
**SB 54 Informal Rulemaking
Stakeholder Workshop:
Draft Regulatory Concepts for PRO
Plan, Annual Report and Document
Submittal**

**SB 54 Plastic Pollution Prevention and Packaging
Producer Responsibility Act Regulations**

March 22, 2023

**Department of Resources Recycling and Recovery
SB 54 Regulation Implementation Team, Packing EPR Section
Regulations Unit, Legal Affairs Office**

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Overview and Purpose of Workshop

The Department of Resources Recycling and Recovery (CalRecycle) has scheduled a workshop on [March 29, 2023](#), from 10:00AM to 3:00PM, in the Coastal Hearing Room, located on 2nd Floor, 1001 I Street, Sacramento, CA 95814, to consult with the public, the regulated community, and other interested persons to solicit feedback on some of the requirements outlined in [SB 54 \(Allen, Chapter 75, Statutes of 2022\)](#).

This workshop will focus on the Producer Responsibility Organization (PRO) and will provide an overview of some of the PRO requirements, including certain aspects of the Producer Responsibility Plan (plan) specified in Public Resources Code (PRC), Section 42051.1, and requirements for document submittals specified in PRC, Section 42051.2 and annual reporting specified in PRC, Section 42051.3.

This workshop is split into two parts:

- **Part 1** will be an informational session, providing background information on the requirements discussed in this document.
- **Part 2** will discuss several regulation concepts to solicit stakeholder feedback to help prepare for the draft regulatory text.

The purpose of this document is to provide stakeholders an overall outline of what is going to be discussed and the type of feedback CalRecycle plans on soliciting in advance of the workshop. All requests for stakeholder feedback or informational items to share with stakeholders will be specified in a gray textbox.

This document and corresponding workshop will not address the following topics:

- Needs Assessment
- Source Reduction
- PRO termination and closure
- Plan revocation
- Compliance by a producer independent of a PRO
- Enforcement

The topics in the list above will be addressed at a subsequent workshop.

Part I. Background

The PRO and the plan are the central components to an Extended Producer Responsibility (EPR) Program. This section summarizes the requirements of the PRO and plan as set forth in SB 54 (Allen, Chapter 75, Statutes of 2022) and provides CalRecycle's informal rulemaking outline pertaining to the PRO and the plan.

Relevant Definitions

Listed below are the existing statutory definitions relevant to the March 29, 2023 rulemaking workshop. CalRecycle may further refine these definitions in regulations.

Producer – PRC 42041(w)

(1) “Producer” means a person who manufactures a product that uses covered material and who owns or is the licensee of the brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in the state.

(2) If there is no person in the state who is the producer for purposes of paragraph (1), the producer of the covered material is the owner or, if the owner is not in the state, the exclusive licensee of a brand or trademark under which the covered product using the covered material is used in a commercial enterprise, sold, offered for sale, or distributed in the state. For purposes of this subdivision, a licensee is a person holding the exclusive right to use a trademark or brand in the state in connection with the manufacture, sale, or distribution of the product packaged in or made from the covered material.

(3) If there is no person in the state who is the producer for purposes of paragraph (1) or (2), the producer of the covered material is the person who sells, offers for sale, or distributes the product that uses the covered material in or into the state.

(4) “Producer” does not include a person who produces, harvests, and packages an agricultural commodity on the site where the agricultural commodity was grown or raised.

(5) For purposes of this chapter, the sale of covered materials shall be deemed to occur in the state if the covered materials are delivered to the purchaser in the state.

Producer Responsibility Organization – PRC 42041(x)

“Producer responsibility organization” or “PRO” means an organization that is exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code of 1986 and is formed for the purpose of implementing a plan to meet the requirements of this chapter.

Producer Responsibility Plan – PRC 42041(y)

“Producer responsibility plan” or “plan,” unless context requires otherwise, means the plan produced by a PRO, or by a producer that chooses to assume responsibility to comply with this chapter individually, and submitted to the advisory board and department pursuant to Section 42051.1.

Recycle – PRC 42041(aa)

(1) “Recycle” or “recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise ultimately be disposed of onto land or into water or the atmosphere, and returning them to, or maintaining them within, the economic mainstream in the form of recovered material for new, reused, or reconstituted products, including compost, that meet the quality standards necessary to be used in the marketplace.

