

Department of Resources Recycling and Recovery

Covered Electronic Waste Recycling Program Enforcement Emergency Regulations

NOTICE OF PROPOSED EMERGENCY ACTION

NOTICE IS HEREBY GIVEN that the Department of Resources Recycling and Recovery (CalRecycle) is proposing emergency regulations to amend sections 18660.19, 18660.31, 18660.44, 18660.45, and 18660.46, Chapter 8.2, Division 7, Title 14, of the California Code of Regulations (CCR). The proposed emergency regulations expressly exempt the Covered Electronic Waste (CEW) Recycling Program (“Program”) from the regulations and procedures instituted in the newly adopted CalRecycle’s Informal Hearing Rules Regulations set forth in Chapter 1, Article 6 of Division 7 of CCR, Title 14, (“Hearing Officer Regulations”) and specify the burden of proof on an appeal of a payment claim adjustment or denial.

CalRecycle has complied with the requirement to provide notice of the proposed emergency rulemaking pursuant to Government Code section 11346.1(a)(2) and Title 1, CCR, section 50(b)(3)(A).

In compliance with Title 1, CCR, section 48, the following statement is included in this document: 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 (OAL), 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 regulation to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

The five-calendar day written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed emergency amendments to CalRecycle. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed.

Comments on the proposed emergency regulations must be submitted directly to OAL within five calendar days of when OAL posts the proposed emergency regulations on the OAL website. Comments on proposed emergency regulations should be submitted to the OAL Reference Attorney by mail to 300 Capitol Mall, Suite 1250, Sacramento, California 95814, by fax to (916) 323-6826, or by e-mail to staff@oal.ca.gov.

When submitting a comment to OAL, a copy of the comment must also be submitted to CalRecycle via:

Electronic Submittal: [Covered Electronic Waste Recycling Program Enforcement Emergency Regulations Comment Period](#)

OR

Postal Mail:

Donnet McFarlane
Covered Electronic Waste Recycling Program Enforcement Emergency Regulations
Department of Resources Recycling and Recovery, Regulations Unit
1001 "I" Street, MS-24B
Sacramento, CA 95814

The comment must state that it is about an emergency regulation currently under OAL review and include the topic of the emergency.

The public comment period will commence on June 16, 2026, when the emergency regulations are posted on OAL's website. The public comment period will close on June 22, 2026. **Written comments received by OAL and CalRecycle after the close of the public comment period are considered untimely.** Additionally, CalRecycle requests that written comments reference a subsection or section of the proposed emergency action.

By submitting a written comment, through SmartComment to CalRecycle in connection with this rulemaking action you shall be deemed to have expressly indicated a willingness to receive a notice by means of electronic communication via email unless you specifically request CalRecycle to deliver its notice(s) via non-electronic communication.

Please note that under the California Public Records Act (Government Code section 7920.000 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone number, email address, etc.) become part of the public record and can be released to the public upon request.

Copies of the proposed regulation text, the Finding of Emergency, and all of the information upon which this proposal is based are available upon request and on CalRecycle's website accessible at the following internet address: www.calrecycle.ca.gov/Laws/Rulemaking/.

The rulemaking file is also available for review during normal business hours at CalRecycle, 1001 I Street, 23rd Floor, Sacramento, California. Please contact the agency contact person, Donnet McFarlane, at (916) 327-0089 or regulations@calrecycle.ca.gov, if you wish to review the rulemaking file in person. General or substantive questions regarding this file may also be directed to Donnet McFarlane.

FINDING OF EMERGENCY

The adoption of these regulations is deemed to be an emergency pursuant to Public Resources Code (PRC) section 42475.2 which provides that:

- a) CalRecycle and the Department of Toxic Substances Control (DTSC) 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 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 CalRecycle or DTSC 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 DTSC or CalRecycle, whichever occurs sooner.

CalRecycle finds that an emergency exists to amend existing regulations to expressly exempt the Program from the regulations and procedures instituted in the newly adopted CalRecycle's Hearing Officer Regulations and specify the burden of proof on an appeal of a payment claim adjustment or denial.

