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February 19, 2024

Delegate Marc Korman
Chair of the Environment and Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

Subject: House Bill 830 (Stein) - Environment - Covered Electronic Devices Recycling Program
- Establishment
Favorable with Amendment

Dear Chair Korman,

On behalf of the California Product Stewardship Council (CPSC), I am writing to you to express a "Favorable with Amendment" position on House Bill 830 by Delegate Stein. CPSC is considered the expert on Product Stewardship programs in California. HB 830 proposes to create a Product Stewardship program for certain electronic waste products. While CPSC was not in existence when California's first electronic waste product stewardship program was established under Senate Bill 20 (Sher, 2003), we have been involved in the evolution of the existing program and did recently expand the program to go beyond just digital display devices to also include battery-embedded products under Senate Bill 1215 (Newman, 2022). These devices will also be charged a visible fee at the point of sale to ensure that they are properly recycled at the end of life.

In an interest to ensure programs that are established throughout the country help build on existing electronic waste collection and recycling programs, like the one in California, CPSC tracks the program of pending legislation in other states. Both HB 830, and its nearly identical bill in the Senate, SB 686 by Senator Augustine, seek to establish a visible fee funded recycling program similar to the California program. I have provided some background information on the California program below, an analysis of some important components of HB 830 and SB 686, and some recommendations for the authors and committees to consider as these bills continue the legislative process.

California Program Background

California's Covered Electronic Waste (CEW) program is regarded as one of the most successful programs in the country due to its high recovery rate of old electronics, specifically digital display devices (CRTs and non-CRTs) with screens over 4 inches measured diagonally. The success can be attributed to the funding for collection and processing that is made through the collection of a visible consumer fee collected at the point of sale.

In approximately the year 2000, California instituted a ban on the disposal of Cathode Ray Tubes (CRTs) in all but Class I landfills. The cost to manage these CRTs was over 10 times higher per ton than that average Class III landfill tipping fee at the time and was borne by local governments. California's Covered Electronic Devices (CED) program was established in 2003 under Senate Bill 20 (Sher, 2003), known as the Electronic Waste Recycling Act of 2003, and managed by the Department of Toxic Substances Control (DTSC). SB 20 required digital display devices to be collected and recycled, while also providing a funding mechanism, therefore the burden of cost for collection and recycling was removed from local governments and placed in the hands of the California Integrated Waste Management Board (now the Department of Resources Recycling and

Recovery (CalRecycle)) to manage the newly funded program. Collection of the visible fee began on July 1, 2004.

In 2005, the program collected and recycled over 64 million pounds of material at a cost of \$31 million (or about \$0.48/pound). By 2008, those figures reached a peak of 220 million pounds and \$96 million (about \$0.44/pound). These values fluctuated up and down over the years since but have shown a decline in weight by 2022 of 64 million pounds at a cost of \$58 million (about \$0.91/pound). The reason for the increase in \$/pound can be attributed to the significant decline in CRTs being collected and processed, while flat panel screens have continued to increase. Costs to collect and recycle either CRTs or flat panels are about the same per unit, but CRTs are much higher in weight, therefore causing the change in \$/pound over the years. For example, in 2015, CRTs represented about 84% of the total number of units collected and recycled, while flat panels (non-CRTs) made up the remaining 16%. In 2022 those numbers have flipped with CRTs representing only 16% and flat panels, 84%. Through the third quarter of 2023, those figures are 11% and 89%, respectively. The latest report from CalRecycle for the third quarter of 2023 about the program is attached to these comments.

As noted above, CPSC, along with our co-sponsors, South Bayside Waste Management Authority (ReThinkWaste) and Californians Against Waste (CAW), sponsored Senate Bill (SB) 1215 in 2022 that expanded the current CEW program for the first time since 2003. The intent of SB 1215 was to address the ever-increasing threat to solid waste facilities caused by batteries embedded in products that end up at material recovery facilities (MRFs) and can cause catastrophic fires in those facilities, especially products containing Lithium-Ion batteries. The state agency in charge of the CEW program in California, CalRecycle, is in the process of revising existing regulations to incorporate these battery-embedded products into the CEW program.

Analysis of SB 686 & HB 830

In reviewing the current versions of HB 830 and SB 686, the proposed language appears to follow many of the same provisions of the California CEW program. CPSC notes that laptops, notebooks, tablets, and readers are not part of the Tier I covered electronic devices. These devices require similar dismantling/deconstruction efforts as those of flat panel units (computer monitors & televisions) and therefore will likely incur similar processing costs to those in the Tier I category.