(2) “Recycle” or “recycling” does not include any of the following:

(A) Combustion.

(B) Incineration.

(C) Energy generation.

(D) Fuel production, except for anaerobic digestion of source separated organic materials.

(E) Other forms of disposal.

(3) To be considered recycled, covered material shall be sent to a responsible end market.

(4) (A) The department may adopt regulations to define guidelines and verification requirements for covered material shipped out of state and exported to other countries for recycling, including processing requirements, and contamination standards, or to otherwise implement this paragraph.

(B) For any mixture of plastic waste exported to another country, the PRO or producer shall certify to the department that the processes and recycling technologies used meet both of the following requirements, as determined by the department:

(i) The plastic waste is a mixture of plastic types consisting only of one or more of polyethylene, polypropylene, or polyethylene terephthalate, and the export is destined for separate recycling of each material.

(ii) The plastic waste export is not prohibited by an applicable law or treaty of the destination jurisdiction, and the import of the plastic waste into the destination jurisdiction will be conducted in accordance with all applicable laws and treaties of that destination jurisdiction.

(C) For any mixture of plastic waste exported to other states or countries, the PRO or producer shall certify to the department that the recycling technology used meets the requirements of this subdivision.

(D) In meeting the requirements of subparagraphs (B) and (C), the PRO or producer shall provide documentation necessary to verify this certification and shall make the certification under penalty of perjury.

(5) The department’s regulations shall encourage recycling that minimizes generation of hazardous waste, generation of greenhouse gases, environmental impacts, environmental justice impacts, and public health impacts. The regulations shall include criteria to exclude plastic recycling technologies that produce significant amounts of hazardous waste.

Recycling Service Provider – PRC 42041(ac)

“Recycling service provider” means a solid waste enterprise that provides solid waste handling services on behalf of a local jurisdiction.

Responsible End Market – PRC 42041(ad)

“Responsible end market” means a materials market in which the recycling and recovery of materials or the disposal of contaminants is conducted in a way that benefits the environment and minimizes risks to public health and worker health and safety. The department may adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizes risks to public health and worker health and safety.

Overview of the Producer Responsibility Organization

The PRO is the entity that represents producers and ensures producers are compliant with the program. Producers are either required to become a participant of the PRO’s plan or comply with the program independently if the producer can demonstrate that it meets the requirements in PRC 42051(b)(2).

Summary of PRO Duties Defined in Statute

- Develop and submit a producer responsibility plan and annual budget.
- Submit annual reports to the department, describing how the PRO is implementing the plan and how the PRO has complied with the requirements of the statute and regulations.
- Register with CalRecycle’s Recycling and Disposal Reporting System and report specified data.
- Maintain records of covered material offered for sale, sold, distributed, or imported in or into the state.
- Maintain records of minutes, books, and records that reflect the activities and transactions of the PRO.
- Provide contact information of participant producers if requested by the department.
- Have an audit of the organization’s books annually and provide a copy of the audit to the department for review.
- Set fees for participant producers, which would be used to fund the budget, pay the California Circular Economy Administrative Fee, and pay the California Plastic Pollution Mitigation Fund.
 - The California Circular Economy Administrative Fee is set by CalRecycle based on the full cost of implementing and enforcing the statute.
 - The California Plastic Pollution Mitigation Fund is a \$5 billion payment to the state over a 10-year period to fund mitigation efforts.
- Establish a trust fund or escrow account to deposit unexpended funds, which would be used if the PRO’s plan terminates, is revoked, or the PRO dissolves.
- Develop a closure or transfer plan should the producer responsibility plan be revoked or the PRO dissolves.
- Develop and implement a source reduction plan and submit specified data.
- Report information regarding noncompliance by a participant producer.

Overview of the Producer Responsibility Plan

The plan describes the method in which the PRO will comply with the statute and regulations and meet the goals of the program. It is an enforceable document. Pursuant to [PRC 42051.2](#), the plan must be submitted to the advisory board for review prior to being submitted to CalRecycle. CalRecycle will review the plan and will either approve, conditionally approve, or disapprove the plan. An approved plan is deemed valid for a period of 5 years.

