

INITIAL STATEMENT OF REASONS 2019

TITLE 14: NATURAL RESOURCES

DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

CHAPTER 8.2 ELECTRONIC WASTE RECOVERY AND RECYCLING

Articles/Sections: Article 1.0, § 18660.5; Article 2.0, § 18660.6; Article 2.2, § 18660.20; Article 7, §§ 18660.47, 18660.48, 18660.49, 18660.50, 18660.51

STATUTORY AND REGULATORY BACKGROUND

The Electronic Waste Recycling Act of 2003 (“the Act”), established through SB 20, Sher, Chapter 526 (Public Resources Code Section 42460, *et seq.*), was intended to address the growing amount of electronic discards entering California’s waste stream and the associated cost burden placed on responsible parties, such as Local Governments and non-profit organizations, and to divert that waste toward proper management.

In enacting SB 20, the Legislature determined the following:

- The purpose of the Act was to enact a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of covered electronic devices, and to provide incentives to design electronic devices that are less toxic, more recyclable, and that use recycled materials.
- A further purpose of the Act was to enact a law that establishes a program that is cost free and convenient for consumers and the public to return, recycle, and ensure the safe and environmentally-sound disposal of covered electronic devices.
- The Legislature’s intent is that the cost associated with the handling, recycling, and disposal of covered electronic devices is the responsibility of the producers and consumers of covered electronic devices, and not Local Government or their service providers, state government, or taxpayers.
- In order to reduce the likelihood of illegal disposal of these hazardous materials, the intent of the Act is to ensure that any cost associated with the proper management of covered electronic devices be internalized by the producers and consumers of covered electronic devices at or before the point of purchase, and not at the point of discard.

See Public Resources Code Sections 42461(a)-(d).

The Act established a funding system that places a fee on consumers at the point of retail purchases of “covered electronic devices,” specifically, video display devices with screen sizes of four inches or larger that have been determined to exhibit hazardous

characteristics when discarded. The Act tasked the Department of Resources Recycling and Recovery (CalRecycle) with administering a program that pays authorized collectors and recyclers a standard rate to recover and process covered electronic waste (CEW) in compliance with applicable rules, including rules administered by the Department of Toxic Substances Control (DTSC) (hereinafter the “CEW Program”). In general, DTSC regulates the physical management of hazardous waste in California, including hazardous electronic waste, which also includes CEW.

In a complementary role, CalRecycle administers most of the financial aspects of the CEW Program to ensure that public funds are paid only when warranted and only to participants that operate in compliance with applicable laws.

On March 16, 2017, the Office of Administrative Law approved emergency regulations aimed at reforming an optional provision for Local Governments whereby they may designate an approved collector in the CEW Program to operate as their Designated Approved Collector (DAC) and provide electronic waste collection services on their behalf. (Office of Administrative Law Notice of Approval for File No. 2017-0309-02E). These emergency regulations were re-adopted on March 17, 2019. (Office of Administrative Law Notice of Approval for File No. 2019-0225-01EE). CalRecycle is seeking to make these emergency regulations permanent pursuant to Public Resources Code Section 42475(b).

PROBLEM STATEMENT

The regulations associated with the DAC provision that CalRecycle previously adopted, as well as those proposed in this rulemaking, address a substantial risk to the CEW Program integrity due to:

- 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 of California to validate the eligibility of the accumulated CEW transferred into the recycling system, and
- 3) Some ambiguities in the emergency regulations that require clarification in the text.

The core purpose of the CEW Program is to facilitate and ensure the environmentally sound and legally compliant management and disposition of CEW. Participating collectors must be able to demonstrate that collected electronic waste is covered material and properly sourced in order to be eligible for payment under the CEW Program. “Source documentation” is defined in section 18660.5(a)(41), and is used to demonstrate material eligibility as part of a payment claim in the CEW Program. The DAC regulation provisions provide collectors certain relief from documentation requirements that would otherwise be necessary if that collector was not participating in the CEW Program as a DAC.

A Designation is a relationship between a Local Government and a DAC that brings roles and responsibilities to both parties. When these roles and responsibilities are ignored or neglected, the CEW Program integrity is at risk. For example, there have been instances where Local Government staff turnover has created gaps in awareness of the e-waste collectors operating on their behalf. There have been instances of insufficient accounting and reporting of material and an unfortunate instance of waste abandonment. Such instances pose a risk to the integrity of the CEW Program.

The State of California loses the ability to validate that material is CEW from a California source when a Designation is utilized because the source documentation requirements are reduced. The reduced source documentation requirements are intended to help ease the burden for Local Governments to manage their community's e-waste in a cost-effective manner. The state relies on the Local Government to exercise sufficient oversight of the Designation and ensure e-waste imports from out-of-state are not occurring. The state cannot fulfill this oversight role itself because events are planned between Local Governments and DACs and the state is not in a position to determine what the interests of the Local Government are. In the past, there have been discrepancies between the volume of CEW material claimed for payment through a Designation and the associated Local Government reports on designated collection activities. The reason for these discrepancies has been a combination of misreporting, misunderstandings of connections to Form 303, and DACs straying outside the scope of their Designation.

STATEMENT OF BENEFITS

The proposed rules benefit the State of California by mitigating risks and shoring up weaknesses of the Designation provision. The requirement for Local Governments to notify CalRecycle 30 calendar days in advance of the use of a Designation (section 18660.49(a)) promotes compliance with DTSC's 30-calendar-day handler notification requirement pursuant to Section 66273.32(c)(1) of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations. CEW Program experience has demonstrated that there is a high correlation between events that lacked advance planning and a rate of mismanagement, violations, or risks to the CEW Program integrity. The requirement for a DAC to communicate with its Local Government at least once per year or at intervals specified by the Local Government (section 18660.48(d)) has the benefit of keeping both parties in communication with one another so that they may act compliantly and links Designations to other pre-existing programmatic reporting requirements (Form 303). By having Local Governments report accurate amounts annually, there is diminished risk that they are unaware of DAC activities conducted on their behalf. These regulations do so without placing excess burden on DACs and Local Governments since it is a voluntary provision of a voluntary program.

The proposed rules benefit Local Governments by allowing them an option to work with willing and able e-waste collectors in a more cost-efficient fashion by allowing the DAC source documentation relief in most circumstances. Designations are often established

due to the relationship being mutually financially beneficial for Local Governments and DACs. Absent an option to establish Designations, Local Governments may have incurred higher costs for providing e-waste collection services to their community and instead relied on e-waste collection services that always required full source documentation to receive state funds.

Contract waste haulers often work closely with both Local Governments and DACs and may benefit from the use of this provision. There may be contractual obligations to provide bulky item pick-ups or illegal disposal clean-up that can be managed via a Designation without the need to acquire additional source documentation.

GENERAL COMMENTS APPLICABLE TO STATEMENT OF REASONS

The Act created the CEW Program, which disburses funds to approved participants after CalRecycle staff reviews submitted claims to ensure eligibility and compliance. In order to implement and administer the CEW Program, CalRecycle previously adopted regulations, and, more recently adopted emergency regulations. The emergency rules (File No. 2017-0309-02E), which were re-adopted (File No. 2019-0225-01EE), addressed primarily two substantial risks to the CEW 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 this provision.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

This paragraph applies to each section below unless otherwise indicated:

CalRecycle considered alternatives to the proposed rules and determined that: 1) no alternative would be more effective in carrying out the purpose for which the action is proposed; 2) no alternative would be as effective and less burdensome to affected private persons, while at the same time protecting human health, safety, and the environment, and the integrity of public funds; and 3) no alternative would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

CalRecycle staff attempted to incorporate documentation requirements that already exist under other regulatory frameworks to minimize any impact on small businesses while still collecting the information necessary to fulfill the intent of the Act.

CalRecycle staff hosted several stakeholder workshops on topics relating to this rulemaking and received comments and suggestions on a range of subjects within the CEW Program. The following summarizes comments that CalRecycle received at its stakeholder workshops prior to the submission of the emergency regulations packages to the Office of Administrative Law, and provides CalRecycle staff's response to these comments.

- 1) A minority perspective was that the provisions relating to Designations should be removed from the regulations to close loopholes and minimize risk to the State fund.

Response: A majority of the stakeholders that have provided feedback to CalRecycle favored preserving the Designation provisions in some form or another, but recognized the provisions need to be strengthened to have better accountability. Staff believes the proposed regulations sufficiently mitigate the risks posed by the stakeholders and addressed above, while still being able to offer a beneficial option to Local Governments. The Act relieved the Local Government from most costs associated with handling, recycling, and disposal of CEW. It has been a priority to offer additional cost-relief mechanisms to Local Governments for e-waste collection services they are mandated to have in their jurisdictions.