There appears to be a delay of one full year between when visible fees will be collected at the point-of-sale and when disbursement of funds to authorized recyclers. SB 20 in California did not have such a delay between collection of the fee and disbursement of recycling cost reimbursements.

Under Sections 2 and 3 of HB 830 and SB 686, on or before December 1, 2024, manufacturers of covered electronic devices will be notified of the termination of the existing takeback program and the effectiveness of the Covered Electronic Device Recycling Program, with the Act going into effect on October 1, 2024. However, fees collected at the point-of-sale and recycling cost reimbursements won't begin until January 1, 2028, and January 1, 2029, respectively. What will happen during the years of 2025, 2026, 2027, and 2028 regarding the actual recycling of devices?

Recommendations

We believe that HB 830 and SB 686 are going in the right direction to establish funding to encourage more electronics to be recycled at the end of life. We recommend the following considerations:

- Consider adding laptops, notebooks, tablets, and readers to the Tier I group for the reasons cited above.
- Consider reducing the delay between when visible fees will start being collected and when disbursements to collectors and recyclers will begin.

- Consider either pushing back the timeline for the existing takeback program so that it will terminate much closer in date to when the new program begins or push up the effective date of visible fee collection and recycling cost reimbursements to close the gap noted above.

For the reasons stated above, CPSC is providing a Favorable with Amendment position on HB 830.

Please feel free to reach out to me with any questions you may have at either Doug@calpsc.org or my cell phone at 916-413-5262.

Respectfully,



Doug Kobold
Executive Director

CPSC Vision

Producers have the primary responsibility to establish, fund, and manage end of life systems for their products with state government setting the performance goals and ensuring accountability and transparency.

CPSC Mission Statement

To shift California's material economy from a linear model that subsidizes resource extraction, including ratepayer financed collection and disposal, towards a circular economy that relies upon producer-financed and managed recovery programs overseen by state agencies with all participants compensated for their contributions, while improving the health and well-being of all Californians.

Quarterly Update on California's Covered Electronic Waste Recycling Program Implementation of the Electronic Waste Recycling Act of 2003 (SB 20, Sher)

Third Quarter 2023

Overview

The Electronic Waste Recycling Act of 2003 (Act), as amended and codified in the Public Resources Code (PRC) 42460, et seq., established a funding mechanism to improve and provide for the proper end-of-life management of certain hazardous electronic products. A fee paid by consumers of covered electronic devices (CED) at the time of retail purchase funds the program. Retailers remit collected fees to the California Department of Tax and Fee Administration (CDTFA), who deposits the funds in the Electronic Waste Recovery and Recycling Account (EWRRA). Approved recyclers and collectors of covered electronic waste (CEW) subsequently receive payments to offset the average net cost of appropriate recovery, processing, and recycling activities.

Intent of the Act

- Provide financial relief to responsible parties for managing CEW.
- Foster cost-free recycling opportunities for consumers throughout the state.
- Reduce illegal dumping; increase compliant management and disposition.
- Eliminate the stockpile of waste computer monitors/TVs.
- Decrease amount of hazardous materials in covered devices.

Major Components of the Act

- Assesses an electronic waste recycling fee on retail sales of CEDs.
- Tasks the Department of Resources Recycling and Recovery (CalRecycle) with administering a payment system for collectors/recyclers to cover the average costs of recovering/recycling CEW.
- Authorizes the Department of Toxic Substances Control (DTSC) to develop regulations for the proper management (collection, storage, and recycling) of discarded electronic devices.
- Requires DTSC to adopt regulations, consistent with the European Union's Restriction of Hazardous Substances (RoHS) directive, limiting the concentration of hazardous metals in covered electronic devices offered for sale in California.
- Establishes certain manufacturer responsibilities: consumer information, brand labeling, annual reporting, product design for recycling, and reduction of hazardous materials.

Covered Electronic Devices

CEDs are video display devices determined by the Department of Toxic Substances Control (DTSC) to exhibit hazardous characteristics when disposed. Covered devices must have screens greater than four inches on the diagonal. Unless excluded by PRC 42463(e)(2), current CEDs include:

- Cathode Ray Tube (CRT) devices
- Televisions and computer monitors containing CRTs
- Televisions and computer monitors containing liquid crystal display (LCD) screens or organic light emitting diode (OLED*) screens.
- Laptop computers with LCD or OLED* screens.
- Plasma televisions
- Personal portable DVD players with LCD screens
- Tablet computers with LCD or OLED* screens
- Smart devices* with LCD screens

*OLEDs and smart devices became eligible for the CEW Recycling Program on July 1st, 2022.

