

# Attachment to Notice of Exemption

Project Title: Structure for Pursuing Multiple Covered Electronic Waste Recycling Payment Rates

Project Applicant: Department of Resources Recycling and Recovery (CalRecycle)

## **Description of Nature, Purpose and Beneficiaries of Project:**

The Electronic Waste Recycling Act of 2003 (Public Resources Code § 42460, et seq.) established a funding mechanism to provide for convenient collection opportunities and waste processing capabilities for certain electronic products discarded in California.

Covered electronic devices (CEDs) include video display devices with screen sizes greater than four inches that have been determined by the Department of Toxic Substance Control (DTSC) to be hazardous when discarded. When CEDs are discarded, they become CEW. Under the Covered Electronic Waste (CEW) Recycling Program, approved collectors document the recovery of the CEW before transferring that material to an approved recycler. Approved recyclers receive and dismantle (or “cancel”) the CEW, compliantly manage derived residuals, and subsequently submit claims for payment. CalRecycle pays approved recyclers the Standard Statewide Combined Recovery and Recycling Payment Rate for the weight of CEW cancelled and claimed, which includes a component for recovery costs and a component for recycling costs. Each year, approved recyclers are required to report the costs and revenues associated with processing CEW.

Initially, recyclers were paid one rate for all CEW. Historically, the majority of the CEW material entering into the payment system has been cathode ray tube (CRT) devices. CRTs remain the predominant waste stream, but non-CRT volumes are increasingly becoming a more significant portion of the stream. Non-CRT CEW volumes have grown from approximately 1% of the total CEW volume by weight (2.2 million pounds) in 2011 to 41% (30 million pounds) in 2020. Non-CRTs are more difficult to dismantle because they require a longer processing time and often have less intrinsic material value than CRTs. Hence, separate payment rates were required for CRT and non-CRT CEW.

In March 2018, CalRecycle filed emergency regulations to address the issues identified above. These regulations provided a structure for pursuing multiple CEW recycling payment rates by splitting the single CEW recycling payment rate to allow for multiple recycling payment rates (Differential Payment Structure): one payment rate for CRT CEW and another payment rate for non-CRT CEW. The emergency regulations were readopted in March 2020. CalRecycle seeks to make final the existing regulations with no substantial changes.

## **Reasons Why Project is Exempt:**

The adoption of the regulations is exempt from the California Environmental Quality Act (CEQA) because it is not a “project” as that term is defined in the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.). A “project” is an activity “which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the

environment...” (CEQA Guidelines, § 15378(a)). The regulations finalize existing emergency regulations without any further substantial changes. The adoption of the regulations will have no direct effect on the environment and no reasonably foreseeable indirect impacts on the environment. There are no plan requirements in the proposed regulations from which any environmental impacts, direct or indirect, can be discerned. There are no standards or targets set in the proposed regulations on which to base an objective analysis of any potential impacts. To impute any general or specific environmental effects from the regulations would be entirely speculative, and CEQA does not require a lead agency to speculate as to potential impacts on a project. Accordingly, the adoption of the regulations is exempt from consideration under CEQA.