- 2) The proposed 3-month transition language that allows for a sunset clause of previously-valid Designations is not long enough. It can take longer to interact with Local Government authorities to get proper authorization.

Response: The emergency regulations were amended to accommodate this request and increased the transitional sunset clause to 180 days, which stakeholders voiced was a feasible time period to meet. Section 18660.49(d), related to the transitional sunset, is not part of the proposed text because, pursuant to this subsection, the transitional sunset expired 180 days after March 16, 2017, the effective date of the adopted emergency regulations.

- 3) San Francisco is not included in the definition of Local Government because it is a city and a county, but not either independently.

Response: This was not the intent of the original language and the definition was amended to be inclusive of San Francisco and any future Local Governments that are both a city and a county.

- 4) How high of an authority from the Local Government is necessary to authorize a Designation? Does this have to go in front of the city council or mayor?

Response: The proposed language seeks to prevent an instance where an individual who lacks the proper authority attempts to authorize a Designation. CalRecycle staff recognizes that each Local Government structure is unique, but the proposed regulations focus on the role of the Local Government representative and insist that the representative is duly authorized and empowered to execute agreements or contracts

related to waste management on behalf of the jurisdiction. Local government policies and procedures may dictate that the establishment of a Designation requires a certain level of approval. For example, a board of supervisors may approve a Designation, but the proposed regulations make no such requirement.

- 5) Multiple Local Governments commented on approved collectors soliciting/harassing them for a Designation signature, resulting in the Local Governments being pressured to sign the Designation.

Response: One of the purposes of the proposed regulations is to allow the Local Government to engage in a venture that may be beneficial to the Local Government by enabling a more cost-efficient arrangement that allows the DAC source documentation relief in most circumstances. However, in exchange for such benefit, the Local Government is required to take a leadership role with respect to oversight of their DAC. Planning these relationships 30 calendar days in advance, requiring the Local Government to submit Designations, and explicitly connecting activities conducted under Designations to Local Government household hazardous waste reporting obligations are all ways to ensure an approved collector cannot force through a Designation that the Local Government is not invested in.

- 6) Can waste hauler contracts or similar contractual arrangements be used as proof of a Designation in lieu of filling out a Form 184 Proof of Designation?

Response: Staff has seen an overwhelming majority of stakeholders use the courtesy Form 184 CalRecycle provides to memorialize their Designations. This is a voluntary form, and stakeholders are not required to use it. There have been rare instances where a different form met the regulatory requirements and was accepted. Waste hauler contracts may obligate a contractor to perform services for a Local Government, but the Designation provision specifies that the DAC would be performing e-waste collection services *on behalf of* the Local Government and the certification statements included on Form 184 are important to protect the integrity of the CEW Program. As long as the stakeholders meet all of the regulatory requirements, they are not required to use Form 184.

- 7) Some events come together at the last minute and a 30-calendar-day notification requirement may be too difficult to meet.

Response: Staff recognizes this reality. Additionally, last minute events may still be held outside the parameters of a Designation while adhering to the regular source documentation requirements. DTSC has a 30-calendar-day handler notification requirement that aligns with this requirement. The DTSC notification requirement is embodied in section 66273.32(c) and requires any universal waste handler who might receive electronic devices from an offsite source to notify DTSC of their location and contact information 30 calendar days prior to accepting any electronic devices.

SPECIFIC PURPOSE AND NECESSITY OF REGULATIONS

Title 14

Division 7

Chapter 8.2 Electronic Waste Recovery and Recycling

Global Amendments in Proposed Regulations

The new Article 7 is intended to address the DAC provision in one location within the regulations. Prior to OAL's approval of the emergency regulations, the provisions related to DACs were described in a limited capacity across various locations spanning multiple articles. Consolidating all related Designation provisions within Article 7 is necessary to streamline the requirements and provide clarity to Local Governments when they consider exercising their option to establish a Designation or need to remind themselves of the requirements of the provision. When applicable, capitalization has been amended to match the defined terms of Designated Approved Collector and Local Government and is necessary to provide consistency within the regulations.

Article 1. General Provisions and Definitions

Section 18660.5 Definitions.

§18660.5(a)(18):

Subsection (a)(18) was amended in the approved emergency regulations to clarify for the reader that Article 7 contains the requirements pertaining to the Designation provision. This is necessary to simplify the definition of a DAC to be an approved collector that is designated by a Local Government to provide collection services on behalf of that Local Government. The previous definition outlined that designating an approved collector meant the collector would not be subject to section 18660.20(j)(1)(B) documentation requirements. However, the DAC is still subject to section 18660.20(j)(1)(C) documentation requirements. Thus, the previous wording was misleading for the regulated community.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The words "local government" were replaced by "Local Government" for consistency reasons and to align with surrounding text.

§18660.5(a)(33):

Subsection (a)(33) was amended in the approved emergency regulations to clarify for the reader that Article 7 contains the requirements pertaining to the Designation provision, including a Proof of Designation (POD). The amendment removed "letter" and "other document" from the definition and identified all the components that a POD must contain in section 18660.49. This is necessary to simplify the definition of a POD

and consolidate all aspects of a POD within Article 7. The POD must be a document that meets all the regulatory components specified in section 18660.49. CalRecycle provides Form 184 as a courtesy to help stakeholders meet regulatory requirements, but stakeholders are not required to use it. The amendment also replaced “secured by Designated Approved Collector from a California local government” with “issued by a California Local Government to a Designated Approved Collector.” This is necessary to emphasize that a Designation is an arrangement that the Local Government initiates. The Local Government, not the DAC, solicits the Designation relationship, acquires the POD, and transmits the POD to CalRecycle.

No additional amendments to the approved emergency regulations were made in the proposed text for this subsection.

Deletion of §§18660.5(a)(33)(A)-(E)

The approved emergency regulations deleted the previously-existing subsections 18660.5(a)(33)(A) through (E) and incorporated the information required in these subsections within Article 7, section 18660.49. This is necessary to consolidate all aspects of a POD within one article so that stakeholders can better identify requirements in one location of the regulations and comply with the requirements.

Deletion of §§18660.5(a)(33)(F) and (G):

The approved emergency regulations deleted the previously existing subpart 18660.5(a)(33)(F) because it was not being utilized as envisioned at the CEW Program’s onset. The deletion was necessary because the CEW Program has not accepted other forms of agreements in lieu of a POD. Other forms of agreements did not sufficiently articulate that the collector was going to act on behalf of the Local Government. The approved emergency regulations deleted the previously existing subpart 18660.5(a)(33)(G). This was necessary for clarity as the subpart was a transition clause only relevant in 2005 and 2006 during the inception of the CEW Program.

Article 2.0. Electronic Waste Payment System – Applicability and Limitations, Document

Submittals, Records, Audits and Net Cost Report

Section 18660.6. Applicability and Limitations.

§18660.6(c)(3)(B):

The following amendments were made to the proposed text: (1) “local government” and “designated approved collector” were capitalized; (2) the phrase “an approved collector who is” was deleted; and (3) the phrase “as defined in Section 18660.47,” was added after “Local Government.” The latter phrase was set off by commas. The capitalization is necessary to align with existing text in Article 7 and distinguish a DAC from an approved collector. The other amendments were made to allow for source-anonymous

material to come from a Local Government without that Local Government being an approved collector. The amendment is necessary to ease requirements for Local Governments and their e-waste collector partners for illegal disposal clean-up efforts without posing a risk to the integrity of the CEW Program. Local Governments indicated that it is burdensome to timely manage illegal disposal of CEW material under the current administrative processes required by regulations. It takes time for a Local Government to become an approved collector in the CEW Program or to designate an approved collector while instances of illegal disposal must be dealt with promptly to minimize impacts on the environment. The integrity of the CEW Program can be maintained without requiring a Local Government to become an approved collector or designate an approved collector for illegal disposal clean-up efforts to be eligible for payment under this source anonymous provision. Additionally, reference to the newer definition of Local Government was included, which is necessary to clarify that Local Governments are limited to those entities listed in that definition.

§18660.6(c)(4):

The following amendments were made to the proposed text: (1) “designated approved collector” was replaced with “Designated Approved Collector” to align with existing text in Article 7; and (2) the word “that” was inserted between “CEWs” and “are transferred” to fix an existing grammatical error.

Section 18660.7 Document Submittals.

§18660.7(a):

The following amendments were made to the proposed text: “a Local Government” and “Proofs of Designation” were added to subsection (a) to require a Local Government to prepare and submit PODs in the manner designated by CalRecycle. Because Local Governments issue PODs, it is necessary for consistency that PODs conform to the same standards as any documents prepared and submitted by approved participants. A comma was also inserted after “a Local Government” and before “Proofs of Designations,” which is necessary for grammatical purposes.