Revenue and Payment Status

CalRecycle has the statutory obligation to adjust the CEW recycling fee to maintain fund solvency.

CalRecycle acted in June 2023 to maintain the CEW recycling fee levels at the current rates of \$4, \$5, and \$6 per device (depending on the screen size).

Annual Total Revenue from CEW Recycling Fees (from FY 23/24 California Budget)

FY 2021/22 ~ \$82M / FY 2022/23 ~ \$83M / FY 2023/24 ~ \$59M

- Consumers pay a recycling fee to retailers at time of new device purchase based on the screen size.
- Effective January 1, 2020, the fee is \$4, \$5, and \$6, depending on screen size.
- Retailers remit collected fees to the CDTFA and retain 3% for administrative costs.
- Manufacturers are required to notify retailers regarding which products are subject to the fee.

CEW Recycling Program Participants (as of September 2023)

Approved Collectors: ~276*

Approved Recyclers: ~20

* Includes Approved Collectors that are also Approved Recyclers

- Growth in California's electronic waste collection and recycling infrastructure has been fostered by the Act and the CEW Recycling Program.
- Voluntary participation includes a diverse group: non-profit organizations, solid waste management companies, local governments, and traditional e-waste collection and recycling businesses.
- DTSC inspections of recycling facilities and compliance with environmental standards are required for participant approval and eligibility to receive payments.
- The infrastructure to recover CEW also recovers substantial quantities of miscellaneous electronic waste, the handling of which is not funded by the CEW Recycling Program.

CalRecycle pays approved recyclers the combined recovery and recycling payment; approved recyclers are required to pay collectors the recovery payment. Based on industry cost data reported by approved collectors and recyclers, analyses of these data, and industry trends, CalRecycle acted in May 2023 to increase all the payment rates. Effective July 1, 2023, the recovery rate for all CEW due to collectors is \$0.35 per pound. The combined recovery and recycling payment rate for CRT CEW is \$0.98 per pound and for non-CRT CEW is \$1.10 per pound.

Year to Year Comparison (based on claim reporting month):*

2005 total 216 claims submitted: \$ 31 M (~ 64 M pounds)
2006 total 283 claims submitted: \$ 61 M (~ 127 M pounds)
2007 total 350 claims submitted: \$ 88 M (~ 184 M pounds)
2008 total 403 claims submitted: \$ 96 M (~ 220 M pounds)
2009 total 300 claims submitted: \$ 72 M (~ 185 M pounds)
2010 total 251 claims submitted: \$ 75 M (~ 194 M pounds)
2011 total 298 claims submitted: \$ 77 M (~ 198 M pounds)
2012 total 314 claims submitted: \$ 83 M (~ 212 M pounds)
2013 total 274 claims submitted: \$ 79 M (~ 202 M pounds)
2014 total 269 claims submitted: \$ 77 M (~ 183 M pounds)
2015 total 247 claims submitted: \$ 77 M (~ 175 M pounds)
2016 total 208 claims submitted: \$ 72 M (~ 153 M pounds)
2017 total 222 claims submitted: \$ 62 M (~ 128 M pounds)
2018 total 229 claims submitted: \$ 51 M (~ 101 M pounds)
2019 total 240 claims submitted: \$ 47 M (~ 90 M pounds)

2020 total 206 claims submitted: \$ 50 M (~ 74 M pounds)
2021 total 204 claims submitted: \$ 56 M (~ 73 M pounds)
2022 total 215 claims submitted: \$ 58 M (~ 64 M pounds)
2023 total 145 claims submitted: \$ 47 M (~ 46 M pounds)

*Please note that as of January 2018, the tracking of these values was standardized to remove claims that were rejected due to regulatory deficiencies or claimant request.

Year to Year CRT vs Non-CRT Unit Comparison (based on claim reporting month)*

2015 units transferred: 2.6M total, 2.2M CRT (84%), 0.4M Non-CRT (16%)
2016 units transferred: 2.4M total, 1.8M CRT (76%), 0.6M Non-CRT (24%)
2017 units transferred: 2.2M total, 1.4M CRT (63%), 0.8M Non-CRT (37%)
2018 units transferred: 1.9M total, 1.0M CRT (54%), 0.9M Non-CRT (46%)
2019 units transferred: 2.0M total, 0.8M CRT (41%), 1.2M Non-CRT (59%)
2020 units transferred: 1.7M total, 0.6M CRT (33%), 1.2M Non-CRT (67%)
2021 units transferred: 1.9M total, 0.5M CRT (24%), 1.5M Non-CRT (76%)
2022 units transferred: 2.0M total, 0.3M CRT (16%), 1.7M Non-CRT (84%)
2023 units transferred: 1.5M total, 0.2M CRT (11%), 1.3M Non-CRT (89%)

*Unit type (CRT or non-CRT) data only available/complete for 2015 reporting months and after.

