

ATTACHMENT TO NOTICE OF EXEMPTION

Project Title: AB 1311 Alternative Schedule Permanent Regulations

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

Description of Nature, Purpose and Beneficiaries of Project:

In 2021, the Legislature enacted Assembly Bill (AB) 1311 (Wood, Ch. 506, Statutes of 2021), which expands eligibility for certified recycling centers to operate on an alternative schedule other than the schedule established in Public Resources Code (PRC) section 14571(a)-(b) and allows CalRecycle to certify recycling centers with reduced hours. CalRecycle has developed proposed regulations to clarify the alternative schedule and reduced hours requirements and to establish administrative procedures to enable CalRecycle to fulfill its responsibilities under AB 1311.

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 regulation only clarifies the language introduced by AB 1311 and implements application requirements for certified recyclers to operate on an alternative schedule or reduced schedule. 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 for environmental impacts 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. The common sense exemption states that a project is not subject to CEQA 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” (CEQA Guidelines, section 15061(b)(3)). For the same reasons that CalRecycle has determined that the regulation falls under the “not a project” exemption, it can also 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. In the alternative, if it is determined that the regulation is a “project,” there is no possibility that the activity in question will have a “significant effect on the environment,” which is defined by PRC section 21068 to only include adverse changes in the environment. This is because the regulation only makes minor changes to the operating hours of a

small number of businesses, and therefore cannot possibly cause a substantial, or potentially substantial, adverse change in the environment.