

INITIAL STATEMENT OF REASONS

December 2014

Title 14:	Natural Resources
Division 7:	Department of Resources Recycling and Recovery
Chapter 11:	Product Stewardship
Article 3:	Used Mattress Recovery and Recycling Program

PROBLEM ADDRESSED BY AND BENEFITS OF REGULATIONS

Currently used mattresses in California represent a significant environmental and economic problem. Most are sent to landfills or illegally disposed (i.e. abandoned on public lands, etc.), and recycling is minimal. For example:

- In one 12-month period, remediation expenses exceeded \$220,000 to address more than 2,800 illegal mattress dumping reports in the City of Oakland alone (many of which involved multiple mattresses).¹
- As of July, 2014 only six mattress recycling companies service California's 38 million citizens.²
- The used mattress recycling rate in the state is estimated to be less than 5 percent annually,³ a small percentage of the total estimated 4.2 million mattresses and box springs discarded each year in California.⁴
- Recycling the 4.2 million mattresses and box springs instead of landfilling them potentially could reduce greenhouse gas emissions by more than 132,000 tons of

¹ Mattress Dumping Complaints and Costs, FY 2010-2011. Raw data, City of Oakland.

² "Recycling Locations." *Mattress Recycling Council*. 09 July 2014.
<<http://www.mattressrecyclingcouncil.org/recycling-locations/>>.

³ Roland Geyer and Brandon Kuczynski, *Mattress and Box Spring Case Study: The Potential Impacts of Extended Producer Responsibility in California on Global Greenhouse Gas (GHG) Emissions*, University of California, Santa Barbara, May 2012, p. 14.

⁴ "MATTRESSES." *California Product Stewardship Council*. 09 July 2014.
<<http://www.calpsc.org/products/mattresses>>.

CO₂e per year, or 45 percent of the greenhouse gases produced in manufacturing and landfilling them.⁵

In 2013, the California State Legislature enacted Senate Bill 254 (Hancock, codified at Public Resources Code sections 42985-42994), which created the Used Mattress Recovery and Recycling Act (the Act). The Act seeks to reduce the illegal dumping of mattresses while increasing mattress recycling and reducing public agency costs associated with the end-of-life management of used mattresses. The Act requires manufacturers of mattresses sold in California to develop, finance, and implement a convenient and cost-effective program to recover and recycle used mattresses generated in California. These proposed regulations will assist in the efficient and effective implementation of the Act and, together, the Act and the proposed regulations will significantly mitigate the following problems while also lowering taxpayer costs:

- Local governments will be able to redirect staff from dealing with illegal disposal of mattresses to other priorities that have been neglected during recent years of budget shortfalls, since mattress producers will now be responsible for overseeing their products through end-of-life.
- Public agency costs for the end-of-life management of used mattresses will be reduced, including expenditures for solid waste management and remediation of illegal disposal.
- Incentive payments provided by the program will reduce illegal dumping, blight, and associated health hazards.
- Mattresses will be kept out of landfills as mandated recycling programs come on line and they will provide a reliable feedstock to boost what is now a minor industry in the state, bringing recycling jobs and related businesses to California.
- Increased recycling of metals, plastics and other materials from used mattresses will reduce greenhouse gases, both by decreasing the need for energy-intensive virgin resources and by lowering methane-generating materials in landfills.

⁵ Roland Geyer and Brandon Kuczynski, *Mattress and Box Spring Case Study: The Potential Impacts of Extended Producer Responsibility in California on Global Greenhouse Gas (GHG) Emissions*, University of California, Santa Barbara, May 2012, p.10-11.

- Removing heavy, bulky mattresses from landfills will assist California in achieving its goal of reducing, recycling or composting 75 percent recycling of all solid waste by January 1, 2020.

GENERAL COMMENTS APPLICABLE TO STATEMENT OF REASONS

The Act created a Used Mattress Recovery and Recycling Program (program), which requires manufacturers of mattresses sold in this state, through a mattress recycling organization, to submit a used mattress recovery and recycling plan (plan) to the Department of Resources Recycling and Recovery (the department). The plan must contain specified elements, including a funding mechanism sufficient to carry out the plan (such as administrative, operational, and capital costs of the plan), and payment of fees to the department to cover the department's oversight and enforcement costs. The department is required, within 90 days after receiving the plan, to review and determine whether the plan complies with the requirements laid out in section 42987 of the Public Resources Code, and make a determination of whether or not to approve the plan.

A mattress recycling organization submitting a plan is required to reimburse the department every three months for the department's costs to implement and enforce the Act, including any program development costs or regulatory costs incurred by the department prior to plans being submitted.

Each manufacturer of mattresses sold in the state, through a mattress recycling organization, is required to prepare and submit to the department an annual report describing the activities carried out pursuant to the plan.