Payment Statistics 2005 through September 2023

- Approximately 4,874 claims submitted by recyclers for payment.
- Approximately 18.2M total units, 8.7M CRT (48%), 9.5M non-CRT (52%), have been transferred during the reporting months of January 2015 to September 2023.
- Approximately \$1.3 billion (representing approximately 2.7 billion pounds of recycled CEW) have been claimed through the CEW Recycling Program since January 2005.

CalRecycle has annually denied between 1% and 12% of moneys claimed in the CEW Recycling Program due to non-compliant or "significantly inconsistent" documentation (see 14 CCR 18660.30...). Total payment adjustments from the start of the program through September 2023 is about \$30 million (~ 2.4% of claimed).

Compliance Assurance and Fraud Prevention

- CalRecycle works closely with DTSC to ensure material handling compliance. The departments have a Memorandum of Understanding that delineates cooperation on regulatory and enforcement responsibilities.
- CalRecycle has statutory authority to impose administrative civil liabilities (penalties) against any person for false statements or representations made in documentation transferred or maintained for the purpose of compliance with the Electronic Waste Recycling Act and associated regulations, including those related to the CEW Recycling Program.
- CalRecycle maintains an Interagency Agreement with the Department of Food and Agriculture's Weighmaster program to ensure accurate and legal measurements within the electronics recycling industry.

Current Challenges

- CalRecycle must ensure that payment is made in a timely manner only for eligible and properly documented CEW; specifically, through complete and verifiable payment claims, including applicable source, collection, transfer, processing, and residual disposition documentation.
- The program must accommodate continued use (resale, reuse) as a possible destination for recovered CEW, but only pay for cancelled (dismantled) CEW.

- The program must allow for certain instances of otherwise eligible (California-sourced) CEWs resulting from illegal abandonment and load check activities to enter the payment system while simultaneously not creating a portal for fraudulent activities.
- The use of “handlers” outside the CEW Recycling Program by approved recyclers and collectors exposes participants to increased risk of faulty and/or falsified collection documentation.

Costs of Managing Non-CRT CEW

- Program is seeing an increase in volumes of non-CRT devices being cancelled and claimed for payment, which have different recycling economics. Non-CRT’s:
 - Are more difficult to dismantle and require longer processing times than CRT devices.
 - Have less intrinsic material value than CRTs due to miniaturization (for e.g., the circuit boards contain fewer precious metals).
 - Contain residuals that are fully regulated hazardous waste that entail high disposal costs (e.g., plasma panels) or that require special handling (e.g., fluorescent lamps); and
 - Are lighter than CRTs, while CEW recycling payments are weight-based.
- In the first 6 years of the program, less than 1% (by weight) of CEW claimed were non-CRT devices.
- CRT volume began an annual decline starting in 2012, while non-CRT volume continues to increase.
- Non-CRT units claimed surpassed CRT units in 2019, and claimed volume of non-CRT CEW, measured by weight, surpassed that of CRT CEW in 2021.
- In 2022, non-CRT made up about 64% (40.5M pounds), measured by weight, of total volume of CEW claimed for payment.
- In 2018, CalRecycle promulgated emergency regulations to bifurcate the combined recovery and recycling payment rate made to approved recyclers to establish separate rates for CRT and non-CRT CEW. The emergency regulations were readopted in 2020 and finalized in 2022.

The Future of Electronic Waste Management in California?

- Mixed e-waste (non-CEW) volumes are substantial and in aggregate have nominal value.
- CEW collectors and recyclers are handling more complex and lower value materials.
- Will the current model that has worked well for over a decade be as effective in the future?
- CalRecycle initiated a project in 2016 to examine current conditions and future options for electronic waste management in California and engage stakeholders in exploring how to address future challenges.
- CalRecycle approved policy recommendations in May 2018 regarding [future management of electronic waste in California \(PDF\)](https://www2.calrecycle.ca.gov/PublicNotices/Documents/11291).
<https://www2.calrecycle.ca.gov/PublicNotices/Documents/11291>

Other Program Implementation Activities

Regulations:

- In June 2023, CalRecycle determined to maintain the CEW recycling fee levels at the current rates of \$4, \$5, and \$6 per device (depending on screen size).
- In May 2018, CalRecycle enacted emergency regulations that establish the structure to have bifurcated payment rates for CRT CEW and non-CRT CEW. The emergency regulations were readopted and approved by the Office of Administrative Law (OAL) in March 2020. CalRecycle initiated the formal rulemaking process to finalize these emergency regulations in September 2021. The regulations were approved by OAL and became effective on April 6, 2022.
- In March 2017, CalRecycle enacted emergency regulations that modify requirements for the Designated Approved Collector provision of the CEW Recycling Program. This provision allows Local Governments to designate an approved collector to act on its behalf to provide CEW collection services. The emergency regulations were readopted and approved by OAL in March

2019. CalRecycle initiated the formal rulemaking process to make these regulations permanent in October 2019. The regulations were approved by OAL in July 2020 and became effective on October 1, 2020.

- In October 2018, DTSC finalized the emergency regulations for CRT and CRT glass disposition options that establish pathways for proper disposal, as well as more stringent disposition documentation.
- In August 2015, CalRecycle enacted emergency regulations to address changes in CRT market conditions and CRT management rules promulgated by DTSC; CEW recyclers may pursue all otherwise legal dispositions for residual CRTs/CRT glass derived from claimed CEW. CalRecycle initiated the formal rulemaking process to make these regulations permanent in August 2017. The regulations were approved by OAL in September 2018 and became effective on October 1, 2018.
- In October 2015, CalRecycle enacted emergency regulations to implement administrative authorities to impose civil liabilities (penalties) on persons who make false statements in documents maintained or transmitted for compliance purposes relative to the Act. CalRecycle initiated the formal rulemaking process to make these regulations permanent in August 2017. The regulations were approved by OAL in September 2018 and became effective on October 1, 2018.
- In addition to finalizing the two emergency regulations packages that address the assessing of civil liabilities and the management of residual CRTs/CRT glass, CalRecycle also amended various other aspects of the regulations governing the CEW Recycling Program. The regulations were approved by OAL in September 2018 and became effective on October 1, 2018.

Recent Legislation

- In 2022, [Senate Bill \(SB\) 1215](#) was passed by the Legislature and signed by the Governor. The bill amends the Electronic Waste Recycling Act and adds covered battery-embedded products to the CEW Recycling Program.
- For more legislative information, see the [California Legislative information page](#). www.leginfo.legislature.ca.gov

Annual Net Cost Reporting

- Program participants must report annually on costs to handle and process CEW. This information is used to inform CalRecycle in fulfilling its obligation to adjust payment rates pursuant to PRC 42477 and 42478.
- Net Cost Reports must be submitted by all approved participants on or before March 1.
- Failure to submit a Net Cost Report is a leading cause of participant approval revocation.

Other States and Federal Government

California is monitoring activity on the national level. Approximately two dozen states passed e-waste legislation, all taking a producer responsibility approach. A large CEW Recycling Program challenge – ensuring payment only for California material – would be minimized or eliminated by a national-level program. However, any national system should provide cost relief to local governments and not contradict the hazardous waste/universal waste management standards adopted by DTSC. The Act specifies conditions under which a national program would preempt the Act (PRC 42485 (a)).