FINDING OF NECESSITY

CalRecycle is proposing emergency regulations to amend Title 14, CCR, sections 18660.19, 18660.31, 18660.44, 18660.45, and 18660.46 for the following reasons:

CalRecycle's newly adopted administrative litigation procedures set forth in Chapter 1, Article 6 of Division 7 of CCR, Title 14, ("Hearing Officer Regulations") will be effective July 1, 2026. The Program currently utilizes existing regulatory procedures for collectors, recyclers, or dual entities to appeal a decision by CalRecycle to deny an application or application renewal, suspension, or revocation and for recyclers or dual entities to appeal a decision by CalRecycle to adjust or deny payment claim. In addition, the Program also includes procedures for requesting reconsideration of those types of decisions prior to an appeal, as well as imposing administrative civil penalties pursuant to PRC section 42474.

The Program's existing procedures include a reconsideration process that became effective December 11, 2025, which formalized a dispute resolution process that allows participants to request reconsideration by the Program with respect to decisions on applications and renewals, suspensions, revocations, and adjustments and denials of payment claims. This process allows for an expedited method to potentially resolve

these matters prior to an appeal and administrative hearing. If this process is not exempted from the Hearing Officer Regulations, participants would be required to go through the formal appeals process for these matters, which would require significantly more time and cost from both participants and CalRecycle. This process would be an unnecessary burden on CalRecycle's resources, not to mention the hardship it might cause to participants, whose businesses depend on a timely resolution of disputes that might hamper their ability to operate and/or to be paid. Furthermore, the electronic waste (e-waste) collection and recycling documentation that would likely be disclosed during these types of hearings is proprietary and trade secret because it generally requires information that may allow the public and competitors to determine a collector or recycler's market share, its business partnerships and contacts, operational business models, and transactions. In addition, e-waste collection documentation that is required during these hearings would most likely disclose confidential information that must be protected under state law. Exempting these hearings from the Hearing Officer Regulations will allow CalRecycle to continue to maintain the confidential and proprietary nature of the information at issue in the Program's administrative litigation proceedings.

Section 18660.19 will be amended to exclude hearings held on an appeal of a denied application or application renewal and hearings held on a suspension or revocation from the regulations and procedures instituted in the Hearing Officer Regulations). For the reasons stated above, this amendment is necessary to maintain existing Program practices with respect to appeals and administrative hearings and to maintain the confidential and proprietary nature of the information at issue in administrative proceedings.

Section 18660.31 will be amended to specify that in hearings held on a payment claim adjustment or denial, the appellant has the burden to prove by a preponderance of the evidence that it has complied with all applicable laws and regulations thereby entitling the appellant to payment on the recycling claim. This amendment is necessary to provide clarification with respect to the burden of proof on an appeal of a decision by CalRecycle to adjust or deny a payment claim. Section 18660.31 will also be amended to exclude hearings held on a payment claim adjustment or denial from the regulations and procedures instituted in CalRecycle's newly adopted Hearing Officer Regulations (. For the reasons stated above, this amendment is necessary to maintain existing program practices with respect to appeals and administrative hearings and to maintain the confidential and proprietary nature of the information at issues in administrative proceedings.

Section 18660.44 will be amended to exclude hearings held for imposing civil liabilities for false statements or representations from the regulations and procedures instituted in CalRecycle's newly adopted Hearing Officer Regulations. This amendment is necessary to maintain existing program practices with respect to administrative hearings for civil penalties imposed pursuant to PRC section 42474.

Section 18660.45 will be amended to exclude hearings held for imposing civil liabilities for failure to pay a Covered Electronic Waste Recycling Fee from the regulations and procedures instituted in CalRecycle's newly adopted Hearing Officer Regulations. This amendment is necessary to maintain existing program practices with respect to administrative hearings for civil penalties imposed pursuant to PRC section 42474.

Section 18660.46 will be amended to exclude hearings held for imposing civil liabilities for failure to comply with requirements for manufacturers from the regulations and procedures instituted in CalRecycle's newly adopted Hearing Officer Regulations. This amendment is necessary to maintain existing program practices with respect to administrative hearings for civil penalties imposed pursuant to PRC section 42474.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT OR DOCUMENTS RELIED UPON

CalRecycle utilized the following sources in the development of the proposed regulations:

- Attachment 1: Economic and Fiscal Impact Statement (STD 399)

AUTHORITY

PRC sections 40502 and 42475.2.

REFERENCE

PRC sections 42463, 42474, 42476, 42477, 42478 and 42479.