§18660.7(e):

The following amendments were made to the proposed text: “a Local Government” and “Proofs of Designation” were added to subsection (e) to require the Local Government to ensure PODs are accurate, complete, and typed or legibly handwritten in English using permanent ink. Because Local Governments issue PODs, it is necessary for consistency that PODs conform to the same standards as any documents prepared and submitted by approved participants. The added text was set off by commas, which are necessary for grammatical purposes. The proposed text also added “or a Local Government” in the last two sentences to specify how a Local Government may correct errors. The text also replaced the word “or” with a comma between “collector” and

“recycler” and inserted a comma after “recycler.” The latter amendments are necessary for grammatical purposes.

Article 2.2. Electronic Waste Payment System – Business Requirements

Section 18660.20 Requirements for an Approved Collector.

§18660.20(h)(4):

This subsection was amended in the approved emergency regulations to capitalize Proof of Designation and refer to requirements in Article 7 concerning PODs. This is necessary to conform with text in Article 7.

The following additional amendments to the approved emergency regulations were made in the proposed text:

Designated Approved Collector and Local Government were capitalized for consistency and clarity and to align with text in the Chapter.

§18660.20(j)(1)(A):

This subsection was amended in the approved emergency text by replacing “a estimate” with “an estimate.” This is necessary to fix a grammatical error.

No additional amendments to the approved emergency regulations were made in the proposed text for this subsection.

§18660.20(j)(1)(B):

This subsection was amended in the approved emergency regulations to capitalize “Designated Approved Collector.” This is necessary for consistency and to conform with existing text in Article 7.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The words “local government” were replaced with “Local Government” for consistency and clarity and to align with text in the Chapter.

Subsection (k) was deleted in the approved emergency regulations. This is necessary as this subsection was replaced by content in Article 7. In section 18660.48, titled “Additional Requirements for Designated Approved Collectors,” subsection (a) mirrors deleted subsection (k)(3), and subsection (c) mirrors deleted subsection (k)(2). Subsection (k)(1) is mirrored in section 18660.49, titled “Proof of Designation.”

Article 7. Designated Approved Collectors

Section 18660.47 Definitions.

The approved emergency regulations added section 18660.47 to define “Designation” and “Local Government.”

§18660.47(a)(1):

This subsection defines a Designation as a relationship between two parties: the Local Government and a chosen DAC. These two parties have roles and responsibilities, which are outlined in section 18660.49. This definition is necessary to emphasize that a Designation is not established solely by the DAC acquiring a POD. The definition also emphasizes that the Local Government must solicit CEW collection services from an approved collector rather than the approved collector soliciting such an arrangement from the Local Government. A Designation can only be established if the Local Government reaches out to an approved collector, completes and transmits a Proof of Designation to CalRecycle, and receives confirmation from CalRecycle that CEW collection activities can begin under the Designation. The relationship includes both parties exercising ongoing communication and compliant behavior. An approved collector becomes a DAC through this process. Referencing pre-existing Form 303 requirements is necessary to clarify tracking and reporting requirements for activities conducted under a Designation.

No additional amendments to the approved emergency regulations were made in the proposed text.

§18660.47(a)(2):

This subsection defines the Local Government. The definition of Local Government focuses on “household hazardous waste or waste management planning or services” and lists a number of entities tasked with that responsibility such as a city, county, city and county, joint powers authority, and public service district. It is necessary to specifically reference all entities because multiple entities have responsibility for household hazardous waste or solid waste management planning or services. For example, both cities and counties are responsible for these services. Furthermore, there is an entity which is both a city and a county (San Francisco) that has similar responsibility. The previous regulations included the general term of “local government,” and it was unclear whether all special districts or joint powers authorities should be included. In the past, there were instances in which special districts that did not have solid waste or household hazardous waste management as part of their organization’s core purpose issued Designations and exercised minimal oversight over the collection activities involved. The approved emergency regulations clarify that public service districts and joint powers authorities that have an official responsibility for household hazardous waste and solid waste management planning or services are included in the definition of “Local Government.” This definition narrows the option of authorizing a Designation to the department that has responsibility for household hazardous waste or waste management planning or services. It is necessary to emphasize that only the departments responsible for household hazardous waste or residential waste management are the appropriate authorities to designate DACs to ensure that proper oversight is exercised over the collection activities involved. The

regulations do not specifically list the departments because the authority to designate may vary from one entity to another. Commonly, the Public Works Department, the Office of Sustainability, or the Office of the Environment have responsibility for household hazardous waste or residential waste management planning or services. A sheriff or Fire Department typically is not responsible for these services, with the exception of a select few Local Governments that have delegated household hazardous waste management planning to their fire departments.

No additional amendments to the approved emergency regulations were made in the proposed text for this subsection.

Section 18660.48 Additional Requirements for Designated Approved Collectors.

The approved emergency regulations added section 18660.48 to consolidate additional requirements for DACs that were previously scattered throughout the Chapter. This is necessary to provide clarity relative to the DAC provision so that stakeholders can better identify requirements in one location of the regulations and comply with the requirements.

§18660.48(a):

In the approved emergency regulations, the text from subsection 18660.20(k)(3) was relocated to this subsection. Other amendments were also made to this text. Having all of the Designation requirements expressly stated in Article 7 is necessary for clarity and organization.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The proposed text inserted a preface of “When conducting CEW collection activities that fall outside the scope or jurisdiction of a Designation,” to the second sentence. The word “All” became “all” because capitalization was no longer necessary. This clarification is necessary to prevent an unintended interpretation of the previous wording to mean that all requirements of approved collectors apply to DACs. If this were the case, it would be irrelevant to become a DAC. This subsection is necessary to describe limitations for the DAC, and it supports the material flow and claim submittal process further outlined in section 18660.49 of the proposed text. In various collection scenarios, collectors have struggled to distinguish whether the use of a Designation was applicable. If a Designation is applicable in a particular scenario, source documentation relief is afforded to the DAC. Otherwise, the collector must provide full source documentation.

§18660.48(b):

This subsection was added to the proposed text to require a DAC to separately log the CEW collection activities that fall within the scope and jurisdictional boundary of each Designation. This is necessary to separately document collection activities for each

Designation to enable CalRecycle to track and verify the material claimed for payment. In addition, separately tracking the number of CEW units collected and the estimated weight of CEWs collected for each Designation, as part of a collection log, is needed to fulfill the pre-existing reporting requirements of Form 303 (referred to in sections 18660.47(a)(1) and 18660.48(d) of the proposed text). Without separate collection logs, CalRecycle staff cannot determine to which jurisdiction to assign material collected under separate Designations.

§18660.48(d) of approved emergency text, which becomes subsection (c) in the proposed text:

In the approved emergency regulations, the text from subsection 18660.20(k)(2) was relocated to this subsection. This subsection is necessary to provide clarity relative to the DAC provision so that stakeholders can better identify requirements in one location of the regulations (Article 7) and comply with the requirements.

The phrase “provide a copy of the applicable Proof of Designation” was amended to “provide evidence of the applicable Proof of Designation.” This was necessary to accommodate comments received from stakeholders who had wanted to reduce paperwork by eliminating the requirement of providing a “copy” of the POD during every transfer of CEW. For example, stakeholders suggested that CalRecycle assign a unique identification number to each Designation so that a DAC could reference this number when transferring CEW to approved collectors or recyclers and hence eliminate the need to provide a copy of the Designation in each transfer. CalRecycle staff recognizes the benefits of reducing paperwork submittals but the existing online informational system does not support the proposed method. This may be possible in the future with an online Designation-submission system, which would allow Local Governments the possibility to submit Designations online and allocate unique identification numbers to each Designation. CalRecycle will be working on a major project to enable online submissions of payment claims and associated documents, which is anticipated to be implemented in the forthcoming years.

The proposed text changed back “evidence” to “a copy of the Proof of Designation.” If a copy of the POD is not included in the payment claim, CalRecycle staff cannot verify eligibility of claimed material. Implementation experience showed that it was necessary for CalRecycle staff to have documentation of the POD to be able to link the Designation with the source documentation and transfer receipts submitted as part of a payment claim. As such, CalRecycle staff decided to go back to the initial text and require a DAC to provide a copy of the applicable POD when transferring CEW. “A copy” of the applicable POD provides clarity to stakeholders relative to requested documentation, while “evidence” is ambiguous and can create confusion relative to accepted documentation.