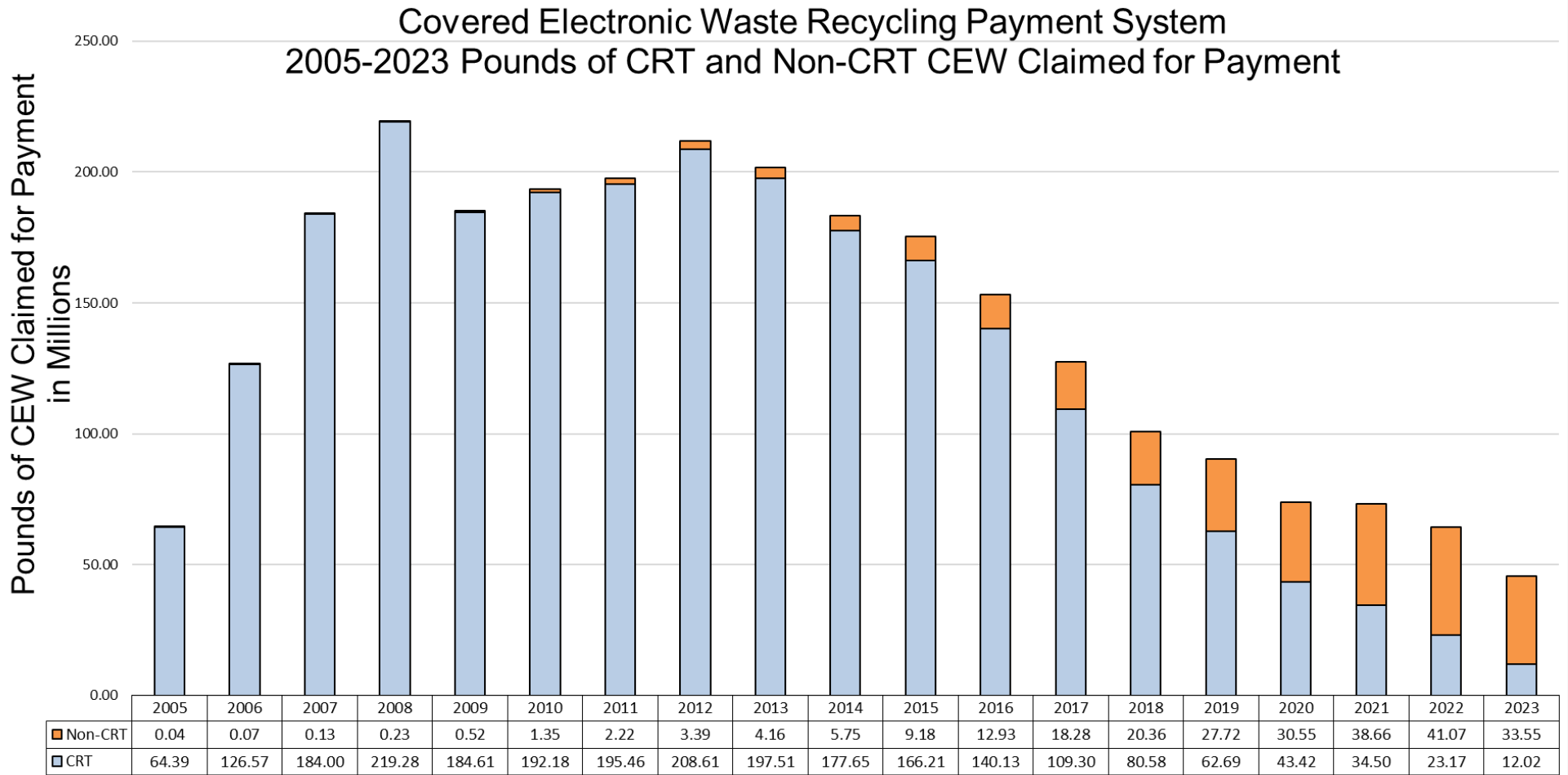
Outreach and Other Resources

- For current program actions and information, view the E-Waste newsletter archives: [Aug 2004-present](#)). <https://www2.calrecycle.ca.gov/Listservs/Archive/10>
- [CalRecycle maintains a public oriented web address](#) to inform the public on environmental matters associated with the management of electronic waste, including a directory of recycling opportunities throughout California. www.calrecycle.ca.gov/electronics