SPECIFIC PURPOSE AND NECESSITY OF REGULATIONS

§18959. Purpose.

The purpose of Section 18959 is to identify the reason for the regulations as a whole and to identify what the regulations will address. This section is necessary because it explains that the regulations will clarify existing law and establish administrative

procedures to efficiently and effectively implement the department's responsibilities under the law and to provide a uniform competitive business environment to all mattress manufacturers, renovators, distributors, recyclers, and retailers pursuant to Section 42985 of the Public Resources Code.

§18960. Definitions.

The purpose of Section 18960 is to define discrete terms used in the regulations that have a meaning which is not readily apparent without a definition. This section is necessary as several technical and administrative terms appear in the Act that require definitions to assure regulatory consistency and clarity.

Subsection (a)

Subsection (a) explains that the definitions that follow are provided as a supplement to the definitions contained in the Act. This section is necessary to set forth the following definitions and to ensure the regulated community is aware that there are additional definitions contained in the Act:

Subsection (b)

Subsection (b) clarifies the term "brand." This clarification is necessary to limit the meaning of the term to existing, industry-wide labeling requirements, mainly the URN that is issued by the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation and is found on every mattress tag. This is reasonably necessary as some mattress manufacturers market their product under different brand names.

Subsection (c)

Subsection (c) defines the term "collection." This definition is necessary to clarify that the term "Collection" used in this Act means any method by which a service provider receives used mattresses from a program participant. This definition will allow the department to comprehensively identify sources of used mattresses in the state.

Subsection (d)

Subsection (d) defines the term “Operational costs” as used in the Act to mean costs to operate a mattress recycling organization’s mattress recycling program, including, but not limited to, collection, transportation, processing, disposal, and education and outreach costs. This definition is necessary in order to differentiate operational costs borne by stakeholders other than a mattress recycling organization, as those entities’ participation is not mandated in the same way as a mattress recycling organization’s under the Act.

Subsection (e)

Subsection (e) defines the term “Significant or material change” as a change in a required element of the plan that affects the mattress recycling organization’s costs or revenues, such as a change that results in a modification of the department-approved recycling charge, a change that requires a party other than the mattress recycling organization to make a major change in how it operates in the program, or a change that reduces the goals set for the mattress recycling organization in the existing approved plan. This definition provides feasible examples of the types of changes that are considered “significant or material”, which is needed in order to identify to the regulated community what types of changes will rise to the level of “significant or material”.

§18961. Used Mattress Recovery and Recycling Plan Submittal.**Subsection (a)**

Subsection (a) sets forth that a corporate officer acting on behalf of a mattress recycling organization must submit certain information to the department. This subsection is necessary because it clarifies that the person in an organization who is held the most responsible for the actions of that organization is responsible for submitting a used mattress recovery and recycling plan.

Subsections (a) (1) (A) through (G)

Subsections (a) (1) (A) through (G) specify contact information that must be submitted to the department for the corporate officer who is responsible for submitting the plan. This subsection is necessary because it identifies what information must be submitted to the department in order for the department to verify the information submitted by a mattress recycling organization.

Subsections (a) (2) (A) through (C)

Subsections (a) (2) (A) through (C) specify contact information that must be provided for each manufacturer, renovator, and retailer that registers with the mattress recycling organization. This information is necessary because it informs the mattress recycling organization what information it must submit with its plan. The department requires this information for enforcement actions that might be taken by the department against non-compliant program participants.

Subsection (a) (3)

Subsection (a) (3) requests a list of the brands covered under the plan, which is necessary for the department to verify compliance of manufacturers, renovators, and retailers. This will allow the department to post an accurate list of compliant manufacturers and renovators as required by subsection (a) of section 42993 of the Act.

Subsection (a) (4)

Subsection (a) (4) requires that changes to the information in subsection (a) (1), (2), or (3) must be submitted to the department at least quarterly, or more frequently as the mattress recycling organization requests. This subsection is necessary to allow the department to verify the information submitted by a mattress recycling organization and to follow-up with enforcement-related activities as necessary.

Subsection (b)

Subsection (b) outlines electronic submittal instructions for the plan. This subsection is necessary because it authorizes the submittal and retention of documents electronically

for easier retrieval, as well as ensures that complete and accurate information is submitted to the department.

§18962. Used Mattress Recovery and Recycling Plan.