§18660.48(b) of approved emergency text, which becomes §18660.48(d) in the proposed text:

This subsection requires the DAC to provide reports on CEW collection activities to the Local Government. Pursuant to Section 18751.2 of Chapter 9 of Division 7 of Title 14 of the California Code of Regulations, public agencies responsible for household hazardous waste management must report the amount of material collected through their program during the preceding year by October 1, each year. Public agencies need to submit the data to CalRecycle using the Form 303 report. It is necessary to have a mechanism to support pre-existing Form 303 reporting requirements. Since approved emergency regulations went into effect, a 50% increase in e-waste collection activities has been reported via Form 303. Speculation attributes this increase to outreach and education efforts related to the new regulations. Articulating the timeline of Form 303 reporting requirements helps stakeholders calendar all of their requirements associated with a Designation.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The phrase “pursuant to Section 18751.2.2(c) of Title 14 of the California Code of Regulations” was added and set off by commas. This is necessary to provide better clarity to stakeholders regarding the reporting timeframe.

§18660.48(b)(1) of the approved emergency text, which becomes §18660.48(d)(1) of the proposed text:

This subpart was added in the approved emergency regulations and allows the Local Government to set the frequency of the reporting done by the DAC. This is necessary to emphasize that the Local Government is the one overseeing and managing the Designation relationship and thus protects the integrity of the CEW Program. It enables CalRecycle to compare amounts attributed to Local Government e-waste collection activities by a DAC with claims made to the state for subsequent payment.

Insertion of new §18660.48(d)(2) into the proposed text:

The following additional amendments to the approved emergency regulations were made in the proposed text:

The proposed text inserted a new subpart (2). This supports the Local Government’s ability to require a format or distribution of DAC activity reports. This is necessary to assist the Local Government in receiving information pertinent to its Form 303 reports. CalRecycle observed that some reports from DACs were not providing sufficient information for a Form 303 report to be filled out appropriately. The requirement in this new subpart allows the Local Government to request specific information regarding the CEW material collected through its Designation, which enables the Local Government to complete the mandatory Form 303 report. The requirement to provide collection activity reports to additional parties is necessary because Form 303 reports can be submitted by external consultants on behalf of the Local Governments.

§18660.48(b)(2) of the approved emergency text, which becomes §18660.48(d)(3) of the proposed text:

This subpart allows CalRecycle to request a copy of any report(s) that a DAC provided or should have provided. This is necessary for CalRecycle to identify any gaps in communication or errors in how activities are reported or requirements are met. This enables CalRecycle to verify compliance and thus protects the integrity of the CEW Program.

The following additional amendment to the approved emergency regulations was made in the proposed text:

The phrase “upon request” was set off by commas for grammatical purposes.

Deletion of §18660.48(c) of approved emergency regulations:

This subsection limited the scope of recovery activities conducted on behalf of the Local Government. The subsection was necessary to describe limitations for the DAC and supported the claim submittal process. This subsection was deleted in the proposed text because it is redundant. Section 18660.49 outlines, in greater detail, the required components of a Designation that limit collection activities to the scope and jurisdictional boundary of the Local Government.

Section 18660.49 Proof of Designation.

The approved emergency regulations added section 18660.49 to consolidate requirements related to the DAC provision that were previously scattered throughout the Chapter. This is necessary to provide clarity relative to the DAC provision so that stakeholders can better identify requirements in one location of the regulations and comply with the requirements.

§18660.49(a):

The approved emergency regulations added a 30-calendar-day advance notification requirement. The text is necessary to promote compliance with DTSC’s 30-calendar-day handler notification requirement outlined in Section 66273.32(c)(1) of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations and assure advance planning to mitigate risks and protect the integrity of the CEW Program. Before the 30-calendar-day advance notification requirement, CEW Program experience showed that there was a high correlation between events that lacked advance planning and a rate of CEW material mismanagement, violations, or risks to the CEW Program. For example, some events were conducted without adequate planning or maintenance of source documentation. This led to collectors seeking retroactive Designations or abandoning or mismanaging CEW. Now, the advance notification requirement has made the Local Government better prepared for their collection events, ensuring compliant collection activities. The Local Government is no longer rushed by the DAC to provide a Designation, avoiding incomplete PODs that may lead to termination of a Designation.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The sentence structure was changed, which was necessary to specify all the requirements of a Designation. “A Local Government shall issue a Designation” was replaced by “A Local Government may establish a Designation if.” The word “shall” was replaced by “may” to emphasize that creating a Designation relationship is not a requirement. It is a Local Government’s decision whether to seek the services of a DAC and establish a Designation. A colon was added at the end of the first sentence to show that there are multiple requirements for an established Designation. The wording was changed from a Designation that is “issued” to one that is “established.” This is necessary to clarify the process of establishing a Designation, which requires: (1) the Local Government to transmit the POD to CalRecycle; (2) CalRecycle to receive the POD 30 calendar days prior to any CEW collection activities conducted by the DAC; and (3) CalRecycle to notify the Local Government and DAC that CEW collection activities can begin under the Designation. Implementation experience showed that it was necessary to clarify the process. The Local Government must be the entity to submit the POD paperwork to CalRecycle to protect the integrity of the CEW Program. This ensures the paperwork submitted to CalRecycle is aligned with the Local Government’s intent. In the past, once the Local Government issued a Designation, there were instances of the DAC or another party modifying the POD to be more permissive after acquiring the Local Government representative’s signature. This issue will be avoided by requiring the Local Government to transmit the POD to CalRecycle and CalRecycle to receive the POD in advance of a DAC conducting any collection activities.

Insertion of subpart §18660.49(a)(1) into the proposed text:

This subpart was added in the proposed text to require that the Local Government transmit the POD to CalRecycle as one of the elements for an established Designation. The Local Government must be the entity to submit the POD paperwork to CalRecycle to protect the integrity of the CEW Program. This ensures the paperwork submitted to CalRecycle is aligned with the Local Government’s intent. In the past, once the Local Government issued a Designation, there were instances of the DAC or another party modifying the POD to be more permissive after acquiring the Local Government representative’s signature. The DAC will not be able to modify a POD if the Local Government is required to transmit the POD to CalRecycle and the POD must be received by CalRecycle in advance of a DAC conducting any collection activities. This subpart also specifies that the transmitted POD must meet all the requirements in this section. This is necessary to emphasize to the regulated community that a POD that is transmitted to CalRecycle must meet all the regulatory requirements outlined in section 18660.49.

Insertion of subpart §18660.49(a)(2) into the proposed text:

The proposed text added a requirement that CalRecycle must receive the POD as one of the requirements for the Designation to be established. This is necessary to avoid disagreements regarding the beginning date of CEW collection activities by the DAC. Different methods of communication (i.e. electronic mail and various types of physical mail transmittal) have widely varying transmission times. Moreover, not all physical mail options have a postmark date. If a Local Government sends an email, CalRecycle receives it right away. But, if a Local Government sends a POD by mail, CalRecycle may not receive the POD for several days. This can cause confusion and disagreement as to when the 30-calendar-day advance notification countdown begins. CalRecycle's physical mail as well as electronic mail are date-stamped. The 30-calendar-day notification requirement was part of the approved emergency regulation text. The proposed text added "calendar" before the word "days" for clarity and consistency with the rest of the Chapter. The 30-calendar-day advance notification is aligned with DTSC's 30-calendar-day handler notification requirement pursuant to Section 66273.32 of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

Insertion of subpart §18660.49(a)(3) into the proposed text:

The proposed text added a requirement that CalRecycle must contact the Local Government and the DAC, in writing, to confirm that CEW collection activities can begin under the Designation. This is necessary to ensure that all parties clearly understand when authorized CEW collection activities can begin. In CEW Program implementation experience, there were instances when a DAC would begin collection activities immediately after the Local Government issued a POD. Written confirmation from CalRecycle will avoid confusion in this regard. The communication must be in writing to have documented proof.

§18660.49(b):

Prior to the approved emergency regulations, the POD description and requirements were embodied in the definition of "POD" in section 18860.5(a)(33). It was necessary for clarity to move the requirements to Article 7 so stakeholders can better identify the requirements in one location of the regulations and comply with the requirements. The approved emergency regulations spell out the required components within a POD. CalRecycle had developed Form 184, which is a POD form stakeholders can use to complete all of the information required by this subsection. Stakeholders have been using Form 184 for many years. This form is voluntary and stakeholders are not required to use it.

Insertion of §18660.49(b)(1) in the proposed text:

Subpart (b)(1) requires the name of the DAC and the DAC's associated CEW identification number, which are necessary to uniquely identify the DAC that the Local Government intends to designate. Before the adoption of the approved emergency regulations, this information was included on Form 184 but not required in regulations.

§18660.49(b)(1) of the approved emergency regulations, which becomes §18660.49(b)(2) of the proposed text:

This subpart is necessary to provide clarity and specificity regarding a Designation's timespan and initial use. The proposed text removed the semicolon from the end and added a colon because an enumerated list of requirements under the umbrella of "beginning and end dates of a Designation" follows in subparts (b)(2)(A) through (D). A semicolon is not grammatically appropriate. The first sentences in subparts (1) through (9) under subsection 18660.49(b) all have either a period or a colon (if specific requirements are broken down further, as in this subpart).