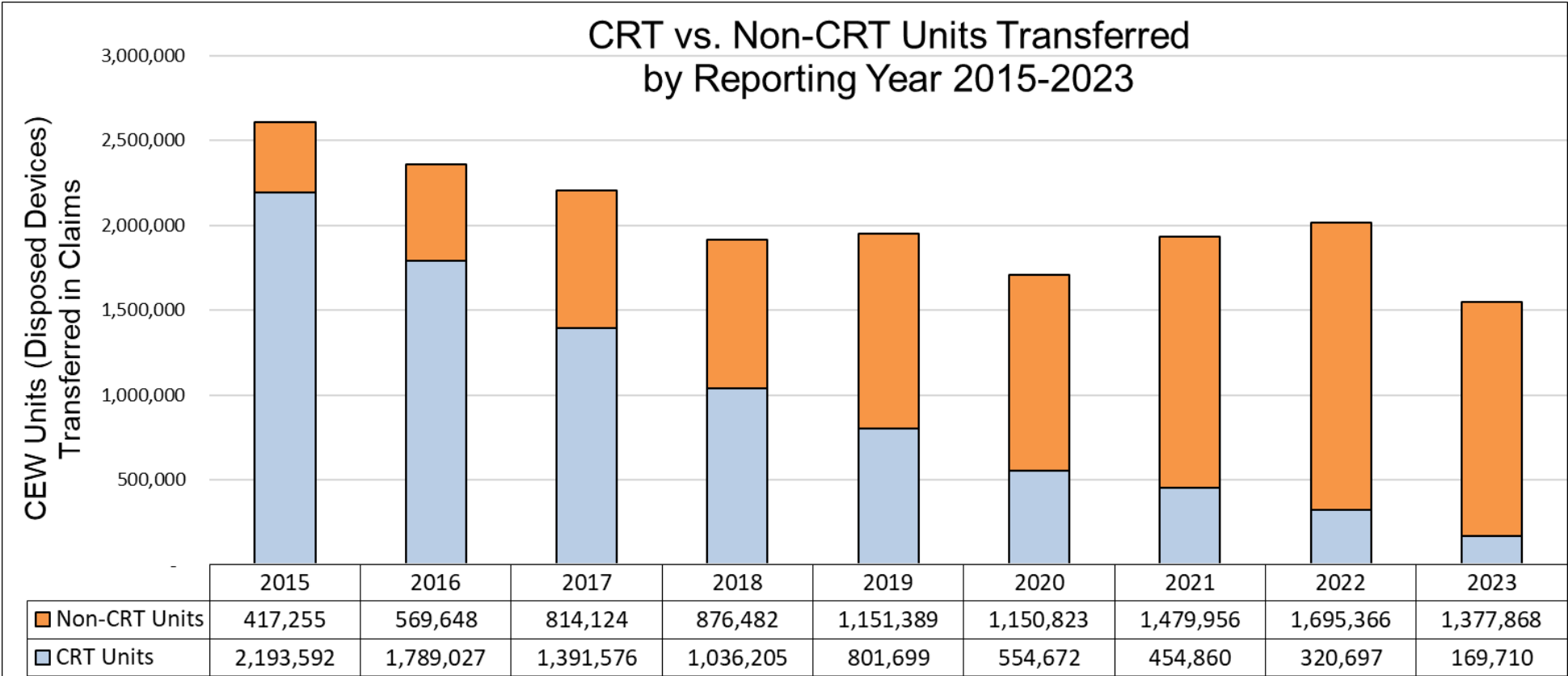
- [The California Department of Tax and Fee Administration website](http://www.cdtfa.ca.gov/taxes-and-fees/electronic_waste_recycling_fee.htm) contains frequently asked questions, registration information and registration forms. www.cdtfa.ca.gov/taxes-and-fees/electronic_waste_recycling_fee.htm
- [The Department of Toxics Substances Control website](https://dtsc.ca.gov/electronic-hazardous-waste/) contains information on covered devices, hazardous waste management standards, and regulatory requirements. <https://dtsc.ca.gov/electronic-hazardous-waste/>

*Comments on Covered Electronic Waste Recycling Payment System Chart (Next Page): The depiction of claim volumes in the chart reflects the evolution of the program since its inception in January 2005 through December 2022. Factors affecting the fluctuating volumes in the program include infrastructure development, the digital television broadcast transition in 2009, CRT glass market disruptions, and legacy stockpile depletion. Questions concerning this document may be directed to ewaste@calrecycle.ca.gov.