Subsection (a)

Subsection (a) lays out the format the mattress recycling organization's plan must follow and identifies the components the plan must contain. This requirement is necessary to clarify certain information the plan must contain for the department's use in evaluating a plan for approval, disapproval, or conditional approval, and in a standard outline format for consistency to facilitate department review. In several sections, the regulations do not add new requirements for the plan other than what is in statute; however, those statutory sections are referenced in the regulations for completeness. This way the regulations include the complete scope of the plan's requirements and identify where each of the statutory plan requirements should be included in the plan's outline. By restating these statutory sections in regulations, the regulated community will be able to refer to the regulations for its complete set of requirements and not have to continuously cross-check with the statutory language. This is necessary to not only ease the burden on the regulatory community, but also to ensure that no requirement is omitted due to confusion between the statutory and regulatory requirements.

Subsection (a) (1)

Subsection (a) (1) specifies that proof of certification of the specific mattress recycling organization must be submitted to the department. This subsection is necessary to allow the department to verify the information submitted by a mattress recycling organization and facilitate plan review.

Subsection (a) (2)

Subsection (a) (2) identifies what information must be included under the "Program Goals, Methods, and Activities" heading of the plan. This is necessary to identify which of the requirements listed in the Act (at section 42987.1) need to be addressed under the heading of "Program Goals, Methods, and Activities". This subsection also includes

the requirement in the Act that plans submitted after January 1, 2018 must identify objectives and activities that will comply with the state's mandated mattress recycling goals. This is necessary so that the regulations seamlessly include all of the Act's requirements so that the regulated community can easily identify all of its duties.

Subsection (a) (3)

Subsection (a) (3) specifies the contact information required to be included in the plan pursuant to section 18961 and is necessary for completeness.

Subsection (a) (4)

Subsection (a) (4) identifies where the Act's stakeholder consultation process must be included in the plan. This section is necessary because it identifies where this plan requirement should be included in the mattress recycling organization's plan.

Subsection (a) (5)

Subsection (a) (5) identifies where the Performance Measurement should be included in the plan and is necessary for completeness.

Subsection (a) (6)

Subsection (a) (6) identifies where the Financing Mechanism should be included in the plan and is necessary for completeness. This section also requires use of Generally Accepted Accounting Principles (GAAP), which is necessary to ensure that revenues and expenditures are allocated in a manner that is in accordance with GAAP as a means of adequately tracking program revenue and expenditures. This will assist the department in ensuring the mattress recycling charge imposed by the mattress recycling organization is appropriate and provides clarity and consistency with annual report requirements. The authoritative source of guidance for these principles can be found at the following website: <http://www.fasab.gov/accounting-standards/authoritative-source-of-gaap/>.

Subsection (a) (7)

Subsection (a) (7) identifies where education and outreach information should be included in the plan and is necessary for completeness. It is the department's experience that education and outreach helps to promote participation in achieving the purposes of a plan; as such, this provision allows for a description of outreach efforts to additional parties for which the mattress recycling organization may elect to conduct education and outreach. This subsection is also necessary as it requires a description of the methods of distribution for education materials to measure their effectiveness.

Subsection (a) (8)

Subsection (a) (8) identifies where the Advisory Committee Report should be included in the plan and is necessary for completeness. It also allows for an explanation of how the mattress recycling organization addressed the Advisory Committee's Report, which is necessary because the Advisory Committee Report provides insight about plan development and implementation from an independent group chosen by the Director of the department. The Advisory Committee's insight provides the department and other stakeholders with a greater understanding of issues and/or practices that may impact the overall program cost or implementation.

Subsection (b)

Subsection (b) is necessary to ensure the department has all information required in order to efficiently approve, disapprove, or conditionally approve a plan. This requirement is from statute and is included here for completeness.

Subsection (c)

Subsection (c) describes the department's completeness determination timeline, which must occur within 30 days of receipt of the plan. This subsection also describes how the department will respond to an incomplete submittal. In addition this subsection establishes the review start date and timeline for the review period once a complete plan is received by the department to approve, disapprove, or conditionally approve. This section is necessary to outline how the department's review process will proceed.

The department has found that conducting a brief completeness review before determining plan compliance saves time and resources. If the plan is only missing easily remediable components, it allows the mattress recycling organization the opportunity to add information without having to go through a disapproval process. It also allows the department to ensure the plan contains all statutory and regulatory components before making a finding on whether the substantive requirements are met. The department has used a 30 day period for this review in similar programs and has found that it is an adequate amount of time for the department to make its initial review and notify the stewardship organization, which in this case is the mattress recycling organization, without causing the plan approval process to become too lengthy. This section also makes clear that the department's 90 day compliance review, a period dictated by statute, will not begin until the plan is complete.

