Department of Resources Recycling and Recovery

Processing Payment 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 section 2975, Chapter 5, Division 2, Title 14, of the California Code of Regulations (CCR) that lays out the reasonable financial return (RFR) calculation for processing payments paid to recyclers.

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: Processing Payment Emergency Regulations Comment Period

OR

Postal Mail:

Kamyab Mashian
Processing Payment 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 **November 12, 2026,** when the emergency regulations are posted on OAL's website. The public comment period will close on **November 17, 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 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 an electronic written 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, Kamyab Mashian, 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 Kamyab Mashian.

FINDING OF EMERGENCY

The adoption of these regulations is deemed to be an emergency pursuant to Public Resources Code (PRC) section 14536.1 which provides that "if [CalRecycle] determines that it is necessary to adopt or amend regulations to implement section 14575, [CalRecycle] may adopt or amend those regulations as emergency regulations. The Office of Administrative Law shall consider those regulations to be necessary for the immediate preservation of the public peace, health and safety, and general welfare for purposes of section 11349.6 of the Government Code. Notwithstanding subdivision (e) of section 11346.1 of the Government Code, the emergency regulations adopted or amended pursuant to this section shall be repealed 180 days after the effective date of

the regulations, unless [CalRecycle] complies with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code."

CalRecycle is proposing emergency regulations to amend section 2975, Subchapter 12, Chapter 5, Division 2, Title 14, CCR that lays out the reasonable financial return calculation for processing payments paid to recyclers. The term "recycler" for purposes of this rulemaking has the same definition as in PRC section 14519.5., i.e., "recycler" means a recycling center, dropoff or collection program, or curbside program. These entities receive processing payments which reimburse recyclers for the difference between the cost of recycling beverage container material and the value a recycler receives when it sells that material as scrap. For the calendar year 2027, CalRecycle is proposing to use a reasonable financial return of 10 percent when calculating processing payments instead of the Dun and Bradstreet index specified in section 2975.

CalRecycle determined that a fixed 10 percent RFR is a reasonable implementation of PRC section 14575 based on the statutory structure of the processing-payment formula, the financial result produced by the rate under statewide-average assumptions, historical administration of the percentage, selected commercial financial information, and comparison with reasonable alternatives. CalRecycle determines that 10 percent falls within a reasonable range. This change will help support beverage container recycling in California by establishing a stable return on investment that is consistent with the return rate for other types of investments and contracted government services.

FINDING OF NECESSITY

The California Beverage Container Recycling Program (BCRP) was established as a California Redemption Value (CRV) deposit and return system to create convenient beverage container recycling opportunities in the state. CalRecycle is tasked with ensuring consumers throughout the state have convenient recycling options to return their CRV beverage containers to and claim their deposit.

Public Resources Code (PRC) section 14575 establishes a processing payment, paid to recyclers, for CRV beverage container material type that has a scrap value less than the cost of recycling and describes the methodology for calculating processing payments. The processing payment must be at least equal to the difference between the applicable scrap value and the sum of: (1) the statewide weighted average recycling cost determined from a statistically significant sample of certified recycling centers, adjusted by a cost-of-living adjustment (COLA); and (2) a reasonable financial return for recycling centers.

This "reasonable financial return" was further clarified in the CCR section 2975, which states: "The statewide average reasonable financial return for recycling centers shall be equal to the statewide average allowable costs calculated in section 2960 of this subchapter, multiplied by the average return on costs for the scrap and waste materials industry as determined from data contained in the most recent Dun and Bradstreet Standard Three Year Norm Report (published by Dun and Bradstreet Credit Services)." Due to adverse market conditions, the 2017 average return on costs for the scrap and waste materials industry reported by Dun and Bradstreet resulted in a negative reasonable financial return for the first time.

To address the negative reasonable financial return, the historical instability of the Dun

and Bradstreet index, and in response to feedback from industry that the Dun and Bradstreet index used to determine the reasonable financial return was not an accurate reference for the profitability of a recycling center, a 10 percent reasonable financial return was chosen by CalRecycle as it provides a financial incentive comparable to investing funds in other business ventures or stocks and is the same as rates paid by other government entities for similarly contracted work.

The Dun and Bradstreet Report discontinued publication of the index value for scrap and materials waste industry index in 2019. CalRecycle enacted emergency regulations to set the reasonable financial return for calendar year 2020, 2021, 2022, 2023, 2024, 2025, and 2026.

