



December 8, 2025

Office of Administrative Law
Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, California 95814

Submitted electronically to staff@oal.ca.gov

Copy Submitted to:

Donnet McFarlane
Covered Battery-Embedded Products Emergency Regulations
Department of Resources Recycling and Recovery, Regulations Unit
1001 "I" Street, MS-24B
Sacramento, CA 95814

Submitted electronically to regulations@calrecycle.ca.gov

Re: SB 1215 Covered Battery-Embedded Products Regulations Formal Comment Period

Dear Office of Administrative Law:

On behalf of the California Retailers Association (CRA), we write to The Office of Administrative Law (OAL) to register our concerns and feedback on the emergency regulation currently under OAL review for SB 1215 Covered Battery-Embedded Products (CBEP) Regulations. These comments are to be entered into the official record for the Emergency Action published by OAL on December 1, 2025, with a public comment period between December 1 to December 8, 2025. We thank OAL, in advance, for the opportunity to provide recommendations on improving these regulations so that the rulemaking prioritizes affordability and workability for consumers, business and the economy.

The regulation in its current form creates significant compliance burdens and liability exposure for retailers without achieving program objectives. CRA urges OAL to consider the following recommendations:

1. Refine the Definition of Embedded Batteries - Section 18660.5

CRA recommends narrowing the definition of “embedded battery” to exclude battery components that are integrated into circuit boards and not intended to operate as independent energy storage units. These components are typically low-capacity, low-weight, and inseparable from the board without destructive disassembly. Considering criteria such as size, weight, and energy capacity would help differentiate true embedded rechargeable batteries from circuit-board–level components that do not present the same end-of-life handling or safety issues.

2. Compliance Deferment to Manufacturers

CRA recommends including a compliance deferment option that allows brand owners to transfer compliance obligations to the actual manufacturer when that manufacturer has a presence in the United States. This approach recognizes that manufacturers are best positioned to manage the required obligations and would create a clear pathway for assigning producer responsibility to the entity most capable of fulfilling them.

3. Clarity on Labeling Requirements - Sections 18660.5 and 18660.41

CRA recommends allowing required manufacturer or brand information to appear on the product package or online when on-device labeling is not feasible. Products with embedded batteries often have significant space constraints, and the battery itself may not be user accessible. Offering flexible labeling options would support consistent compliance while ensuring recyclers can access the information they need.

4. Clarity with CBEP Fee

CRA requests clarity from CalRecycle on whether a "bundle" where it's one SKU/UPC that contains two or more products, one of which is a CBEP and one which is not, listed for one lump sum price would be subject to the CBEP fee.

5. Recycled Content Reporting – Sections 18660.41 and 18660.41.1

CRA recommends that this section acknowledge that only the actual manufacturer is positioned to provide accurate recycled-content data. Brand owners generally do not have access to this level of detail, so the regulation should defer to the manufacturer for reporting purposes.

6. Clarification needed for Out-of-State Versus In-State - Section 18660.5

CRA requests a small, but important clarification to the following section of the SB 1215 regulations CalRecycle submitted to OAL. As worded, technically a sale of a covered product in Massachusetts, for example, would be considered “purchased for use in this state” because a retailer has stores in California. Instead, CRA requests that subsection

(A) read: “The covered battery-embedded product is purchased from a retailer at a physical retail store located in this state.”

(1) There is a rebuttable presumption that a covered battery-embedded product is purchased for use in this state if either of the following is true:

(A) The covered battery-embedded product is purchased from a retailer physically located in this state

(B) The address to which the retailer ships the purchased covered battery-embedded product is located in this state.

7. Require Universal Product Code (UPC) in Manufacturer Notices - Section 18660.41.1

Current statute lacks UPC requirements, forcing retailers to chase model numbers with model numbers varying by year. UPCs are universal and represent the single source of truth for product design. UPC differs from manufacturer model numbers and SKUs and UPC is the standard identifier. CRA requests OAL to eliminate this ambiguity, which will dramatically reduce compliance costs and timelines for retailers. CRA recommends making the following change in the regulations:

Section 18660.41.1(f)(2) Reporting Requirements for Covered Battery-Embedded Product Manufacturers:

(2) The list of covered products, including brand ~~and model number~~, model number, and UPC code, contained in the notice.

8. Direct Manufacturer Notices to CalRecycle Only - Sections 18660.41.1. and 18660.41.5

CRA recommends CalRecycle be the central repository for all manufacturer notices so that there is unified database of all products falling within the scope of SB 1215. The current regulatory structure allows incomplete manufacturer notices to reach retailers without CalRecycle's awareness. Centralizing this function ensures accurate, complete product lists reach Point of Sale (POS) systems.

9. Post Manufacturer Notices on CalRecycle Website with Retailer Indemnification

Retailers currently face unfair liability exposure when manufacturer claims conflict with state interpretations. CalRecycle publication of notices with explicit indemnification language will protect retailers from liability caused by inaccurate manufacturer information protecting retailers acting in good faith to comply with the law.

**10. Require Standard Template and File Format for Manufacturer Notices -
Sections 18660.41.1. and 18660.41.5**

Retailers currently receive "data dumps" in incompatible formats (Excel, screenshots, CSV, Word). Standardized templates will streamline POS system coding and compliance verification and will reduce administrative burden and error rates significantly dramatically reducing compliance costs, which will maintain product affordability for consumers while also maximizing compliance with the law.

11. Implement Reasonable Compliance Timeline

Many retailers, particularly discount and thrift stores, operate legacy POS systems requiring substantial upgrades. The regulations should take into consideration these vastly differing retail needs and provide additional time, a minimum of one-year, to ensure meaningful compliance rather than administrative chaos, pushing implementation to January 1, 2027.

Thank you, again, for the opportunity to provide feedback on the SB 1215 CBEP regulations. Please do not hesitate to reach out with questions or for further clarification.

Sincerely,



Sarah Pollo Moo
Policy Advocate
California Retailers Association

CC:
Zoe Heller, Director, CalRecycle
Cara Morgan, Deputy Director, Division of Materials Management and Local Assistance,
CalRecycle
Matt Sheehan, Senior Environmental Scientist, CalRecycle