Subsection (d)

Subsection (d) creates a mechanism for conditional approval of the plan and gives the mattress recycling organization 60 days to correct deficiencies in the plan in order to achieve plan approval by the department. This is necessary because it creates an outlet for plans that are not entirely deficient to move forward without being disapproved. If a plan only needs a few components to be addressed in order to be found in compliance, the conditional approval process creates a way for those components to be remedied as the plan moves forward and without the same delay in plan implementation a disapproval would create. The department chose a 60 day period for the mattress recycling organization to correct deficiencies because the department has found with its work in similar programs that 60 days is typically an adequate amount of time for the organization. To address a possible situation where the mattress recycling organization may require additional time, the department has allowed the director the discretion to dictate a different time frame.

Subsection (e)

Subsection (e) makes clear that conditional approval shall result in disapproval if the conditions of the conditional approval are not met. This section is necessary to ensure the necessary elements are included in the plan in order to gain department approval.

Subsection (f)

Subsection (f) details the disapproval process and is necessary for completeness and to ensure that deficiencies found by the department are corrected or supplemented in the resubmittal of the plan. The department chose a 60 day period for the mattress recycling organization to correct deficiencies because the department has found with its work in similar programs that 60 days is typically an adequate amount of time for the organization. To address a possible situation where the mattress recycling organization may require additional time, the department has allowed the director the discretion to dictate a different time frame.

Subsection (g)

Subsection (g) identifies when a previously approved plan needs to be resubmitted to the department for department review and approval. This section is necessary to provide the department additional reviewing authority of the plan submitted by the mattress recycling organization if the mattress recycling organization makes a significant or material change to the plan. As with the initial review of the plan, any resubmittal will be subject to the same 90 day compliance review by the Department that is required in statute.

§18963. Mattress Recycling Charge and Annual Budget.

Subsection (a)

Subsection (a) identifies the submittal requirements for the annual budget. These instructions are necessary because they identify what person is authorized to submit the mattress recycling organization's annual budget to the department. This subsection also outlines electronic submission for ease of submittal by the mattress recycling organization and ease of access by the department, while also requiring an

accompanying original signature so that there is a hard copy record of the budget submission.

Subsection (b)

Subsection (b) identifies the components required in the used mattress recycling program budget. As with the plan, in some instances the regulations restate the statutory requirements and are necessary in order for the regulations to contain a complete list of what must be included in the budget.

Subsection (b) (1)

Subsection (b) (1) requires contact information for the mattress recycling organization to be submitted with the budget and is necessary to identify the most responsible person from the mattress recycling organization as the submitter of the annual budget.

Subsection (b) (2)

Subsection (b) (2) identifies where the anticipated revenues and costs should be included in the budget and is necessary for completeness.

Subsection (b) (3)

Subsection (b) (3) identifies where the mattress recycling charge and itemization should be included in the budget and is necessary for completeness.

Subsection (b) (4)

Subsection (b) (4) requires that budgets submitted after the program has been implemented to include actual expenses for prior years. This is necessary to facilitate annual budget review and approval and to ensure that program revenue is being spent according to the requirements of the Act.

§18964. Mattress Recycling Organization Annual Report.

Subsection (a)

Subsection (a) identifies the submittal requirements for the annual report. These instructions are necessary because they identify what person is authorized to submit the mattress recycling organization's annual report to the department. This subsection also outlines electronic submission for ease of submittal by the mattress recycling organization and ease of access by the department, while also requiring an accompanying original signature so that there is a hard copy record of the annual report submission.

Subsection (b)

Subsection (b) identifies the components required in the used mattress recycling program annual report and details the outline the annual report should follow. As with the plan and budget, in some instances the regulations restate the statutory requirements in order for the regulations to contain a complete list of what must be included in the annual report.

Subsection (b) (1)

Subsection (b) (1) specifies the contact information of the corporate officer of the mattress recycling organization that must be included in the annual report, which is necessary to identify who submitted the annual report on behalf of the mattress recycling organization.

Subsection (b) (2)

Subsection (b) (2) describes the executive summary, including a summary of the mattress recycling organization's used mattress recovery efforts, which must be included in the annual report to put the data and information contained therein in context. The inclusion of an executive summary in the annual report is necessary because it gives an overview of how the program is working and how implementation of the plan is progressing. This aids review by department staff and also allows interested stakeholders a way to easily access the information in the annual report.

Subsection (b) (3)

Subsection (b) (3) identifies where the description of the mattress recycling organization's procedure for collecting, transporting, and processing used mattresses should be included and is necessary for completeness.

Subsection (b) (4)

Subsection (b) (4) requires the annual report to include an updated list of manufacturers, renovators, and retailers participating in the mattress recycling organization, and any updates to their respective contact information. This is necessary so that the annual report includes the most up-to-date information on what parties are covered under the mattress recycling organization's plan. The department also needs to have contact information for enforcement purposes.

Subsection (b) (5)

Subsection (b) (5) requires the annual report to include a description of how mattress consumers in California had an opportunity to recycle and properly manage their used mattresses, including the number, location, and type of collection points in the program. This subsection is necessary to ensure the funds gathered and used by the mattress recycling organization are distributed uniformly over all mattresses sold in the state.