Insertion of §18660.49(b)(2)(A) into the proposed text:

This subpart specifies the beginning date to be the first day CEW collection activities may occur. In implementing the emergency regulations, there has been confusion by stakeholders regarding when a Designation begins. For example, CalRecycle staff encountered instances when the beginning date included on the POD was the same date the POD was signed. The addition of this subpart is necessary to clarify the confusion. Once the Local Government transmits the POD to CalRecycle and CalRecycle receives it, 30 calendar days must pass (along with receipt of written confirmation from CalRecycle) before the Designation is deemed established. Once the Designation is established, collection activities can begin.

Insertion of §18660.49(b)(2)(B) into the proposed text:

This subpart specifies that the beginning date must be a minimum of 30 calendar days after CalRecycle receives the POD from the Local Government. This is necessary to clarify the confusion outlined in the paragraph directly above (describing insertion of section 18660.49(b)(2)(A)).

Insertion of §18660.49(b)(2)(C) into the proposed text:

This subpart allows for CalRecycle to modify the beginning date and expedite the correction of an otherwise non-compliant Designation. This is necessary to save the Local Government and DAC resources on having to revise and resubmit a new POD that replaces a nearly compliant one.

Insertion of §18660.49(b)(2)(D) in the proposed text:

This subpart states that the end date of a POD shall not be modified. When a Designation is established, the Local Government is expected to exercise appropriate oversight over the DAC. If the end date of a Designation is continuously extended, there is risk of minimal oversight and engagement from the part of the designating Local Government. When a Designation expires, the Local Government needs to go through the process of re-establishing it.

§18660.49(b)(2) of the approved emergency regulations, which becomes §18660.49(b)(3) of the proposed text:

The approved emergency regulations combined and moved sections 18860.5(a)(33)(A) & (B) to subpart (b)(3). It was necessary to have all aspects of the DAC provision in Article 7 to provide clarity so that stakeholders can better comply with the requirements. Moreover, these amendments protect the integrity of the CEW Program by outlining the terms of the relationship between a Local Government, a DAC, and CalRecycle.

The following additional amendments were made to the approved emergency regulations in the proposed text:

This subpart limits the scope of a Designation with a geographic description. This is necessary for CalRecycle to be aware of the geographical constraints of a Designation. Having the specific geographic location allows staff to verify compliance when reviewing documentation submitted as part of payment claims. This protects the integrity of the CEW Program. The proposed text restructures the approved emergency text into two subparts for clarity and emphasizes that location descriptions are either a geographic area or a specific site. “Geographic area within which the Designated Approved Collector may provide CEW collection services” was replaced by “location(s) where the collection activities may occur.” The phrase “and the location(s) at which the collection service is provided” was deleted. The semicolon following “Local Government” was deleted and replaced by a period for grammatical purposes. The phrase “This includes” and a colon were added to introduce subparts (A) and (B). A location is either a geographic area or a specific site. The proposed regulatory text amendments are necessary to document the relevant region and specific location information when a Designation is established and to clarify circumstances when a Designation may be used. Some Designations may include only a geographic area given that the collection activities cover a vast area (i.e. usually when conducting residential pick-up collection services). If the collection events are held at permanent locations (i.e. household hazardous waste facilities, material recovery facilities, or transfer stations), the specific location needs to be identified.

Insertion of §18660.49(b)(3)(A) into the proposed text:

This subpart requires the Local Government to specify the geographic area within the Local Government’s jurisdictional boundaries where CEW collection activities may occur. This is necessary to provide clarity and support the concept that location(s) are either a geographic area or specific site(s).

Insertion of §18660.49(b)(3)(B) into the proposed text:

This subpart requires the Local Government to provide addresses of permanent drop-off services. This is necessary to keep track of all permanent facilities that may have issues involving accumulated e-waste.

§18660.49(b)(3) of the approved emergency regulations, which becomes §18660.49(b)(4) of the proposed text:

This subpart requires the Local Government to list the method and description of collection activities and includes a list of examples. This is necessary to allow the Local Government to provide additional details regarding the authorized collection services.

The following additional amendments to the approved emergency regulations were made in the proposed text:

For purposes of clarity, the proposed text deleted “receipt” from “drop-off receipt,” added “permanent” to “permanent drop-off,” and “temporary” to “temporary special events.” Receipts are not required to be issued for drop-off activities and special events are not permanent. “Permanent drop-off” was added to distinguish between ongoing collection activities that occur at locations that are required to be identified pursuant to section 18660.49(b)(3)(B) and intermittent collection activities that occur at various locations. These revisions provide stakeholders with more appropriate examples. In addition, the proposed text removed the semicolon from the end and added a period for punctuation purposes.

§18660.49(b)(4) of the approved emergency regulations, which becomes §18660.49(b)(5) of the proposed text:

This subpart requires contact information and specifies that the contact “shall be a representative of the Local Government that is duly authorized and empowered to execute agreements or contracts related to waste management on behalf of the jurisdiction.” This is necessary to provide clarity regarding the provision and to protect the integrity of the CEW Program. In the past, there were instances where the contact person provided was not appropriate and was not sufficiently involved in overseeing the Designation relationship.

The following additional amendments to the approved emergency regulations were made in the proposed text:

Proposed text (b)(5) specifies what data constitutes complete contact information by adding “that includes name, title, phone number, email address, and mailing address” to the end of the first sentence. This is necessary to communicate with the Local Government. Some designating authorities are difficult to reach without multiple methods of communication available. In the second sentence, “designating authority” was added before the word “contact” to emphasize that the Local Government contact has to have authority to designate and oversee the Designation relationship. The proposed text also replaced “jurisdiction” with “Local Government.” This is necessary to provide consistency throughout the Chapter. In addition, the proposed text removed the semicolon from the end and added a period for punctuation purposes.

§§18660.49(b)(5) and (b)(6) of the approved emergency regulations, which become §§18660.49(b)(6) and (b)(7) of the proposed text, respectively (see more-detailed explanations of the amendments in the following paragraphs):

The approved emergency regulations had new requirements in the POD that included certification statements by both the Local Government representative (see subsection (b)(5) of approved emergency regulations) and an authorized signatory of the DAC (see subsection (b)(6) of the approved emergency regulations). These are necessary to ensure that both parties adhere to their roles and responsibilities for accountability purposes. These statements aim to support the larger effort of improving the integrity of this provision and minimizing risk to the CEW Program.

§18660.49(b)(5) of approved emergency regulations, which becomes §18660.49(b)(6) of the proposed text:

The approved emergency regulations required a certification that is signed by a representative of the Local Government.

The certification has four components listed in subparts (A) through (D) in alignment with the approved emergency text that requires that the designating authority: (A) has proper authority; (B) read the rules; (C) will act compliantly; and (D) is truthful. These certification statements are necessary to hold the Local Government accountable for fulfilling its role of oversight in the relationship, which subsequently protects the integrity of the CEW Program.

The following additional amendments were made to the approved emergency regulations in the proposed text:

The phrase “and dated” was added after the word “signed.” Requiring a date on the certification is necessary to provide CalRecycle a record of when the Local Government had originally attempted to designate the approved collector. The word “and” was removed at the end of subparts (A) and (B) because it is redundant and unnecessary. Only one “and” is necessary at the end of subpart (C) to convey that there is a list and all requirements of subsection (6) must be met. “Representative” was replaced by “designating authority.” This is necessary to clarify the identity of the appropriate Local Government employee who shall sign the certification statements. Some stakeholders were confused between the “designating authority” that signs the certification statements and authorizes the relationship and the “representative” that the “designating authority” may identify and delegate to manage the relationship. In practical terms, the “designating authority” is often a public works director and the “representative” is a manager or staff under the director. Due to confusion, Local Government staff were signing the certification statement. This was undesirable because staff are not qualified to authorize or certify the relationship, which led to non-compliant submittals.

Insertion of §18660.49(b)(7) into the proposed text:

Proposed text (b)(7) requires contact information in the event that a Local Government representative instead of the designating authority is selected to manage the Designation. This pairs with the amendments in proposed text subpart (b)(6) to provide

clarity on the role of the designating authority and the optional representative. This is necessary to make sure that a designating authority has the option to delegate the responsibility of managing the Designation. If the Local Government delegates the responsibility, it must provide the necessary name and contact information. The proposed text also specifies what data constitutes complete contact information. This is necessary to communicate with the Local Government. Some representatives are difficult to reach without the availability of multiple methods of communication.

Insertion of §18660.49(b)(8) into the proposed text:

Proposed text (b)(8) adds a requirement for contact information for a DAC and specifies what data constitutes complete contact information. This is necessary to communicate with the DAC. Some DACs are difficult to reach without the availability of multiple methods of communication.

