

ATTACHMENT TO NOTICE OF EXEMPTION

Project Title: SB 1013 Addition of New Beverage Containers Permanent Regulations

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

Description of Nature, Purpose and Beneficiaries of Project:

In 2022, the Legislature enacted Senate Bill 1013 (2021-2022 Reg. Session, Chapter 610 of the Statutes of 2022), Public Resources Code sections 14504, 14560, and 14561, to expand the types of beverages and beverage containers that are eligible for redemption as part of the BCRP. Prior to the passage of SB 1013, chapter 5, division 2, title 14 of the California Code of Regulations ("14 CCR") established a framework for the BCRP that includes a system of payments and procedures among a variety of program participants. This regulatory framework is built upon the previously eligible beverages and beverage containers. Since the Bottle Bill was enacted, there have been a number of amendments to PRC section 14504 to expand the type of beverages covered by the Act. Immediately prior to the passage of Senate Bill 1013 (2021-2022 Reg. Session, Chapter 610 of the Statutes of 2022) ("SB 1013"), certain types of beverages were covered by the Act where in a beverage container primarily consisting of aluminum, glass, plastic, or bimetal. The covered beverage types excluded the following: wine, distilled spirits, wine and distilled spirit coolers exceeding 7 percent alcohol by volume, certain large fruit and juice containers, milk, medical food, and infant formula. Prior to SB 1013 being chaptered, CRV had increased to 5 cents for a beverage container less than 24 ounces, and 10 cents for a beverage container 24 ounces or larger. These measures are expected to increase recycling rates and reduce littering for these types of containers. CalRecycle has developed a proposed regulation to establish administrative procedures to enable CalRecycle to fulfill its responsibilities under SB 1013.

Reasons Why Project is Exempt:

The adoption of the regulation is exempt from the California Environmental Quality Act (CEQA) because it falls under the "Class 8" exemption as defined in the CEQA Guidelines. The Class 8 exemption states that a project is exempt from CEQA if it "consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment" (CEQA Guidelines section 15308). The SB 1013 Addition of New Beverage Containers permanent regulations are intended to clarify, implement and make specific these changes from SB 1013. The new container material types in statute are undefined and lack implementation details for the department and its regulated participants. Regulations are necessary to provide the same level of clarity for the new beverage and beverage container types as are available for beverage and beverage container types that have been in the BCRP prior to the enactment of SB 1013. As

noted elsewhere, these measures are expected to increase recycling rates and reduce littering for these types of containers.

As explained in the Notice of Proposed Action (NOPA) prepared for these regulations, CalRecycle found it necessary to clarify and make specific the precise beverages and beverage containers subject to the 25-cent CRV and redemption payment: bags in boxes, multi-layer pouches, paperboard cartons, and plastic #1-7 pouches containing wine, distilled spirits, or wine and distilled spirit cooler (proposed 14 CCR Section 2900(b)(2)). These proposed regulations will implement, interpret, and make specific SB 1013 by integrating the new types of beverage containers and beverages into the regulatory framework of the BCRP. See the NOPA for further details.

Additionally, the adoption of the regulation is exempt from CEQA because it falls under the common-sense exception described in section 15061(b)(3) of the CEQA Guidelines. That section provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA. These regulations will benefit the health and safety of residents of California and the state's environment by ensuring that these beverage containers are recovered instead of littered. While the regulations may increase recycling activity, this uptick is not expected to require new facilities or expansions of existing ones. None of the requirements in the regulations will either actually or potentially result in substantial adverse effects on the environment.