Subsection (b) (6)

Subsection (b) (6) provides the option for the mattress recycling organization to submit information relating to any best management practices followed by program participants in order to ensure proper collection and management of used mattresses. This is necessary to provide program feedback to the department and other stakeholders regarding the practices of those contracted with the mattress recycling organization.

Subsection (b) (7)

Subsection (b) (7) requires a description of methods used by the mattress recycling organization to coordinate with existing used mattress collection and recycling

programs. This subsection is necessary to evaluate how implementation of this plan requirement, required by section 42987.1 (i) of the Act, is progressing.

Subsection (b) (8)

Subsection (b) (8) includes a description of the mattress recycling organization's program as a whole, and is necessary because it provides valuable context for the data and information presented in the report to assist the department in determining if the mattress recycling organization implemented the plan as approved.

Subsection (b) (8) (A) and (B)

Subsection (b) (8) (A) and (B) describe the qualitative and quantitative information required in subdivisions (b), (c), (d), (e), (f), and (g) of PRC section 42990.1, and subdivisions (g), (l), and (m) of PRC section 42987.1. This information is necessary for the department to establish a mattress recycling baseline and mattress recycling goals, which the mattress recycling organization must adhere to beginning July 1, 2019 and annually thereafter.

Subsection (b) (9)

Subsection (b) (9) describes the financing mechanism of the mattress recycling organization, the process for changing the amount of the mattress recycling charge, and the procedure for keeping California funds separate from other states' program funds. This subsection is necessary to allow the department to evaluate the appropriateness of the program's budget, and ensure that the mattress recycling charge collected from Californians is used only for used mattresses generated in California.

Subsections (b) (9) (A) through (F)

Subsections (b) (9) (A) through (F) outline the information to be included in the annual report submitted by the mattress recycling organization, including the mattress recycling charge per mattress size, capital costs, education and outreach costs, end-of-life used mattress management costs with applicable line items (collection, transportation, recycling, etc.), program administrative costs (including third party legal costs), and a

description of changes to the mattress recycling charge, if any. These subsections are necessary to provide program financing transparency for the department, which must oversee the equity and fairness of program impacts, while also providing the department with information necessary to evaluate the annual budget and the mattress recycling charge.

Subsection (b) (10)

Subsection (b) (10) specifies that educational materials and their distribution methodology are required to be included in the annual report. This information is necessary to evaluate how this component of the plan is being implemented and to give the department insight on the education and outreach materials being provided to program participants by the mattress recycling organization, and the effectiveness of those materials.

Subsection (b) (11)

Subsection (b) (11) describes the independent financial audit of the used mattress recovery and recycling program funded from the mattress recycling charge. This subsection is necessary to ensure the independent financial audit of the program funded by the mattress recycling charge is conducted according to the Government Auditing Standards issued by the Controller General of the United States. It also specifies that the Certified Public Accountant (CPA) shall not perform non-audit services such as accounting services, development of internal controls, or management decisions for the mattress recycling organization. These requirements will allow the department to assess the adequacy of the audit provided by the mattress recycling organization's independent CPA.

Subsections (b) (11) (A) through (D)

Subsections (b) (11) (A) through (D) outline the requirements of the independent financial audit, including the mattress recycling program financial statements, an opinion on the mattress recycling organization's compliance with PRC section 42985, findings and recommendations as they relate to the financial aspects of the program, and a

management letter from the mattress recycling organization's CPA, if issued. These subsections are necessary to clarify what audit documents the department expects to review and to provide assurance to the department that the audit was conducted according to GAAP.

Subsection (b) (12)

Subsection (b) (12) requires that the mattress recycling organization advisory committee report be included in the annual report, and is necessary for completeness.

Subsection (b) (13)

Subsection (b) (13) specifies that annual reports submitted on or after July 1, 2019, must include a demonstration of the mattress recycling organization's good faith effort to comply with the department's state mattress recycling goals pursuant to section 42987.5(b) of the Act and is necessary for completeness.

Subsection (c)

Subsection (c) outlines the department's timeline for an annual report completeness determination and subsequent notification for the mattress recycling organization. It also details the procedure for the mattress recycling organization to provide additional information if the annual report is found to be deficient. This subsection is necessary to give the department sufficient time to review the annual report and to request more information if needed, and to allow the mattress recycling organization time to respond and submit a complete annual report free of deficiencies. As with the plan, the department will conduct an initial 30 day completeness review in order to give the mattress recycling organization time to add any component of the annual report that is missing prior to the department beginning its compliance review. Based on the department's experience with similar programs, 30 days is an appropriate amount of time for the department to complete this level of review. Once the annual report is found to be complete, the statutorily dictated 60 day review will commence. As with the plan, this section details the findings the department can make after completing the 60 day review and how the mattress recycling organization can correct deficiencies in the event

any are found. As with the plan, the department chose a 60 day period for the mattress recycling organization to correct deficiencies because the department has found with its work in similar programs that 60 days is typically an adequate amount of time for the organization. To address a possible situation where the mattress recycling organization may require additional time, the department has allowed the director the discretion to dictate a different time frame.