§18660.49(b)(6) of approved emergency regulations, which becomes §18660.49(b)(9) of the proposed text:

The approved emergency regulations required a certification that is signed by a representative of the DAC. This is necessary to protect the integrity of the CEW Program so the collector can be held liable for non-compliance with the law.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The phrase “and dated” was added after the word “signed.” Requiring a date on the certification is necessary to provide CalRecycle a record of when the DAC had originally accepted the Designation with the Local Government. The proposed text also replaces “affirming” with “stating the following.” This is necessary for consistency as it aligns with certification requirements for Local Governments specified in section 18660.49(b)(6). The requirements were broken up into two subparts to ensure the regulations were easier to follow and emphasize that the certification statement has two components. Grammar and capitalization amendments were made in subpart (A) and (B) to provide clarity. In subpart (A), “the” at the beginning of the sentence was capitalized and the comma was amended to a semi-colon. This was necessary to show that the certification statement has two components. The following was added at the end of the section reference: “(b)(7) of this Chapter.” This is necessary to specify which subsection is referenced in this subpart. In subpart (B), “the” at the beginning of the sentence was capitalized and “that” was deleted. This is necessary for grammatical purposes.

§18660.49(c):

The approved emergency regulations added the advance transmittal requirement that aligns with subsection (a). This 30-calendar-day advance notification aligns with DTSC’s 30-calendar-day handler notification requirement outlined in Section 66273.32(c)(1) of Chapter 23 of Division 4.5 of Title 22 of the California Code of

Regulations. This is necessary to promote compliance with other regulations and assure advance planning to mitigate risks related to improper management of CEW materials, which protects the integrity of the CEW Program. CEW Program experience demonstrated that there was a high correlation between events that lacked advance planning and a rate of CEW material mismanagement, violations, or risks to the CEW Program. For example, some events were conducted without adequate planning and source documentation was not maintained, leading the collector to seek a retroactive Designation or to abandon or mismanage the material.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The preface “When a Designation is issued by the Local Government,” was deleted because this is redundant with subsection (a). This subsection specifies the physical and electronic mail address where the Local Government shall transmit the POD. The word “the” was capitalized for grammatical purposes. “Pursuant to subsection (a)” was added after the word “transmit” to provide a reference to the 30-calendar-day advance notification requirement. The latter was set off by added commas to be grammatically correct. The phrase “postmarked at least 30 days in advance of any use of the Designation” was deleted. The postmark amendment is necessary because it was discovered that not all mailing arrangements come with a postmark date. Thus, stakeholders choosing such mailing arrangements would find it impossible to comply with the regulations, as written. Moreover, the postmark is unnecessary because subsection (a) of the proposed text adds a new requirement that a POD must be received by CalRecycle for the Designation to be deemed established. As stated above, a reference to subsection (a) was added to the text. The intended recipient and email address were changed to optimize internal processing practices. Submitted PODs will be routed directly to the staff involved in the review process. The email amendment is necessary because internal processing practices and tracking efforts will benefit from using ewastedesignations@calrecycle.ca.gov.

Insertion of §18660.49(d) into the proposed text:

This subpart was added to require CalRecycle to notify the Local Government, in writing, within 10 calendar days of receipt of a POD, that the POD is either complete and correct or that the POD contains missing and/or incorrect information. This is necessary to alert Local Governments about potential non-compliance and to ensure CalRecycle’s timely processing of PODs. The notification must be in writing to have documented proof. This subsection also requires CalRecycle to notify the Local Government, in writing, and list the missing or incorrect information. This is necessary to allow the Local Government to fix issues related to the POD without having to start over with the Designation process. This provides convenience to the Local Government. If the Local Government fails to provide the missing information and/or make corrections within 20 calendar days, CalRecycle has the ability to terminate a Designation pursuant to section 18660.50(b). This is necessary to ensure that a Local

Government corrects deficiencies in a timely manner. If a Designation is incomplete or has incorrect information, it will not be valid. The timeframes specified in this subpart (10 calendar days for CalRecycle to process PODs and 20 calendar days for the Local Governments to correct deficiencies) were determined in order to fit within the 30-calendar-day waiting period.

Insertion of §18660.49(e) into the proposed text:

This subpart was added to emphasize to the regulated community that a Designation is not valid unless it meets all of the requirements in subsections (a) through (c). It is necessary to avoid any possible confusion about what constitutes a valid Designation.

The following subsections were deleted from approved emergency regulations:

Subsections 18660.49(d) and (e) of the approved emergency regulations were designed as a transitional clause that honored past compliant Designations as participants conformed to the new rules. These subsections were removed because it is no longer necessary to have them in the proposed text.

§18660.49(f):

This subsection requires communication between the Local Government, its DAC, and CalRecycle when operational status or contact information changes occur and when the name of the organization under which a DAC operates changes.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The approved emergency regulations required the DAC to immediately notify the Local Government of these changes. The word “immediately” was deleted and the following phrase was added: “and CalRecycle, in writing, at least 30 calendar days prior to a change taking effect or within 10 calendar days after an unforeseen change.” The proposed text changes the notification requirements, which align with the notification requirements in section 18660.18. The 30-calendar-day advance notification is necessary to allow sufficient time for Local Governments to review the information and make any necessary adjustments. The text amended the emergency regulations by allowing a DAC to communicate unforeseen changes within 10 calendar days of occurrence. This is necessary to accommodate the dynamics of the e-waste recycling industry, which can have ever-changing collection locations, contacts, and collection activities or services. The 10-calendar-day notification after an unforeseen event is aligned with the notification requirements in section 18660.18. The proposed text also amended the approved emergency regulations by requiring a DAC to notify CalRecycle as well as the Local Government. This is necessary so CalRecycle staff will be informed of any developments affecting CEW collection activities and thus protects the integrity of the CEW Program. In addition, the text specified that the notification should be in writing in order to have documented proof. The proposed text replaced “of” with “regarding” for grammatical purposes and also added a colon after “any changes in” for

punctuation purposes. This is necessary as the subsection was restructured to include two subparts, which cover two separate circumstances that require notification.

Subpart (1) requires the DAC to notify CalRecycle and the Local Government if the DAC's contact information or operational status changes. It is necessary for both CalRecycle and the Local Government to be informed of any changes in contact information or operational status as these impact CEW collection activities. The proposed text added "The Designated Approved Collector's" in the beginning of subpart (1) to specify that the changes pertain to a DAC. This is necessary to provide better clarity and accommodate the restructuring of subsection (f). The proposed text includes an amendment to reference subsection (b)(8), which identifies the necessary contact information for this requirement and provides clarity. There have been undesirable scenarios where an employee of the DAC attempts to act as the authorized signatory for a new Designation but is not authorized because the DAC contact is not listed on the application with CalRecycle as an authorized signatory. This amendment helps accommodate the DAC and the Local Government to easily provide updated information so that the Designation can correctly reflect the collection services and appropriate contacts.

Subpart (2) was added in the proposed text to require a DAC to notify the Local Government and CalRecycle if the name of the organization under which it operates changes. This is necessary to ensure the name of the DAC, as included on the POD, matches that of the active approved collector in the CEW Program.

§18660.49(g):

This subsection requires the Local Government to communicate with CalRecycle, in writing, regarding any changes in the Designation. The changes would pertain to the Local Government's authorized contact and signatory and a DAC's contact and signatory. It is necessary for CalRecycle to be informed of these changes in case CalRecycle needs to contact the Local Government or DAC for any questions pertaining to the established Designation.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The proposed text amended the approved emergency regulations to specify that the notification should be in writing. This is necessary to avoid any miscommunication and provide record of the communication. The added text was set off by commas for grammatical purposes. "Valid Designation" was amended to "Designation". "Valid" is unnecessary because it is redundant. Subsection (e) specifies that a Designation must be valid. Subsections "(b)(4), (b)(5), or (b)(6)" in the approved emergency text became subsections "(b)(5), (b)(6), (b)(7), or (b)(9)" due to a reordering of subsection (b). The word "section" was capitalized to conform with the rest of the Chapter.

§18660.49(h):

This subsection outlines a process by which a Local Government may amend a Designation when circumstances change. This is necessary for convenience to the Local Government so that changes in the scope of a Designation, such as a change in the collection activity or additional facility collection addresses, do not necessitate starting over with a new Designation.

