

## **ATTACHMENT TO NOTICE OF EXEMPTION**

**Project Title:** SB 1013 Dealer Registration and Dealer Cooperatives 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 (SB) 1013 (Atkins, Ch. 610, Statutes of 2022), which amended the California Beverage Container Recycling and Litter Reduction Act, to repeal the requirements for dealers to redeem all beverage container types or pay CalRecycle \$100 per day in an unserved convenience zone as of January 1, 2025. SB 1013 established Public Resources Code (PRC) sections 14510.2, 14578, and 14578.5 pertaining to dealers and dealer cooperatives and mandates dealers in any convenience zone where no recycling location exists to, commencing January 1, 2025:

- Redeem all beverage container types on the premises with three requirements related to (1) redemption location, (2) redemption signage, and (3) delivery of empty beverage containers received from the public (PRC section 14578(a)(1)(A)-(C)); or
- Join a dealer cooperative to provide a dealer cooperative redemption plan to CalRecycle and implement the approved plan for redeeming beverage containers in the unserved convenience zone (PRC section 14578(a)(2)(A)).

The Act exempts a dealer from either requirement if its gross annual sales are less than \$1.5 million, excluding fuel sales, or if the dealer is less than 5,000 square feet (PRC section 14578(b)(1) and (2)).

CalRecycle has developed proposed regulations to clarify the dealer and dealer cooperative requirements and 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 is not a “project”, as that term is defined in the CEQA Guidelines (California Code of Regulations, Title 14, sections 15000 et seq.). A “project” is an activity “which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...” (CEQA Guidelines section 15378(a); see also PRC sections 21065 and 21068). The regulation only prescribes a process for the registration of dealers, and establishes stewardship plan, reporting, and operational requirements for, and enforcement of, dealer cooperatives. The adoption of the regulation will have no direct effect on the environment and no reasonably foreseeable indirect effect on the environment. There are no requirements, standards, or targets set in the proposed regulation for environmental impacts on which to base an objective analysis of any

potential impacts. To impute any general or specific environmental effects from the regulation would be entirely speculative, and CEQA does not require a lead agency to speculate as to the potential impacts of a project.

The adoption of the regulation also falls under the “general rule” or “common sense” exemption as defined in the CEQA Guidelines. The common sense exemption states that a project is not subject to CEQA “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment” (CEQA Guidelines, section 15061(b)(3)). For the same reasons that CalRecycle has determined that the regulation falls under the “not a project” exemption, it can also be seen with certainty that there is no possibility that the regulation would result in a significant effect on the environment and is exempt from consideration under CEQA.

Additionally, the adoption of this regulation 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 regulation is intended to protect the state’s environment through reducing environmental litter as well as reducing the amount of beverage containers that are disposed of in landfills. Accordingly, the adoption of the regulation is exempt from consideration under CEQA on this basis as well.