Subsections (c) (1) through (3)

Subsections (c) (1) through (3) clarify the approval process of the annual report by the department, and establish the timeline for resubmittal by the mattress recycling organization if it is found to be deficient. This subsection is necessary to ensure the department identifies the deficiencies in the plan and to clearly outline conditions and timelines that must be met by the mattress recycling organization in order for the annual report to be compliant.

§18965. Used Mattress Recycler Annual Report.

Subsection (a)

Subsection (a) clarifies that an annual report shall be submitted to the department and the mattress recycling organization by a corporate officer that is engaged in business as a used mattress recycler. This report may be submitted electronically, and a hard copy signed by the corporate officer of a mattress recycler may be submitted to the department upon request. This subsection is necessary because it identifies the person at a used mattress recycling facility who is most responsible for the data collected at that facility, and with whom the department will collaborate in its review of the annual report.

Subsection (b) (1)

Subsection (b) (1) identifies the contact information of the corporate officer of the mattress recycler responsible for submitting the annual report. This subsection is necessary because it identifies what information must be submitted to the department in order for the department to verify the information submitted by a used mattress recycler.

Subsection (b) (2)

Subsection (b) (2) requires quantitative information on the number of used mattresses received from California sources and out of state sources and recycled in the state during the preceding calendar year. This subsection is necessary for the department's analysis of the success of the program, and will provide valuable information for developing program goals.

Subsection (b) (3)

Subsection (b) (3) requires quantitative information on the number of used mattresses generated by California sources and sent out of state for recycling or other method of disposition. This subsection is necessary for the department to determine the number of mattresses exported out of the state and will assist the department in its evaluation of the effectiveness of the program and assessment of whether program goals are being met.

Subsection (b) (4)

Subsection (b) (4) provides the department the ability to request additional information that may be needed to determine the annual report is in compliance. This subsection is necessary to ensure the department has access to all information that can be reasonably compiled and is required to enforce the Act.

§18966. Used Mattress Renovator Annual Report.**Subsection (a)**

Subsection (a) clarifies that an annual report shall be submitted to the department and the mattress recycling organization by a corporate officer that is engaged in business as a used mattress renovator. This report may be submitted electronically, and a hard copy signed by the corporate officer of a mattress renovator may be submitted to the department upon request. This subsection is necessary because it identifies the person at a used mattress renovation facility who is most responsible for the data collected at that facility, and with whom the department will collaborate in its review of the annual report.

Subsection (b) (1)

Subsection (b) (1) identifies the contact information of the corporate officer of the mattress renovator responsible for submitting the annual report. This subsection is necessary because it identifies what information must be submitted to the department in order for the department to verify the information submitted by a used mattress renovator.

Subsection (b) (2)

Subsection (b) (2) requires quantitative information on the number of used mattresses received from California sources and out of state sources and renovated in the state during the preceding calendar year. This subsection is necessary for the department's analysis of the success of the program, and will provide valuable information for developing program goals.

Subsection (b) (3)

Subsection (b) (3) requires quantitative information on the number of used mattresses from California sources and sent out of state for renovation or other method of disposition. This subsection is necessary for the department to determine the effectiveness of the program, including how the program goals are being met.

Subsection (b) (4)

Subsection (b) (4) provides additional information to the department, as requested. This is necessary to ensure the department has access to all information it requires to enforce the Act.

§18967. Solid Waste Facility Annual Report.**Subsection (a)**

Subsection (a) clarifies that an annual report shall be submitted to the department and the mattress recycling organization by a corporate officer that is engaged in business as an operator of a solid waste facility. This report may be submitted electronically, and a hard copy signed by the designated representative of a solid waste facility may be

submitted to the department upon request. This subsection is necessary because it identifies the person at a solid waste facility who is most responsible for the data collected at that facility, and with whom the department will collaborate in its review of the annual report.

Subsection (b) (1)

Subsection (b) (1) identifies the contact information of the designated representative of the solid waste facility responsible for submitting the annual report. This subsection is necessary because it identifies what information must be submitted to the department in order for the department to verify the information submitted by a solid waste facility.

