

Attachment to Notice of Exemption

Project Title: Used Mattress Recovery and Recycling Plan and Budget

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

Description of Nature, Purpose and Beneficiaries of Project:

In 2013, the Legislature enacted SB 254 (the Act; Stats. 2013, Ch. 388; Public Resources Code §§ 42985 – 42994) which requires the manufacturers and renovators of mattresses sold in California to join a mattress recycling organization (MRO). The MROs must prepare and submit to CalRecycle for approval used mattress recovery and recycling plans that outline a program to collect, transport, and process used mattresses in a manner that reduces the costs and environmental impacts of the disposal of used mattresses in California. SB 254 imposes an assessment on mattresses sold in California to fund the used mattress recovery and recycling program and prohibits a manufacturer, renovator, or retailer not in compliance with the chapter from selling mattresses in California. The Mattress Recycling Council (MRC) is a non-profit MRO created pursuant to the Act, and certified by CalRecycle. Their Used Mattress Recovery and Recycling Plan and Budget, submitted July 1, 2015, is the Project under consideration.

Reasons why project is exempt:

While the Department has discretionary approval over the Mattress Recycling Plan and Budget, its approval for purposes of CEQA is ministerial. Under the reasoning set forth in *Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259 at pp. 266-267; *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 117; and *Leach v. City of San Diego* (1990) 220 Cal.App.3d 389 at pp. 394-395, the Department's approval of a mattress recycling plan and budget is ministerial under CEQA because the Used Mattress Recovery and Recycling Act (Public Resources Code Sections 42985 et seq.) does not give the Department the authority or discretion to deny or conditionally approve the plan based on any direct or indirect effects of implementation of the plan or budget on the environment or to mitigate any such effects (see Public Resources Code Section 42987.1 and 42987.3). Moreover, approval of a mattress recycling plan and budget falls within the "common sense" exemption under 14 CCR Section 15061(b) because there is no possibility that the plan or budget can have a significant effect on the environment as they are administrative in nature and the Department is not issuing a permit or entitlement to carry out specific physical activities that may cause environmental impacts.