INFORMATIVE DIGEST

Summary Of Existing Laws And Effect Of The Proposed Action

The Program includes procedures for collectors, recyclers, or dual entities to appeal a decision by CalRecycle to deny an application or application renewal, suspension, or revocation, and for recyclers or dual entities to appeal a decision by CalRecycle to adjust or deny a payment claim.

The existing procedures also include a reconsideration process that became effective December 11, 2025, which formalized a dispute resolution process that allows participants to request reconsideration by the Program with respect to decisions on applications and renewals, suspensions, revocations, and adjustments and denials of payment claims. This process allows for an expedited method to potentially resolve these matters prior to an appeal and administrative hearing. If this process is not exempted from the Hearing Officer Regulations, participants would be required to go through the formal appeals process for these matters, which would require significantly more time and cost from both participants and CalRecycle.

Under the current regulations, in response to an appeal or the issuance of an accusation seeking administrative civil penalties, CalRecycle must provide a hearing before the CalRecycle Director, or his or her designee, who shall act as a hearing officer. The e-waste collection and recycling documentation that is disclosed during one of these hearings is proprietary and trade secret because it generally requires information that might allow the public and competitors to determine a collector or recycler's market share, its business partnerships and contacts, operational business models, and transactions. In addition, the e-waste collection documentation that is required during these hearings would most likely disclose confidential information that must be protected under state law.

The proposed emergency regulations expressly exempt the Program from the regulations and procedures instituted in the newly adopted Hearing Officer Regulations and specify the burden of proof on an appeal of a payment claim adjustment or denial. Exempting these hearings from the Hearing Officer Regulations will allow CalRecycle to continue to maintain the confidential and proprietary nature of the information at issue in the Program's administrative litigation proceedings.

In addition, the Program includes existing procedures for imposing administrative civil penalties for false statements or representations or for failure to comply with the requirements of the Electronic Waste Recycling Act. These amendments would maintain existing program practices with respect to administrative hearings for civil penalties imposed pursuant to PRC section 42474

Policy Statement Overview/Anticipated Benefits Of Proposal

The Program includes procedures for administrative hearings. The objective of the proposed regulations is to expressly exempt the Program from the regulations and procedures instituted in the newly adopted CalRecycle's Hearing Officer Regulations and specify the burden of proof on an appeal of a payment claim adjustment or denial.

The proposed amendments in these regulations achieve the objectives of maintaining existing program practices with respect to appeals and administrative hearings and to provide clarification with respect to the burden of proof on an appeal of a decision by CalRecycle to adjust or deny a payment claim. The proposed amendments will provide the following anticipated benefits that are aligned with these objectives:

- Maintaining existing program practices with respect to appeals and administrative hearings will ensure that approved collectors and recyclers in the Program are able to protect their proprietary and trade secret e-waste collection and recycling documentation, which enables them to continue to operate and maintain a robust e-waste collection and recycling infrastructure in California.
 - This benefits the environment and public health and safety in that it reduces the amount of e-waste discarded in landfills or the amount of e-waste that is improperly managed.

Consistency and Compatibility With State Regulations

Pursuant to Government Code Section 11346.5(a)(3)(D), CalRecycle conducted an evaluation of existing state regulations. CalRecycle determined that the proposed regulations are neither inconsistent nor incompatible with existing state regulations and that CalRecycle is the only agency that can implement this proposed regulation.

INCORPORATION BY REFERENCE

No documents or forms are incorporated by reference in the proposed regulation.

EXISTING COMPARABLE FEDERAL REGULATION OR STATUTE

CalRecycle has determined that the proposed regulations do not significantly differ from federal law because there are no existing comparable federal statutes or regulations in this subject area.

OTHER STATUTORY REQUIREMENTS (GOVERNMENT CODE SECTIONS 11346.1(b) AND 11346.5(a)(4))

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

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

CalRecycle has determined that the proposed regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

Local Agencies or School Districts Subject to Reimbursement

CalRecycle has determined that the proposed regulations do not result in costs to any local agency or school district that must be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 of Division 4 of the Government Code Section 17500 et seq.

Cost or Savings to Any State Agency

CalRecycle has determined that adoption of these regulations does not have a cost to state agencies.

Non-Discretionary Cost or Savings Imposed Upon Local Agencies

CalRecycle has determined that there are no non-discretionary costs or savings imposed upon any local agencies.

Cost or Savings in Federal Funding to the State

CalRecycle has determined that adoption of these regulations will not have an impact on costs or savings in federal funding to the State.