CalRecycle is pursuing emergency rulemaking to ensure that a rate, consistent with the legislative intent to provide sufficient economic incentive that ensures the recovery of beverage containers, is set for calendar year 2027. This emergency rulemaking will again set the reasonable financial return for calendar year 2027 at 10 percent for all recyclers for the following reasons:

- The statute requires a financial return separate from statewide weighted-average recycling cost.
- The former Dun & Bradstreet external index is unavailable. Because the Dun & Bradstreet index is no longer published, the existing methodology cannot generate a current or future annual RFR. A replacement methodology is therefore necessary to implement PRC section 14575.
- The percentage has been used administratively in annual rate calculations beginning in 2020.

CalRecycle proposes to amend section 2975, Subchapter 12, Chapter 5, Division 2, Title 14, CCR to establish a specified reasonable financial return of 10 percent of the statewide average allowable costs provided in section 2960 of these regulations.

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

CalRecycle utilized the following historical sources:

- Attachment 1: Methodology and Sources for Waste Management Profit Margin Calculation
- Attachment 2: NYU Stern US Companies Profit Margins by Sector January 2026 https://www.stern.nyu.edu/~adamodar/pc/datasets/margin.xls
- Attachment 3: Economic and Fiscal Impact Statement (STD 399)
- Attachment 4: STD 399 Supplemental information

AUTHORITY

These regulations are submitted pursuant to CalRecycle's authority under PRC sections 14530.5(b), 14536, and 14536.1.

REFERENCE

Title 14 CCR amended section 2975 is intended to implement, interpret and make specific PRC sections 14501(f), 14501(g), 14518.5, and 14575.

INFORMATIVE DIGEST

Summary Of Existing Laws And Effect Of The Proposed Action

The California Beverage Container Recycling and Litter Reduction Act, AB 2020/Margolin, Chapter 1290, Statutes of 1986 (Act), created the BCRP and established the Division of Recycling to administer the BCRP. The intent of the Act is to provide increased and convenient beverage container redemption and recycling opportunities for consumers. This is accomplished through the establishment of a consumer deposit (CRV) on certain beverage containers. Recyclers collect the empty beverage containers and issue CRV refunds to consumers who redeem their CRV.

PRC section 14501(f) establishes the purpose of the BCRP, including to create and maintain a marketplace where it is profitable to establish sufficient recycling centers and locations to provide consumers with convenient recycling opportunities. The responsibility to provide convenient, efficient, and economical redemption opportunities rests jointly with manufacturers, distributors, dealers, recyclers, processors, and CalRecycle (PRC section 14501(g)). PRC section 14518.5 defines the term “processing payment.” PRC section 14575 establishes the processing fee, paid by beverage manufacturers and offset by the Beverage Container Recycling Fund (BCRF), and the processing payment, paid to recyclers. PRC section 14575(b)(2) specifies that “a reasonable financial return for recycling centers” is part of the summation to calculate the processing payment.

CalRecycle annually established the reasonable financial return each January that is applied to the calculation of the processing payment. The source used to determine the reasonable financial return, as specified in regulation, is the most recent average net profit ratio of businesses classified as scrap and waste materials as reported by Dun and Bradstreet. In 2017, for the first time since the BCRP began using the Dun and Bradstreet index in 2001, the reasonable financial return was a negative value. The reasonable financial return was calculated to be -5.85 percent of allowable costs, a reflection of the overall losses, rather than profits, of the recycling industry. This resulted in lower processing payments to recyclers than the amount necessary to cover the cost of recycling. At the same time, low prices for scrap material, along with other factors such as difficulty in finding locations willing to host recycling centers, led some recycling centers to close, leaving communities with fewer places for people to redeem CRV containers. To address those circumstances, CalRecycle enacted emergency regulations that set the reasonable financial return to 11.5 percent for non-rural recyclers and 16.6 percent for rural region recycling centers for calendar years 2018 and 2019. To provide a more stable and consistent payment structure to recyclers than what would be provided under the current regulations, a 10 percent reasonable financial return was set for calendar years 2020, 2021, 2022, 2023, 2024, 2025, and 2026.

CalRecycle seeks to do the same for calendar year 2027 in place of the discontinued Dun and Bradstreet index utilized in the regulations.

CalRecycle determined that a fixed 10 percent RFR is a reasonable implementation of PRC section 14575 based on the statutory structure of the processing-payment formula, historical administration of the percentage, and representative commercial financial comparison.

CCR section 2975 historically applied the Dun and Bradstreet data for the average return on costs for the scrap and waste materials industry to set the RFR. CalRecycle reviewed net-income margins reported by the five largest publicly traded waste and environmental-services companies. These companies were screened to match characteristics with beverage container recycling companies and have at least 25 years of public financial records. While net profit margin is not identical to RFR for beverage recyclers, it does provide a benchmark from which to compare returns.

