



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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NOTICE OF PROPOSED RULEMAKING

Title 14: Natural Resources
Division 7: Department of Resources Recycling and Recovery
Chapter 8: Used Oil Recycling Program
Articles: 1-8
Sections: 18600-18659.5

PROPOSED REGULATORY ACTION

The California Department of Resources Recycling and Recovery (Department) proposes to amend California Code of Regulations, Title 14, Division 7, Chapter 8, Articles 1-8 commencing with Section 18600. The proposed regulation is intended to update the current Used Oil Recycling Program to conform to Senate Bill 546 (Chapter 353, Statutes of 2009), clarify procedures and processes, and allow for better fiduciary oversight of the Used Oil Recycling Fund.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation to the Department. **The written comment period for this rulemaking closes at 4:00 p.m. on May 25, 2016.** The Department will also accept written comments during the public hearing described below. Please submit your written comments to:

Emily Wang
Materials Management and Local Assistance Division
California Department of Resources Recycling and Recovery
P.O. Box 4025
Sacramento, CA 95812-4025
FAX: (916) 319-7628
e-mail: UsedOilHHW@CalRecycle.ca.gov

PUBLIC HEARING

A public hearing to receive public comments has been scheduled for May 25, 2016. The hearing will be held at the

Joe Serna Jr., Cal EPA Building
Coastal Hearing Room
1001 I Street, 2nd Floor
Sacramento, CA 95814

The hearing will begin at **9:00 AM on May 25, 2016**, and will conclude after all testimony is given. CalRecycle requests that persons making oral comments also submit a written copy of their testimony at the hearing. The hearing room is wheel chair accessible. If you have any questions, please contact UsedOilHHW@calrecycle.ca.gov.

INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) §40000 et. seq., gives the Department authority to provide for the protection of public health, safety, and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC §40502 requires the Department to adopt rules and regulations to implement the Act.

The proposed new regulations cover CalRecycle's responsibilities for the management of the Used Oil Recycling Program in California (Public Resources Code §§48600-48691). This rulemaking will update the Used Oil Recycling Program to conform to Senate Bill 546 (Chapter 353, Statutes of 2009), clarify procedures and processes, and allow for better fiduciary oversight of the Used Oil Recycling Fund. Substantive changes will impact the following areas of the Used Oil Recycling Program:

1. **Lubricating oil sellers:** Sellers of lubricating oil in volumes of 100 gallons or greater must tell their customers what entity paid the lubricating oil fee (described in section 48650 of the Public Resources Code) to CalRecycle for the volume of oil being sold (sellers must also include the year and quarter in which the initial fee was paid to CalRecycle). This is to ensure that all purchasers of lubricating oil know who paid the initial fee on their oil should they decide to file a refund claim.
2. **Refunds:** Persons requesting an oil fee refund must tell CalRecycle who paid the initial fee to CalRecycle, and in what quarter of what year that fee was paid to CalRecycle. This is to ensure that CalRecycle staff has the information needed to process a claim and to ensure a refund is only given for oil volumes on which a fee was paid.
3. **Manifest Receipts:** Haulers must identify how much lubricating and industrial oil they are hauling on their manifest receipts only if there is any volume of lubricating oil in the load they are transporting. Current regulations require haulers to report this information on all shipments of oil.

4. **Used Oil Rerefining Facilities:** A process for the certification of used oil rerefining facilities is created, including an appeals process.
5. **Out-of-state Used Oil Recycling Facilities:** A process for the registration of out-of-state used oil recycling facilities is created, including an appeals process.
6. **Certified Collection Centers:**
 - Advertising requirements are modified to allow online ads
 - Language requirements on signage provided by CalRecycle are reduced
 - An appeals process for sites denied certification is added
 - A process for de-certifying centers that are not meeting operator requirements is added
7. **Used Oil Incentive Claims:**
 - A requirement for Certified Collection Centers that collect both “Do-It-Yourself” and on-site oil to maintain logs is added to allow CalRecycle to appropriately identify how much oil qualifies for each incentive rate (\$0.40/gal for Do-It-Yourself, \$0.16/gal for on-site)
 - Operators of multiple sites may submit a single claim for multiple sites without petitioning CalRecycle for permission
 - An appeals process for claims is added
8. **Contaminated Oil Reimbursement Applications:** The application deadline is limited to one (1) year from the time of a contaminated oil incident
9. **Rerefined Oil Incentive Claims:**
 - A process for filing and processing rerefined oil incentive claims is created, including an appeals process.
10. **Block Grants:** All references to Used Oil Block Grants are removed. These grants were statutorily eliminated by Senate Bill 546.
11. **Electric Utilities:** All references to electric utilities are removed to conform with Senate Bill 546

Additionally, the proposed regulations will

- Remove all question-and-answer formatting
- Replace all references to “the Board” with “CalRecycle”
- Define terms to add clarification

Staff have met with stakeholders at informal public workshops to share and accept comments on the informal draft regulatory text. Approximately 10 people participated in the workshops in-person. Comments from the public were incorporated into the "Proposed Used Oil Regulations".