Subsection (b) (2)

Subsection (b) (2) outlines the technical information required in the solid waste facility annual report, including the number of used mattresses disposed of at the site. This quantitative information is necessary for the department to establish a state mattress recycling baseline and mattress recycling goals.

§18968. Mattress Recycling Organization Advisory Committee Annual Report.

Subsection (a)

Subsection (a) provides that a designee of the mattress recycling organization advisory committee will submit an annual report to the mattress recycling organization prior to the submittal of the mattress recycling organization's annual report. Because the mattress recycling organization is required to meet with the advisory committee during the development and implementation of the plan, and annually prior to the submittal of the mattress recycling organization annual report and annual budget, this subsection is necessary to provide oversight to the mattress recycling organization.

Subsection (b) (1)

Subsection (b) (1) identifies the contact information of the designated representative of the advisory committee responsible for annual report submittal, as well as the contact information and company name/affiliation of each member of the advisory committee.

This subsection will allow the department to contact the advisory committee members with any questions and to verify information included in the annual report.

Subsection (b) (2)

Subsection (b) (2) describes the required information in the mattress recycling organization advisory committee annual report, including a summary of the consultative process between the advisory committee and the mattress recycling organization relating to the ongoing implementation of the plan, and any other information that will maximize the recovery and recycling of used mattresses in the state. This subsection is necessary for completeness.

§18969. Records.

Subsection (a)

Subsection (a) sets forth that each mattress recycling organization, manufacturer, renovator, recycler, distributor, and retailer will be required to compile, maintain, and make records available to the department to demonstrate compliance with the program. Since manufacturers, renovators, recyclers, distributors and retailers are subject to enforcement from the department, this subsection is necessary to provide clear, statewide standards regarding recordkeeping for the regulated community. This subsection is also necessary to ensure that specific data are maintained by manufacturers, renovators, recyclers, distributors and retailers that will allow the department to evaluate the overall effectiveness of the program. As in prior sections, in some instances, statutory requirements are restated here for completeness.

Subsection (a) (1)

Subsection (a) (1) specifies that the mattress recycling organization must maintain the contact information required by section 18961, and is included for completeness. This subsection is necessary to ensure accuracy of information and to maintain consistency between the records provided by the mattress recycling organization in the plan and the records the department will have on file.

Subsections (a) (2) (A) through (D)

Subsections (a) (2) (A) through (D) outline specific records that retailers, renovators, recyclers, and distributors must maintain regarding all mattresses sold or offered for sale in the state. This requirement is necessary to ensure the department has access to records needed to enforce the Act.

Subsections (b) (1) through (2)

Subsections (b) (1) through (2) specify that manufacturers, renovators, recyclers, distributors and retailers must give the department access to their facilities, operations, and any relevant records upon request, and retain records for three years after the submission of the plan and annual report required by this article. This subsection is necessary to allow the department to execute its oversight responsibilities and ensure manufacturers, renovators, and retailers maintain compliance with the program and is included for completeness.

Subsection (c)

Subsection (c) states that the department may take enforcement action against any program participant who fails to provide the department with access to the records specified in this section, and is necessary for completeness.

Subsection (d)

Subsection (d) outlines the protections provided for records that are claimed to be proprietary, confidential, or trade secrets. This subsection is necessary to provide assurance to program participants that the department will not release proprietary or confidential information in relation to information provided pursuant to the Act or the regulations.

§18970. Criteria to Impose a Civil Penalty.

Subsections (a) through (k)

Subsections (a) through (k) describe the various factors that the department may take into consideration when determining the amount of a civil penalty. This is necessary to

inform the public of what elements will come into consideration when the department is setting penalty amounts.

§18971. Procedure for Imposing Civil Penalties.

Subsection (a)

Subsection (a) describes the procedures for administering civil penalties. This is necessary to inform regulated entities and the public of the due process that will be followed by the department.

Subsections (b) (1) through (3)

Subsections (b) (1) through (3) describe how entities may be informed of actions taken against them for civil penalties under the law. This is necessary as it describes an element of due process to be followed by the department.

Subsection (c)

Subsection (c) describes how civil penalties are to be imposed. This is necessary as it informs the public of the due process that is to be followed by the department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

Alternatives to the proposed regulations have been considered. First, a “no-regulations” alternative was evaluated. While this alternative would avoid the time and resources typically expended for the adoption of regulations, the clarity and procedural instructions provided by regulations would not be realized. Also, without regulations there could be additional costs incurred by CalRecycle and the mattress recycling organization related to multiple submittal of plans and reports.

The second alternative considered was a regulatory framework that required program participants to report additional data regarding the end use of materials from recycled mattresses, and descriptions of the products or commodities for which these materials are ultimately used. This alternative and its reporting requirements would be cost-

prohibitive to the program because it would require manufacturers, retailers, renovators, and recyclers to expend the extra resources collecting new information that is not easily attainable under current collection practices.