Table 1A: Average Net Profit Margin of Top Five U.S. Waste Management Companies (Sources: www.sec.gov From 10K)

Company Name	Company Established	2025	2024	2023	2022	2021	Average Net Profit Margin	Median Net Profit Margin
Waste Management, Inc.	1968	10.75%	12.44%	11.14%	11.37%	10.13%	11.17%	11.14%
Republic Services, Inc.	1981	12.89%	12.75%	11.57%	11.01%	11.44%	11.93%	11.57%
Waste Connections, Inc.	1997	11.37%	6.91%	9.51%	11.59%	10.05%	9.89%	10.05%
Clean Harbors, Inc.	1980	6.48%	6.83%	6.99%	7.97%	5.34%	6.72%	6.83%
Casella Waste Systems, Inc.	1975	0.43%	0.87%	2.01%	4.89%	4.62%	2.56%	2.01%
Average Net Profit Margin		8.38%	7.96%	8.24%	9.37%	8.32%	**8.45%**	-
Median Net Profit Margin		10.75%	6.91%	9.51%	11.01%	10.05%	-	**10.1%**

A 10% profit margin to benchmark the RFR is reasonable when compared to long established companies in the recycling and waste industry. As shown in Table 1A, major companies that have operated for more than 25 years earn an average profit margin of about 8.5%, and median of about 10.1%. A 10% RFR aligns with what successful companies in the industry typically earn and therefore represents a fair and financially sound benchmark.

The historical Dun & Bradstreet index for the scrap and waste materials industry was materially variable in the years preceding its discontinuation, ranging from negative 5.85 percent (2017) to positive 10.56 percent (2019). CalRecycle received feedback from the recycling industry that this volatility introduced additional revenue variability for recyclers operating in an industry already exposed to volatile scrap prices. Replacing the discontinued annual index with a fixed percentage eliminates RFR variation caused solely by changes in that index. It does not eliminate variation caused by recycling costs, scrap values, material volumes, or other statutory inputs.

CalRecycle has used a 10 percent RFR in annual processing-payment calculations beginning in calendar year 2020. This history demonstrates that the percentage is administratively workable within the existing calculation and provides continuity with multiple prior years. For the six completed calendar years from 2020 through 2026, the RFR percentage remained 10 percent, while payment amounts changed in response to other formula inputs and program activity. The RFR is a specific financial-return component applied to statewide average allowable cost. It is not an individualized guarantee of business viability and does not reimburse every site-specific cost or operating condition. Scrap-value changes are addressed separately through the scrap-value component and PRC section 14575(f). A fixed percentage provides predictability in one formula input without displacing the remaining statutory and regulatory components.

The proposed regulations would amend section 2975, Subchapter 12, Chapter 5, Division 2, Title 14, of the CCR in order to implement statutory mandates of PRC section 14575. The adoption of these regulations is deemed to be an emergency pursuant to PRC section 14536.1, which provides that, “if [CalRecycle] determines that it is necessary to adopt or amend regulations to implement section 14575, [CalRecycle] may adopt or amend those regulations as emergency regulations. The Office of Administrative Law shall consider those regulations to be necessary for the immediate preservation of the public peace, health and safety, and general welfare for purposes of section 11349.6 of the Government Code. Notwithstanding subdivision (e) of section 11346.1 of the Government Code, the emergency regulations adopted or amended pursuant to this section shall be repealed 180 days after the effective date of the regulations, unless CalRecycle complies with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code)”.

Policy Statement Overview/Anticipated Benefits Of Proposal

The proposed amendment achieves the objective of the authorizing statute to provide a reasonable financial return to recycling centers. The proposed amendment provides the following benefits that are aligned with this objective:

- The statute requires a financial return separate from statewide weighted-average recycling cost.

- The former Dun & Bradstreet external index is defunct. Because the Dun & Bradstreet index is no longer published, the existing methodology cannot generate a current RFR. A replacement methodology is therefore necessary to implement PRC section 14575.
- The proposed percentage has been used administratively in annual rate calculations beginning in 2020, providing continuity for stakeholders.
- Selected commercial information provides limited corroboration that the theoretical result is within a broadly plausible range.

The proposed amendment provides the following benefits that are aligned with this objective:

- A 10 percent reasonable financial return provides a competitive return to entities investing in and operating beverage container recycling programs as compared to other investment opportunities.
- A fixed reasonable financial return is more stable than a fluctuating reasonable financial return resulting from the current regulation, avoiding the risk of applying a negative return and adding consistency to the processing payment amount provided to recyclers.

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. The BCRP is unique to the state of California, and there is not a similar program within the state. There are no other matters prescribed by statute applicable to this specific state agency or to any specific regulation or class of regulations.

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 does 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.