

Covered Electronic Waste Recycling Program

Background and Summary of Program Costs and Revenue Need Considerations

The Electronic Waste Recycling Act of 2003 (Act), as amended, established a comprehensive program to finance the end-of-life management of certain (covered) electronic devices. The program is financed through an Electronic Waste Recycling Fee (fee) paid by consumers at the point of retail sale of new covered electronic devices. Fees collected are used to administer the programs established by the Act, including the disbursement of recovery and recycling payments to approved collectors and recyclers of covered electronic waste (CEW).

CalRecycle has the responsibility to evaluate the program's revenue needs and adjust the fee levels as warranted to maintain fund solvency and ensure continued operation of the program. Pursuant to Public Resource Code 42464(f), no more frequently than annually, and no less frequently than biennially, CalRecycle shall review at a public hearing the CEW fee and shall make any adjustments to the fee to ensure that there are sufficient revenues in the account to fund the CEW recycling program established pursuant to the Act.

CalRecycle must make necessary determinations regarding the fee by the statutory date of August 1. Any changes would become effective the following January.

The current fee assignments are as follows:

- **Five dollars (\$5)** for each covered electronic device with a screen size greater than 4 inches but less than 15 inches measured diagonally.
- **Six dollars (\$6)** for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.
- **Seven dollars (\$7)** for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

Covered electronic devices are defined by statute as video display devices with a screen size greater than four inches that are identified by the Department of Toxic Substances Control (DTSC) to exhibit hazardous characteristics when disposed.

Currently, covered electronic devices include:

- Cathode Ray Tube (CRT) devices
- Televisions and computer monitors containing CRTs
- Televisions and computer monitors containing liquid crystal displays (LCDs)
- Laptop computers with LCD screens (including most "tablet" computers)
- Plasma televisions
- Personal portable DVD players with LCD screens

Monies paid by consumers are remitted by retailers to the California Department of Tax and Fee Administration (CDTFA), and deposited in the Electronic Waste Recovery and Recycling Account (EWRRA). The EWRRA was established by the Act within the Integrated Waste Management Fund. While the EWRRA is used to pay for the specific program operations of CalRecycle, DTSC, CDTFA, and some State Controller's Office

(SCO) payment services, the vast majority of expenditure demand comes from electronic waste recycling payment claims submitted by recyclers.

In assessing the adequacy of the fee, CalRecycle must consider:

- How much expenditure demand can be expected in the near-future?
- How much revenue is necessary to ensure continued program solvency?
- What are covered electronic device sales projections?
- How should any changes in the fee be structured to best achieve adequate and stable revenue levels?

Revenue and Expenditures

California's CEW recovery and recycling payment system is financed through a fee that is assessed on the retail sale of covered electronic devices. The fee level was initially set via the Act at \$6, \$8, and \$10, depending on the screen size of the device. In early 2008, the California Integrated Waste Management Board, or CIWMB (CalRecycle's predecessor), projected that payment claim demands would exceed revenue and exhaust the existing fund balance at some point in FY 2008/09. These projections were based on the historical pace of program growth, the original recovery and recycling payment rates, and the level of revenue anticipated from new device sales trends. In response, the CIWMB acted in June 2008 to adjust upward the consumer fee levels, pursuant to statutory provisions, to a new range of \$8, \$16, and \$25, aligned with the existing three-tiered screen size structure. This adjustment was determined to be appropriate at the time based on historical growth in claim volumes submitted by recyclers.

Until mid-2008, the program had been growing at the average rate of an additional four million pounds of CEW claimed each quarter. However, contrary to the continued growth that was factored into predicting revenue need for the 2008 fee adjustments, CEW claim volumes began fluctuating after peaking in first quarter 2009. Subsequently, CEW volumes settled into a variable plateau. In the last three years, CEW volumes have started to decline considerably. Please refer to Attachment 2 for a graphic depiction of historical annual volumes and a brief discussion of factors affecting CEW recovery and recycling volumes. As a result of revenues outpacing the expenditures of the program, CalRecycle restored the fee levels to the original \$6, \$8, \$10 fee structure, and these became effective January 1, 2011. The following year, CalRecycle completed the statutorily mandated assessment of the fund and found that reducing the original fee structure by 50% would allow CalRecycle to continue program operation while drawing down the excess fund balance. The \$3, \$4, and \$5 fee levels became effective January 1, 2013.