The following additional amendments to the approved emergency regulations were made in the proposed text:

In the proposed text, “valid Designation” was amended to “Designation.” “Valid” is unnecessary because it is redundant. Subsection (e) specifies that a Designation must be valid. The phrase “a Local Government” was replaced by “the designating authority of the Local Government.” This is necessary to provide clarity to the amendment process and protect the integrity of the CEW Program, ensuring that only an individual with sufficient authority is modifying the Designation. References to subsections (b)(1) and (b)(2) were replaced with (b)(3) and (b)(4) to provide the correct regulatory reference due to changes made in the proposed text. The word “section” was capitalized to conform with the rest of the Chapter.

§18660.49(h)(1):

Subpart (1) requires the Local Government to communicate to CalRecycle and the DAC any changes made to the scope of a Proof of Designation, pursuant to sections 18660.49(b)(3) and (b)(4). When a Local Government issues a POD, it establishes the scope of a Designation, such as locations where collection activities can occur and type(s) of collection activities. CalRecycle staff reviews the scope of a Designation when processing a new POD to ensure compliance with applicable laws and regulations. If a Local Government modifies the scope of a Designation, CalRecycle and the DAC must be informed immediately. The notification allows CalRecycle to review the modifications to ensure compliance with applicable laws and regulations. This protects the integrity of the CEW Program by ensuring that only compliant activities are eligible for payments. The notification also allows CalRecycle claim review staff to identify changes to the scope of a Designation when reviewing payment claim submittals (see insertion of section 18660.49(h)(3)). The notification allows the DAC to prepare for any changes in collection activities.

The following additional amendments to the emergency regulations were made in the proposed text:

The phrase, “in writing” was added after “Approved Collector” to specify that the change-of-scope notification must be in writing. This is necessary to provide documented proof to both CalRecycle and the DAC, which can then be used by the DAC when submitting a payment claim (see insertion of section 18660.49(h)(3)). The added text was set off by commas for grammatical purposes.

§18660.49(h)(2):

Subpart (2) requires the DAC not to act on modifications in the scope of a Designation prior to the Local Government's notification of these modifications to CalRecycle. The notification allows CalRecycle to review the modifications to ensure compliance with applicable laws and regulations. This protects the integrity of the CEW Program by ensuring that only compliant activities are eligible for payments. For example, if a DAC had started an amended collection activity prior to the notification, CalRecycle staff would not be aware of the amended scope of the Designation and may not properly adjust the material claimed. Also, if a Local Government changes the location but CalRecycle staff determines it is not within the Local Government's jurisdiction, the material collected by the DAC would not be eligible for payments.

The following additional amendment to the approved emergency regulations was made in the proposed text:

The word "section" was capitalized to conform with the rest of the Chapter.

Insertion of §18660.49(h)(3) into the proposed text:

This subpart requires the DAC to include a copy of the notification pertaining to the modification of scope of a Designation, that the Local Government provided pursuant to subsection (h)(1), when submitting a payment claim. This is necessary so that CalRecycle claim review staff can correctly identify any modifications to the scope of an existing Designation and avoid making adjusted payments based on the originally established POD.

§18660.50 Termination of Designation.

Approved emergency text section 18660.50 "Invalidation of Designation" and approved emergency text section 18660.51 "Termination of Designation" were combined in the proposed text into one section, "Termination of Designation." Section 18660.51 was deleted. Invalidation and termination served similar roles, and this consolidation avoids introducing duplicative terminology. This provides clarity to the regulated public.

§18660.50(a)

The text in subsection 18660.51(a) was relocated to this subsection and amended. This subsection allows the Local Government to terminate a Designation at its discretion. A Designation is a privilege for a DAC that a Local Government establishes at its own discretion by allowing a DAC to conduct CEW collection activities on its behalf. If a Local Government is not satisfied with a DAC or no longer requires a DAC's services, it should have the ability to terminate the established Designation prior to its expiration. This is necessary to protect the Local Government from potential liability for a DAC that might be engaged in non-compliant activities. For example, if a DAC mismanages the CEW collected through a Designation, the Local Government might be liable for mismanagement of the waste. Because the Local Government is in charge of the Designation relationship, it may terminate the Designation at its discretion. If a Local Government terminates a Designation at its discretion, it must immediately notify the

DAC and CalRecycle, in writing, of the effective date of the termination. It is necessary for a Local Government to communicate the effective termination date to keep all parties informed of developments concerning the relationship. Knowing the effective date of termination allows CalRecycle staff to verify if previously collected material under a Designation is eligible for payments. Even if a Designation is terminated immediately, some previously collected material may be flowing through the payment system and would remain unaffected by the termination.

§18660.50(b)

The text in subsection 18660.51(b) was relocated to this subsection and amended. This subsection allows CalRecycle to terminate a Designation if either party violates laws or regulations. If CalRecycle terminates a Designation, it will notify the DAC and the Local Government of the effective date of termination. The ability for CalRecycle to terminate a Designation is necessary to maintain CEW Program integrity by prohibiting a DAC who is non-compliant with the law from continuing collection activities under a Designation and submitting payment claims to CalRecycle for that collected material. A collector whose Designation has been terminated for non-compliance would no longer be afforded source documentation relief. Such a collector would need to provide source documentation to be eligible for payments. If CalRecycle terminates a Designation, it must immediately notify the DAC and Local Government, in writing, of the effective date of the termination. It is necessary for CalRecycle to communicate an effective termination date to keep all parties informed of developments concerning the Designation relationship. Knowing the effective date of termination allows CalRecycle staff to verify if previously collected material under a Designation is eligible for payments. Even if a Designation is terminated immediately, some previously collected material may be flowing through the payment system and would remain unaffected by the termination.

§18660.50(a) of approved emergency regulations, which becomes §18660.50(c) in the proposed text.

This subsection lists the changes in a collector's approval status that will lead to termination of a Designation. Subparts 18660.50(c)(1) through (3) list and explain the circumstances under which a terminated Designation may be re-established.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The text "issued to a Designated Approved Collector" was deleted for brevity. A Designation can only be issued to a DAC so it was unnecessary to specify this. The word "invalid" was replaced with "terminated" to convey that the Designation relationship would be terminated and to conform with surrounding text. The phrase "pursuant to Sections 18660.16 and 18660.17 of this Chapter" was added after "status" to provide the regulated public with a specific reference to the applicable sections in the Chapter. The added phrase was set off by commas. This is necessary for grammatical purposes.

The word “denied” was added in front of “expired.” This change in a collector’s approval status was erroneously omitted in the approved emergency regulations and needs to be included in the list. The approval status of a collector will become “inactive” if the renewal application is denied. The added text is followed by a comma, which is necessary for grammatical purposes. The following additions were made to the end of the sentence: a comma for grammatical purposes, followed by the phrase “pursuant to Section 18660.16(e).” This is necessary to provide the regulated public with a specific reference to the applicable section in the Chapter.

§18660.50(a)(1) of the approved emergency regulations, which becomes §18660.50(c)(1) in the proposed text:

Subsection (c)(1) covers terminations due to temporary non-compliance. This is necessary to account for small gaps in compliance without having to establish a new Designation and minimizes disruptions to collection services. For example, a DAC that engages in non-compliant activities may be temporarily suspended from the CEW Program, causing the DAC’s approval status to become inactive. Once the DAC gets back into compliance, its approval status is reinstated with CalRecycle. In these instances, the Designation shall be re-established automatically without having to start over with the Designation process. Because the Local Government initiates and manages the Designation relationship, it can terminate the Designation at its discretion despite reinstatement of the collector’s approval status.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The word “invalidated” was replaced with “terminated.” This is necessary because this section now covers termination rather than invalidation and to conform with surrounding text. The phrase “status” was added after “approval” which is necessary to clarify that the expiration or suspension refers to the approval status. The phrase “valid again” was replaced with “re-established.” This is necessary to emphasize that a Designation can be re-established once certain requirements are met. The phrase “section 18660.51(a)” was amended as follows: “section” was replaced with “subsection” and the reference to 18660.51 was deleted. This is necessary to provide the correct regulatory reference due to the deletion of section 18660.51.

Insertion of §18660.50(c)(2) into the proposed text:

This subsection states that a Designation terminated due to denial, suspension, or revocation of a collector’s approval status must be re-established if the collector prevails in an appeal. This addition is necessary to cover instances when a DAC wins in an appeal. Pursuant to section 186660.19, a collector has the ability to appeal CalRecycle’s decision to deny an application for approval, suspend, or revoke an approval. If the DAC prevails in an appeal, the DAC’s approval status is reinstated with CalRecycle. In these instances, the Designation shall be re-established automatically without having to start over with the Designation process.

