copy of the notices that were sent to retailers to CalRecycle (PRC section 42466.2(b)). In addition, PRC section 42467 requires manufacturers, on or before July 1, 2027, to submit a report, as specified, to CalRecycle.

CalRecycle also included the following regulatory components to successfully implement and make specific the SB 1215 requirements:

- Several non-substantive editorial and clarification updates.
- A new definition to define “Authorized Signatory” to mean the person(s) who has authority to legally bind a person, collector, recycler, dual entity, local government, or manufacturer to a contract.
- The definition of “product category” has been updated to include a “covered battery-embedded product” pursuant to PRC Section 42463(f)(1).
- A new definition has been added for “signature” or “signed” to mean an original handwritten signature or an electronic signature. Additional details are included in the proposed regulatory definition to specify what constitutes an electronic signature.
- The proposed SB 1215 regulations specify that beginning April 1, 2026, all information submitted to CalRecycle pursuant to the Covered Electronic Waste Recycling Program, unless otherwise specified by CalRecycle, shall be submitted electronically using CalRecycle’s electronic portal that is utilized for the purposes of implementing the Covered Electronic Waste Recycling Program.
- New regulations have been added to specify the actions that CalRecycle may take if CalRecycle determines that any information filed, submitted, maintained, or used for the purposes of compliance with the Electronic Waste Recycling Act of 2003 and the Covered Electronic Waste Recycling Program contain one or more false statements.
- New application requirements have been added for prospective collectors, recyclers, or dual entities seeking approval to recover or to cancel battery-embedded products.
- New requirements have been added for making changes to information contained in an approved application pertaining to recovering or cancelling battery-embedded products.
- New requirements have been added to require manufacturer notices submitted pursuant to PRC Section 42466.2(b), as well as other types of manufacturer reports, to be submitted electronically.

CalRecycle proposes to amend sections 18660.5, 18660.6, 18660.7, 18660.10, 18660.11, 18660.12, 18660.13, 18660.14, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.21, 18660.22, 18660.30, 18660.35, 18660.36, 18660.37, 18660.38, 18660.41, and 18660.49 of Title 14, Division 7, Chapter 8.2, California Code of Regulations (CCR) to establish a process for Covered Electronic Waste recyclers to submit payment claims for covered battery-embedded products, add application requirements related to covered battery-embedded products, modernize the claim submission process, and make other conforming changes and updates to existing regulations.

Background Information, Analysis, and Findings

The Electronic Waste Recycling Act of 2003 (PRC section 42460, et seq.) (“the Act”) established the Covered Electronic Waste (CEW) Recycling Program (Program) to promote the efficient, cost-effective, and compliant collection and processing of certain video display devices to ensure that when discarded and processed, these types of

electronic waste would not pose a threat to public health and the environment. The Act requires California consumers to pay a CEW Recycling Fee at the point of retail sale for any covered video display device. Retailers then remit the fee to the California Department of Tax and Fee Administration, and the funds are placed in the Electronic Waste Recovery and Recycling Account (Account).

CalRecycle administers funds in the Account to provide payments to approved collectors and recyclers to offset the average net cost of compliantly collecting and processing CEW. The Department of Toxic Substances Control also administers the Program by ensuring Program participants comply with hazardous waste control laws and regulations and Program requirements. Additionally, CalRecycle works with the California Department of Food and Agriculture to ensure Program participants comply with California weights and measures requirements.

SB 1215 was signed into law in 2022, which amended and expanded the Act by adding battery-embedded products to the Program. PRC section 42478(b)(1) requires CalRecycle to adopt regulations, effective January 1, 2025, to establish a process for approved recyclers to submit payment claims for battery-embedded products. PRC section 42466.2(a) requires manufacturers of covered battery-embedded products to notify retailers whether the product is subject to a covered battery-embedded waste recycling fee.

The proposed amendments in these regulations achieve the objectives of the authorizing statute to establish a process for CEW recyclers to submit payment claims for covered battery-embedded products, add application requirements related to covered battery-embedded products, modernize the claim submission process, and make other conforming changes and updates to existing regulations. The proposed amendments will provide the following anticipated benefits that are aligned with these objectives:

- Provide sufficient funding for the safe, cost-free, and convenient collection and recycling of 100 percent of the covered electronic waste initially discarded in the state,
- Attempt to end the illegal disposal of covered electronic devices, and
- Increase transparency in business and government.

Fiscal Impact

The total cost to CalRecycle is estimated at \$5,861,554. DTSC provided information to CalRecycle specifying that the total cost to DTSC is \$152,498 in fiscal year 2024/2025. DTSC did not provide additional information to specify any fiscal impacts associated with this position in additional fiscal years. Therefore, the total cost to the state to implement the proposed regulations is estimated at \$6,014,052, which will be incurred by CalRecycle and DTSC as described in Attachments 3, 4, 5, and 6.

Recommendation

Based on the information presented in this Request for Approval, staff recommend the Director approve the rulemaking package provided in Attachments 1 through 6 for the SB 1215 implementing regulations.

Upon approval of this request, staff will work with the Legal Office to make the necessary filings with the Office of Administrative Law to enact the regulations.

Director Action

On the basis of the information and analysis in this Request for Approval, I hereby approve the proposed amendments to 14 CCR sections 18660.5, 18660.6, 18660.7, 18660.10, 18660.11, 18660.12, 18660.13, 18660.14, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.21, 18660.22, 18660.30, 18660.35, 18660.36, 18660.37, 18660.38, 18660.41, and 18660.49 to fulfill CalRecycle's obligations pursuant to PRC sections 40502, 42474, 42475, 42475.2, and 42478.

Signature on File

Zoe Heller
Director

10/31/24

Date Signed

Attachments:

1. Notice of Proposed Emergency Action
2. Proposed Regulatory Text
3. Economic and Fiscal Impact Statement (STD 399)
4. STD 399 Supplemental Information
5. Collaboration with the Department of Toxic Substances Control
6. 2023-2024 Budget Change Proposal Cover Letter 3970-020-BCP-2023-GB