

Attachment to Notice of Exemption

Project Title: Proposed Regulations Relative to Designated Approved Collectors

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. Regulations adopted in 2006 established requirements for a Local Government to designate an approved collector (Designated Approved Collector or DAC) to recover covered electronic waste (CEW) on behalf of a Local Government and, in doing so, be similarly relieved of certain source documentation requirements.

While this provision generally worked well and reduced paperwork burdens, it lacked clarity with regard to who was authorized to issue and receive designations. It also created vulnerabilities in the CEW Recycling Program when material was brought in the system beyond the scope of the designation. In March 2017, CalRecycle filed emergency regulations to address the issues. The emergency regulations addressed primarily two substantial risks to the CEW Recycling Program: 1) inconsistent and/or minimal oversight of CEW collection operations “on behalf of” Local Governments; and 2) limited ability on the part of the state to validate the eligibility of the accumulated CEW transferred into the recycling system.

CalRecycle is now seeking to make the emergency regulations permanent, as well as amend other existing regulations spanning portions of Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations. The proposed regulations intend to: (1) consolidate regulations associated with designations into Article 7; (2) clarify terminology; (3) provide better structure for Local Governments’ use of the provision; and (4) identify roles for Local Governments, DACs, and CalRecycle when utilizing elements of the designation provision.

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, §§ 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, as well as amend other existing regulations. 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. There are no standards or targets set in the proposed regulations on which to base an objective analysis on 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.