Policy Statement Overview

Per PRC §48630, the Department has adopted a used oil recycling program to promote and develop alternatives to the illegal disposal of used oil. As such, CalRecycle administers fees on lubricating oil sold in California, created local grant programs, created a system of Certified Collection Centers statewide, and administers incentive programs for the collection of used oil.

*Anticipated Benefits from this Regulatory Action/Determination of Inconsistency or
Incompatibility with State Regulations*

The proposed regulation provides for the protection of public health, safety, and the environment through the prevention of used oil releases into the environment. Incentives for collection sites of used oil as described in the regulations provide the public with safe locations to dispose of that oil. Proper data tracking and management of used oil will benefit the health and welfare of California residents, worker safety, and the state's environment. Additionally, the administrative procedures associated with fee collection and incentive payment provide the fiscal oversight of funds associated with the Used Oil Recycling Program. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is the only regulation dealing with the Used Oil Recycling Program and therefore is not inconsistent or incompatible with existing state regulations.

PLAIN ENGLISH REQUIREMENTS

Department staff prepared the proposed regulation pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulation is considered non-technical and is written to be easily understood by those parties that will use them.

AUTHORITY AND REFERENCES

Public Resources Code sections 40502, 42970, 42972 through 42979, 47203, and 48641, and Government Code Section 6253 provide authority for this regulation. The purpose of the proposed actions is to implement, clarify, and update the regulations regarding the Used Oil Recycling Program. The following is a list of references cited in this proposed regulation: Public Resources Code sections 48600, 48601, 48613, 48616, 48618, 48619, 48620.2, 48623, 48624, 48630, 48631, 48641, 48650, 48650.5, 48651, 48651.5, 48652, 48653, 48656, 48657, 48660, 48660.5, 48661, 48662, 48670, 48671, 48672, 48673, 48674, 48675, 48680, 48690, and 48691.
Revenue and Taxation Code section 55061.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

FINDINGS ON NECESSITY OF REPORTS

Department staff have determined that it is necessary for the health, safety, or welfare of the people of this state that proposed section 18622, which requires a report, apply to businesses.

This is to ensure that the amount of rerefined oil sold is reported such that CalRecycle can calculate the appropriate oil fee due on those volumes.

MANDATE/COSTS ON LOCAL AGENCIES AND COSTS TO STATE AGENCIES, FEDERAL FUNDING, OR SCHOOL DISTRICTS

Department staff have determined that the proposed regulation will result in no costs to any local agency or school districts requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, or other non-discretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the state. Department staff have determined that the proposed regulation imposes no mandate on local agencies or school districts.

Department staff estimate that there will be an annual cost of \$3,286 to CalRecycle to cover the additional personnel time needed to process used oil logs required by the proposed regulations. Department staff have determined that there are no costs or savings to any other state agency.

EFFECT ON HOUSING COSTS

Department staff made a determination that the proposed regulation will not have an effect on housing costs.

EFFECT ON BUSINESSES

Department staff made an initial determination that the proposed regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

Department staff made an initial determination that the proposed regulation will have an impact on an estimated 58 small businesses in California. The regulations are estimated to have an annual cost of \$2,700 for each of those businesses, or a total annual cost of \$156,600 for all small businesses statewide. This cost impact is the result of the fee tracking requirement for lubricating oil sellers, and only applies to lubricating oil sellers who do not already have an inventory tracking system.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

Department staff has determined that the adoption of the proposed regulation will have a total annual cost of \$156,600 on businesses statewide. This cost impact is the result of the fee tracking requirement for lubricating oil sellers, and only applies to lubricating oil sellers who do not already have an inventory tracking system.

Note: Based on Department of Finance’s analysis, the cost impact does not constitute a Major Regulation

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Effect on Creation or Elimination of Jobs, Existing, or New Business in the State of California

Department staff determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the state of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the Environment

As stated under the Informative Digest above, the proposed regulation intends to provide for the protection of public health, safety, and the environment through the development and maintenance of a database of all household hazardous waste collection events, facilities and programs within the state. This database benefits waste prevention, waste diversion, and safe processing and disposal throughout the state.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

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Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Cheryl Williams
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AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Department will have the entire rulemaking file, and all information that provides the basis for the proposed regulation, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Emily Wang at the address or e-mail address listed above. For more timely access to the proposed text of the regulation, and in the interest of waste prevention, interested parties are encouraged to access the Department's Internet webpage at <http://www.calrecycle.ca.gov/Laws/Rulemaking/UsedOil/default.htm>. Additionally, the Final Statement of Reasons will be available at the above listed Internet address or you may contact the persons named above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text -- with changes clearly indicated -- available to the public for at least 15 days before the Department adopts the regulation as revised. Requests for the modified text should be made to the contact person named above. The Department will transmit any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; and all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. The Department will accept written comments on the modified regulation for 15 days after the date on which they are made available.