2005-2023 Pounds of CRT and Non-CRT CEW Claimed for Payment

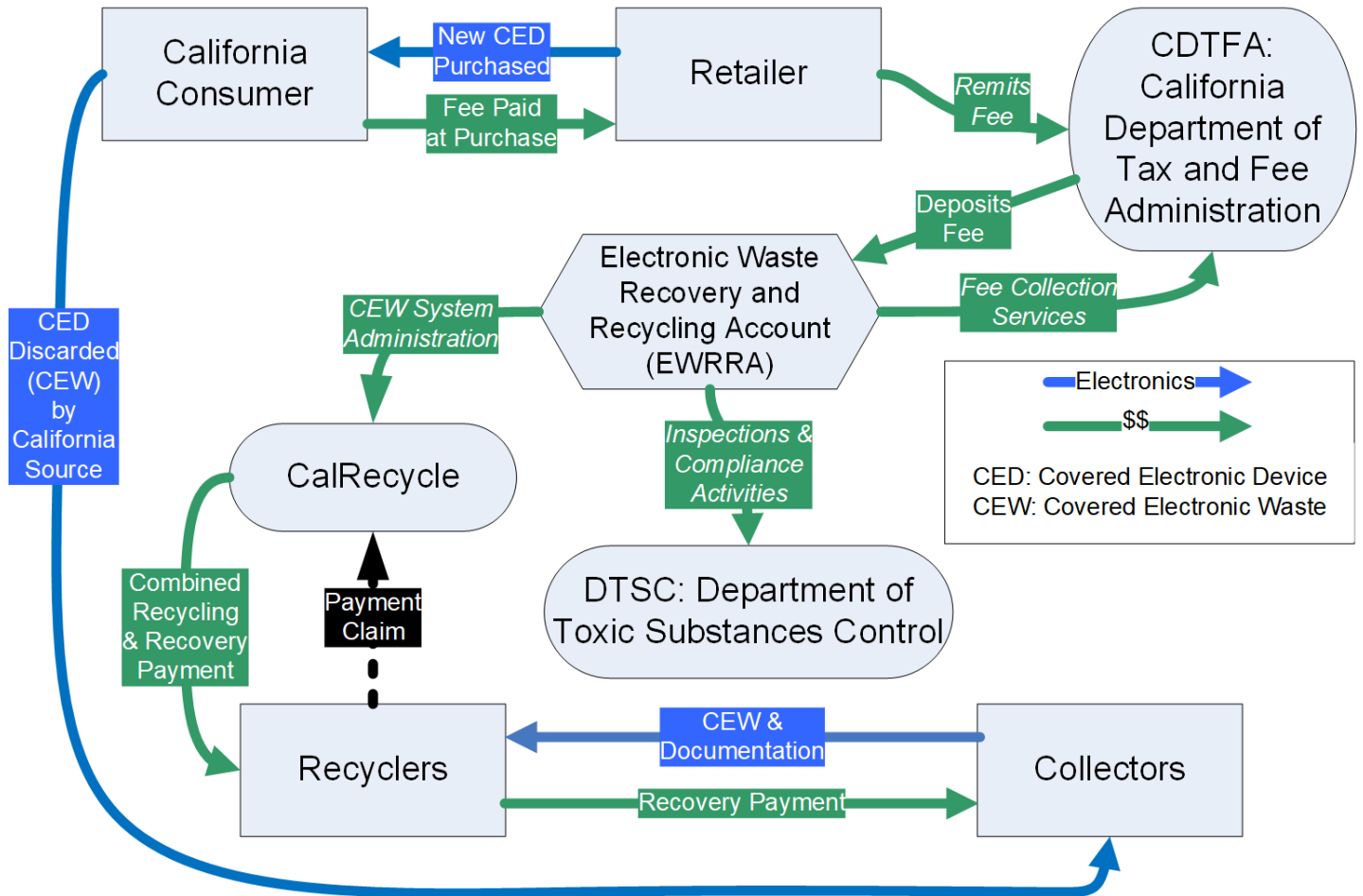


2015-2023 Units of CRT and Non-CRT CEW Transferred



Covered Electronic Waste Flowchart

Flowchart of Material and Funds within the State of California's Covered Electronic Waste Recycling Program



Appendix 1

Year	CRT Pounds Claimed	Non-CRT Pounds Claimed
2005	64,389,782	43,035
2006	126,567,589	70,698
2007	184,001,227	128,645
2008	219,279,718	234,385
2009	184,608,662	518,186
2010	192,183,827	1,354,261
2011	195,464,611	2,220,497
2012	208,612,778	3,390,096
2013	197,514,080	4,159,422
2014	177,646,847	5,754,842
2015	166,208,186	9,179,570
2016	140,132,266	12,931,644
2017	109,299,702	18,281,932
2018	80,580,813	20,357,824
2019	62,690,095	27,721,381
2020	43,421,265	30,552,244
2021	34,496,452	38,658,389
2022	23,169,414	41,066,955
2023	12,018,074	33,551,452

Appendix 2

Year	CRT Units	CRT Percent	Non-CRT Units	Non-CRT Percent	Total Transferred Units
2015	2,193,592	84%	417,255	16%	2,610,847
2016	1,789,027	76%	569,648	24%	2,358,675
2017	1,391,576	63%	814,124	37%	2,205,700
2018	1,036,205	54%	876,482	46%	1,912,687
2019	801,699	41%	1,151,389	59%	1,953,088
2020	554,672	33%	1,150,823	67%	1,705,510
2021	454,860	24%	1,479,956	76%	1,934,816
2022	320,697	16%	1,695,366	84%	2,016,063
2023	109,131	11%	1,377,868	89%	1,547,548

Appendix 3

When a California consumer buys a CED from a retailer, the consumer pays a recycling fee that funds the CEW Recycling Program. The retailer collects those fees and remits them to CDTFA. CDTFA deposits the funds into the EWRRA. Approved recyclers and collectors of CEW subsequently receive payments to offset the average net cost of appropriate recovery, processing, and recycling activities. CalRecycle pays approved recyclers the combined recycling and recovery payment, and recyclers pass the recovery payment on to the approved collectors who recovered the CEW. CalRecycle works closely with the Department of Toxic Substances Control (DTSC), who is responsible for regulating and enforcing the physical management of e-waste. DTSC conducts inspections and compliance activities with recyclers and collectors.