§18660.50(a)(2) of approved emergency regulations, which becomes §18660.50(c)(3) of the proposed text:

This subsection covers terminations due to a revocation or withdrawal and offers a mechanism by which the DAC regains approval status. It is necessary to cover both revocation and withdrawal as those are both possible ways to exit and re-enter the system. It is also necessary to have the Local Government re-evaluate the situation before re-issuing a Designation to an entity whose Designation was revoked or who withdrew from the CEW Program.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The text “Except as provided in subsection (c)(2)” was added to emphasize that, as a matter of law, a Designation must be re-established if a collector prevails in an appeal of a revocation or suspension pursuant to section 18660.50(c)(2). The added text was followed by a comma for grammatical purposes. In addition, “A” was replaced by “a” for grammatical purposes due to new text being added at the beginning of the sentence. The word “invalidated” was replaced with “terminated.” This is necessary because this section now covers termination rather than invalidation. The word “re-issued” was changed to “re-established.” This is necessary to emphasize that a Designation is re-established once certain requirements are met. The word “restored” was amended to “reinstated.” This is necessary for consistency and to align with surrounding text.

§18660.50(b) of approved emergency regulations, which becomes §18660.50(d) in the proposed text:

This subsection requires a DAC to notify its Local Government partner when the Designation has been terminated due to a change in the DAC’s approval status. This is necessary to provide the Local Government with awareness that the DAC will no longer provide collection services on its behalf.

The following additional amendments to the approved emergency regulations were made in the proposed text:

The word “invalid” was replaced with “terminated,” which is necessary for clarity and to avoid introducing duplicative terminology. The reference to subsection (a) was amended to reference subsection (c). This is necessary to provide the correct regulatory reference as approved emergency regulations section 18660.50(a) became section 18660.50(c) in the proposed text. The proposed text added “Proof of” to “Designation,” which is necessary to clarify that a Local Government issues a Proof of Designation, which is a document. The Local Government does not establish the Designation itself, which is an arrangement that requires section 18660.49(a) requirements to be met. The proposed text requires that the communication be in writing. This is necessary for reference purposes and to protect the integrity of the CEW Program. The added text was set off by commas for grammatical purposes.

Section 18660.51 Termination of Designation.

The approved emergency regulations added section 18660.51. Section 18660.51(a) outlined the right of the Local Government to terminate a Designation at its discretion. Section 18660.51(b) outlined the right of CalRecycle to terminate a Designation if the Local Government or DAC violated any applicable laws or regulations. The ability to terminate a Designation is necessary to maintain CEW Program integrity and protect public funds. If either party did so, communicating the decision to remaining parties is necessary to maintain integrity of the CEW Program and to keep all parties informed of developments concerning the relationship.

This section has been deleted and consolidated with the previously termed “Invalidation of Designation” section. This was necessary because invalidation and termination served similar roles and this consolidation avoids introducing duplicative terminology. Approved emergency regulations section 18660.51(a) became section 18660.50(a), and section 18660.51(b) became section 18660.50(b).

TECHNICAL STUDIES, REPORTS OR DOCUMENTS

CalRecycle relied upon the following information sources to amend the regulations:

1. CalRecycle developed the proposed regulations based on over a decade of experience administering the existing CEW Program.
2. CalRecycle distributed white papers, developed, presented, and received feedback on the proposed regulations through oral and written comments received from stakeholders at the following workshops:
 - a. December 16, 2015 Stakeholder Workshop that contained the following documents relied upon:
 - Overview of Issues
 - Selected Regulations
 - Opening Remarks and Background PowerPoint
 - Facilitated Discussion PowerPoint
 - Reforming Designations: Issues to Consider

[Presentation by Jeff Hunts “Considering Rule Changes to the Covered Electronic Waste \(CEW\) Recycling Program: Designated Approved Collectors”](https://www2.calrecycle.ca.gov/PublicNotices/Details/1640)

<https://www2.calrecycle.ca.gov/PublicNotices/Details/1640>

- b. August 31, 2016 Stakeholder Workshop that contained the following documents relied upon:
 - Overview of Issues
 - Reforming Designations: Issues to Consider
 - DRAFT Regulatory Language for Discussion
 - Designated Approved Collector – Presentation

[Presentation by Jason Smyth “Designated Approved Collector Regulations”](https://www2.calrecycle.ca.gov/PublicNotices/Details/1831)
<https://www2.calrecycle.ca.gov/PublicNotices/Details/1831>

- c. November 15, 2017 Stakeholder Workshop that contained the following documents relied upon:
- Issues Matrix
 - Proposed Final Rulemaking Text

[Presentation by Jason Smyth “Issues to be Addressed with Proposed Revisions to Designated Approved Collector Regulations”](https://www2.calrecycle.ca.gov/PublicNotices/Details/2218)
<https://www2.calrecycle.ca.gov/PublicNotices/Details/2218>

3. CalRecycle hosted a webinar on Designations to discuss reform efforts and receive feedback on the proposed regulations on January 16, 2018.
4. CalRecycle developed various issue papers related to reform of the Designation provision:
- a. [Overview of Issues, December 16, 2015, presented by Jason Smyth](https://www2.calrecycle.ca.gov/PublicNotices/Documents/6482)
<https://www2.calrecycle.ca.gov/PublicNotices/Documents/6482>
 - b. [Reforming Designations: Issues to Consider, December 16, 2015, presented by Jason Smyth](https://www2.calrecycle.ca.gov/PublicNotices/Documents/7188)
<https://www2.calrecycle.ca.gov/PublicNotices/Documents/7188>
 - c. [Issues Matrix, November 15, 2017, presented by Jason Smyth](https://www2.calrecycle.ca.gov/PublicNotices/Documents/8470)
<https://www2.calrecycle.ca.gov/PublicNotices/Documents/8470>

There were no other studies, reports or documents.

ECONOMIC IMPACT ASSESSMENT PER GOVERNMENT CODE §11346.3 (b)

Creation or Elimination of Jobs within the State of California

The requirements and options in the regulations will not create or eliminate jobs within the State of California. CalRecycle has conducted outreach and education on this provision as part of this regulatory effort. This outreach has enabled Local Governments to learn more about how Designations may help with their waste management needs. This may be the reason the CEW Program staff is seeing more Designations being established. While this does not expand businesses, it allows DACs to operate more efficiently and offers better financial arrangements to Local Governments.

Creation of New or Elimination of Existing Businesses Within the State of California

The requirements and options in the regulations will not create or eliminate businesses within the State of California. The regulations aim to clarify or modify the administrative procedures pertaining to the establishment, use, and termination of Designations. For example, completing the administrative tasks of filling out the forms in advance does not increase the administrative workload to justify hiring additional personnel, but rather changes what time of year during which forms are filled out.

The related emergency regulations that impacted DACs in a similar fashion were approved and became effective March 16, 2017. Since then, CEW Program staff has seen the number of approved collectors declining from 400 to approximately 350, and the number of DACs remaining steady at approximately 150. At the same time, the number of active compliant Designations has increased to over 500 from 400. This indicates that the new regulations are not a threat to existing businesses within the state.

Expansion of Businesses Within the State of California

There are currently approximately 350 approved collectors and 150 DACs in the CEW Program. Both approved collectors and DACs may consider collaborating with Local Governments to exercise the option to establish or maintain Designations, which requires their thorough understanding of the provision.

Business participants in the Designation provision are collectors of electronic waste that are approved participants in the CEW Program. Other actors such as non-participating handlers, transporters, or upstream entities interface with the CEW Program by providing material management services. The CEW Program, including the associated payment system containing the Designation provision, is a voluntary program intended to relieve the costs of managing certain electronic wastes. Businesses are not required to participate in the CEW Program. However, participants must comply with applicable laws and regulations, including State Household Hazardous Waste rules that govern the handling and reporting of CEW.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed regulations benefit the health and welfare of the residents of California by: (1) allowing for convenient and safe e-waste collection activities; (2) reducing the likelihood of Designations being used inappropriately, thereby protecting the integrity of public funds; (3) promoting a level playing field between CEW Program participants; and (4) fostering fair business practices.

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

CalRecycle has determined that the proposed regulations will not have a significant adverse impact on businesses. Nor will the proposed regulations affect the ability of California businesses to compete with businesses in other states. CalRecycle is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

There are no new or separate costs incurred to participate in or comply with the CEW Program's optional voluntary Designation provision. The CEW Program is a cost relief program established pursuant to the Act. Its intent is to offset cost for the otherwise compliant management of certain electronic wastes. Existing regulations already require a POD. The proposed regulations clarify those records and associated procedures.

The proposed regulations also include options for a Local Government. The regulations articulate how CalRecycle may terminate a Designation. The regulations do not increase costs of compliance for the regulated businesses.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

CalRecycle has determined that no unnecessary duplication or conflicts exist between the proposed regulations and federal regulations because federal law or regulations do not contain comparable requirements. The rules establish better documentation and procedural practices aimed to increase the integrity of the CEW Program and protect the public funds paid annually to participating DACs. In addition, the rules modify the framework for the optional DAC provision of the Electronic Waste Management Act, which is unique to state law.