Based on continuing sufficient funds in EWRRA, CalRecycle made no fee adjustments in 2014. However, with declining revenues CalRecycle did act in 2016 to increase fee levels to \$5, \$6, and \$7 depending on device screen size. This fee structure became effective January 1, 2017. In 2018, due to the payment rate increase for non-cathode ray tube (CRT) CEW effective July 1, 2018, CalRecycle conducted a fee analysis and determined that those fee levels should be maintained.

From January 2005 through December 2018, CalRecycle has received approximately 3,862 claims totaling approximately \$1 billion. This represents the recovery and recycling of over 2.3 billion pounds of CEW. CalRecycle projects approximately 101 million pounds of CEW will be claimed annually during the next several years. As the CEW volumes have declined due to depletion of legacy material, the excess revenue derived from the current consumer fee is accumulating in a fund balance that now needs to be stabilized and reduced through an adjustment to the fee levels.

Historical and projected program revenues are as follows:

- FY 2004/05: ~\$ 31,000,000
- FY 2005/06: ~\$ 78,000,000
- FY 2006/07: ~\$ 80,000,000
- FY 2007/08: ~\$ 77,000,000
- FY 2008/09: ~\$ 108,000,000
- FY 2009/10: ~\$ 175,808,000
- FY 2010/11: ~\$ 156,278,000
- FY 2011/12: ~\$ 110,242,000
- FY 2012/13: ~\$ 86,884,000
- FY 2013/14: ~\$ 54,148,000
- FY 2014/15: ~\$ 59,367,000
- FY 2015/16: ~\$ 62,292,000
- FY 2016/17: ~\$ 72,720,000
- FY 2017/18: ~\$ 86,039,000
- FY 2018/19: ~\$ 82,531,000
- FY 2019/20: ~\$ 86,550,000 (Projected if no adjustments are made)
- FY 2019/20: ~\$ 80,935,000 (Projected with proposed adjustments)
- FY 2020/21: ~\$ 86,550,000 (Projected if no adjustments are made)
- FY 2020/21: ~\$ 73,465,000 (Projected with proposed adjustments)

Fee Levels: Maintaining Solvency

As CalRecycle administers the financial aspects of the CEW payment system, it is obligated to maintain a fund balance that allows it to make recovery and recycling payments, as well as to provide funding for its own program specific operations and certain operations of both DTSC and CDTFA. CalRecycle has the authority and responsibility to revisit and revise fee levels annually, as warranted, to maintain adequate funds in the EWRRA. If CalRecycle maintains the existing fee levels, the next opportunity to make adjustments will be on or before August 1, 2020.

CalRecycle's specific authority is contained in Public Resources Code section 42464(f):

“On or before August 1, 2005, and, thereafter, no more frequently than annually, and no less frequently than biennially, the board [CalRecycle], in collaboration with the department [DTSC], shall review, at a public hearing, the covered electronic waste recycling fee and shall make any adjustments to the fee to ensure that there are sufficient revenues in the account to fund the covered

electronic waste recycling program established pursuant to this chapter. Adjustments to the fee that are made on or before August 1, shall apply to the calendar year beginning the following January 1. The board shall base an adjustment of the covered electronic waste recycling fee on both of the following factors:

(1) The sufficiency, and any surplus, of revenues in the account to fund the collection, consolidation, and recycling of covered electronic waste that is projected to be recycled in the state.

(2) The sufficiency of revenues in the account for the board and the department to administer, enforce, and promote the program established pursuant to this chapter, plus a prudent reserve not to exceed 5 percent of the amount in the account.”

As noted earlier in this document, the current level of CEW recycling payment claim demands compared to annual revenues has resulted in the accumulation of a significant fund balance. This reserve will continue to accumulate within EWRRA unless action is taken to adjust the fee.

Additional Factors in Reserve and Fee Considerations

The Governor’s Budget for FY 2019/20 indicates a starting fund balance in the EWRRA of approximately \$98.6 million and an ending fund balance of approximately \$85 million, assuming current revenue and expenditure rates. Per the Budget Act of 2019, \$1.9 million was loaned from the EWRRA fund balance to the Pharmaceutical and Sharps Waste Fund.

The Mechanics of Adjusting Fee Levels

CalRecycle has the authority to adjust, pursuant to timeframes and considerations contained in statute, the fee assessed on consumers. Adjustments to the fee would be considered regulations under the Administrative Procedures Act (APA). CalRecycle has authority to make such adjustments pursuant to an emergency rulemaking. Public Resources Code Section 42475.2 grants CalRecycle the authority to promulgate all regulations under the Act as emergency regulations that remain in effect for two years. This timeframe will allow any fee changes to remain in effect until the next time CalRecycle is authorized to revisit and revise the fee levels.