

## **ATTACHMENT TO NOTICE OF EXEMPTION**

**Project Title:** Covered Electronic Waste Recovery and Recycling Payment Rates for Video Display Devices

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

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

The Electronic Waste Recycling Act (“the Act”) of 2003 (Public Resources Code (PRC), section 42460, et seq.) established a comprehensive program to finance the end-of-life management of certain video display devices. The program is financed through a covered electronic waste (CEW) recycling fee paid by consumers at the point of retail sale of any covered video display device. These revenues are used to administer CalRecycle’s CEW Recycling Program established by the Act, including the disbursement of recovery and recycling payments, through the Program, to approved collectors and recyclers of CEWs. The scheme is designed to encourage the safe recovery and recycling of certain electronics and avoid the environmental harm that might occur if improperly discarded. Pursuant to PRC sections 42477 and 42478, CalRecycle has the responsibility to evaluate the CEW recovery and recycling payment rates for video display devices every year and adjust them if warranted to reflect the average net costs of providing the CEW recovery and recycling services intended by the Act. CalRecycle must establish the payment rates by the statutory deadline of July 1, 2025. The proposed file and print regulations are to adjust the recycling payment rates paid by CalRecycle to approved recyclers of CEW.

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

The adoption of the regulation 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, sections 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, section 15378(a)). The file and print regulation only adjusts the recycling payment rates paid by CalRecycle to approved recyclers of CEW. The adoption of the regulation will have no direct effect on the environment and no reasonably foreseeable indirect effect on the environment. There are no requirements, standards, or targets set in the proposed regulation on which to base an objective analysis of any potential impacts. To impute any general or specific environmental effects from the regulation would be entirely speculative, and CEQA does not require a lead agency to speculate as to the potential impacts of a project. Accordingly, the adoption of the regulation is exempt from consideration under CEQA.

The adoption of the regulation also falls under the “general rule” or “common sense” exemption as defined in the CEQA Guidelines (California Code of Regulations, Title 14, sections 15000 et. seq.). The common sense exemption states a project is exempt from

CEQA if “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA” (CEQA Guidelines, section 15061(b)(3)). The file and print regulation only adjusts the recycling payment rates paid by CalRecycle to approved recyclers of CEW. It can therefore be seen with certainty that there is no possibility that the regulation would result in a significant effect on the environment and is exempt from consideration under CEQA.

Additionally, the adoption of the regulation is exempt from CEQA because it falls under the “Class 8” exemption as defined in the CEQA Guidelines. The Class 8 exemption states that a project is exempt from CEQA if it “consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment” (CEQA Guidelines section 15308). The regulations adopted pursuant to the Electronic Waste Recycling Act are part of an overall statutory scheme to encourage safe recovery and recycling of covered electronic devices (Stats. 2003, ch. 526, §1.) Regulations have already been promulgated to implement this Act. The proposed change to the existing regulations merely updates the payment scheme to make it clearer and to avoid regulatory drift that might otherwise result due to maintenance of an obsolete and inefficient fee structures.