Therefore, the department has determined that: 1) neither alternative would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented and made specific by the proposed regulations; and 2) neither alternative would lessen adverse economic impact on small businesses or stimulate business in the state while protecting human health, safety, and the environment.

INITIAL DETERMINATION THAT THE ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

Based on the attached Standardized Regulatory Impact Assessment the department has made the initial finding that these regulations will not have a significant adverse economic impact on business.

DUPLICATION OR CONFLICTS WITH CODE OF FEDERAL REGULATIONS

Federal law or regulations do not contain comparable requirements.

FINDING ON NECESSITY OF REPORTS [GOVERNMENT CODE SECTION 11346.3(d)]

The Used Mattress Recovery and Recycling Act (Pub. Res. Code § 42985-42994), mandates multiple reporting requirements for entities covered under the Used Mattress Recovery and Recycling Program. These include, but are not limited to, a plan, annual budget, and annual report on the part of the mattress recycling organization; annual reports by mattress recyclers and renovators; and reports upon request from solid waste landfills and the California Prison Industry Authority. The proposed regulations do not require reports in addition to what is laid out in statute, but the regulations do, among other things, add specificity to some of these reporting requirements. This added specificity is necessary to ensure that reports fully address the statute's purposes for including the reports, such as, determining the program's success, creating mattress

recycling goals, and determining parties' compliance with the law. The department also found that the requirement for further specificity in reports is necessary for the health, safety, and welfare of the people of the state because it will help to ensure that the law applies equally to covered entities.

STANDARDIZED REGULATORY IMPACT ASSESSMENT

See attached. In its initial analyses, the Department concluded that there was a possibility this regulation's cost impact could reach the threshold of a major regulation; therefore, the Department conducted a Standardized Regulatory Impact Assessment (SRIA) as required for major regulations. However, after completion of the SRIA, the Department and the Department of Finance agreed the regulation's impact does not constitute a major regulation. Nevertheless, because the SRIA had already been conducted, the Department determined that it would use the SRIA to satisfy the economic impact analysis requirements of the Administrative Procedures Act. See letter from Ms. Irena Asmundson, November 18, 2014.

TECHNICAL STUDIES, REPORTS, OR DOCUMENTS

The department relied upon the following sources of information to develop the proposed Regulations:

1. [Public Resources Code, Chapter 388, Statutes of 2013 \[Hancock, SB 254\]](#)
2. [Public Resources Code, Chapter 371, Statutes of 2014 \[Hancock, SB 1274\]](#)
3. CalRecycle, Standardized Regulatory Impact Assessment, http://www.dof.ca.gov/research/economic_research_unit/SB617_regulation/2014_Major_Regulations/documents/SRIA_DOF_10-13-14.pdf
4. CalRecycle, Standardized Regulatory Impact Assessment Summary, http://www.dof.ca.gov/research/economic_research_unit/SB617_regulation/2014_Major_Regulations/documents/CalRec_DF-131_Signed_10-16-14.pdf
5. Letter from Irena Asmundson, Department of Finance to Ashley Harley, CalRecycle regarding the Standardized Regulatory Impact Assessment. November 18, 2014. http://www.dof.ca.gov/research/economic_research_unit/SB617_regulation/2014

[_Major Regulations/documents/Finance Comments Letter CalRecycle Mattres
s.pdf](#)

6. [Chapman, Adrian and Caroline Bartlett. *A Business Case for Mattress Recycling in Scotland*. Oakdene Hollins Ltd., London, England. Report prepared for Zero Waste Scotland, December 2012.](#)
7. Illegal Dumping Technical Advisory Committee Informal Illegal Dumping Mattress Survey, IDTAC, Sacramento: 2012.
8. "MATTRESSES." California Product Stewardship Council. 09 July 2014. <<http://www.calpsc.org/products/mattresses>>.
9. Illegal Dumping Technical Advisory Committee Minutes: 14 December 2011. Mattress Dumping Complaints and Costs. 2010-2011. Raw data. City of Oakland.
10. "Recycling Locations." Mattress Recycling Council. 09 July 2014. <<http://www.mattressrecyclingcouncil.org/recycling-locations/>>.
11. [Geyer, Roland, and Brandon Kuczenski. *Mattress and Box Spring Case Study: The Potential Impacts of Extended Producer Responsibility in California on Global Greenhouse \(GHG\) Emissions*. University of California, Santa Barbara. Donal Bren School of Environmental Science and Management. CalRecycle, 2012.](#)
12. What a Waste: A Global Review of Solid Waste Management, <<http://siteresources.worldbank.org/INTURBANDEVELOPMENT/Resources/336387-1334852610766/AnnexE.pdf>>