The requirements of what must be included in the plan are detailed in [PRC 42051.1](#). These requirements include items such as:

- A description of the actions the will take to meet the requirements of the statute and regulations.
- A budget for the PRO.
- A schedule of fees that PRO will assess to producers who participate in the PRO's plan.
- A source reduction plan.

The requirements defined in the statute will be further refined in regulations.

Article 2 of the statute (PRC 42050 to 42057) defines the responsibilities of the producer and PRO.

Producer Responsibility Organization Formation

Statute Sections: PRC 42051(a), PRC 42061.5(a)

PRC 42051(a)

By January 1, 2024, producers of covered material shall form and join a PRO for the purposes of complying with this chapter. The governing body of the PRO shall submit an application to the department describing how the PRO meets the requirements to be an approved PRO pursuant to this chapter, as described in Section 42061.5. If the department approves the PRO, the PRO shall proceed to carry out the requirements of this chapter. If applications for more than one PRO are submitted to the department by January 1, 2024, the department shall determine which proposed PRO can most effectively implement this chapter.

PRC 42061.5(a)

The department shall approve a PRO that meets the requirements of this chapter and both of the following:

- (1) The PRO has a governing board consisting of producers that represent the diversity of covered material placed in the market by those entities. The governing board shall include nonvoting members with representation of material trade associations and companies if those material types are covered by the organization.

(2) The PRO demonstrates that it has adequate financial responsibility and financial controls in place, including fraud prevention measures and an audit schedule, to ensure proper management of funds.

Informational Item for Stakeholders:

January 1, 2024 is the deadline for any entity who is interested in serving as the PRO to submit an application to CalRecycle. Subsequently, CalRecycle will review any applications based on the criteria specified in PRC 42061.5(a).

CalRecycle is in the initial stages of developing the application and review process; however, CalRecycle will not be mandating application requirements beyond what is required in statute. CalRecycle will share more information and may hold an Informational Session in the second half of 2023 that describes the application process further.

Part II. Regulation Concepts

Regulation Concepts:

The rulemaking process is for implementing, interpreting, or making specific statutes the department administers or enforces. Generally, the rulemaking process must follow the requirements of the Administrative Procedures Act, commencing with Government Code section 11340. Currently, CalRecycle is in the period of public participation prior to the publication of the Notice of Proposed Regulatory Action. This means CalRecycle is informally seeking feedback on proposed regulatory concepts for consideration when drafting proposed regulations to implement, interpret, or make specific provisions of SB 54 necessary for the Department's implementation of its provisions.

CalRecycle will be refining through regulations the requirements of the plan, document submittals, and annual reporting, and would like to solicit initial stakeholder feedback. The requirements for the plan are extensive, so this document and workshop will only discuss specific components of the plan. The regulation concepts discussed in this workshop include:

- Item 1 – Recycling Technologies [PRC 42051.1(b)(3)]
- Item 2 – Education and Outreach [42051.1(e)]
- Item 3 – Alternative Collection Systems [PRC 42051.1(g)(1) & PRC 42051.1(j)]
- Item 4 – Budgets and Reimbursements [PRC 42051.1(g) and 42051.1(j)]
- Item 5 – Document Submittals [PRC 42051.2]
- Item 6 – Annual Report [PRC 42051.3]

However, the purpose of this and future workshops is to provide necessary information and obtain feedback from interested stakeholders throughout this process. Although we

are only discussing specific components of the plan, we welcome written feedback and suggestions on the plan requirements specified in PRC 42051.1 and all other aspects provided in this section that are not directly addressed in the workshop. Guidance for providing written feedback is specified on page 22.

Item 1: Recycling Technologies

Statute Sections: PRC 42051.1(b)

PRC 42051.1(b)

The plan shall include all of the following:

- (1) Actions and investments that the PRO will implement in order to meet the requirements of this chapter and address the needs and investments identified in the needs assessment.
- (2) The source reduction plan required pursuant to Section 42057. For any covered material that is not reasonably anticipated by the PRO to achieve the requirements of this chapter, the PRO shall include in the plan a timeline and actions to discontinue use of the covered material category.
- (3) Technologies and means that will be utilized to achieve recycling requirements, including demonstration that the means and technologies meet the conditions specified in subdivision (aa) of Section 42041.

Regulation Concept:

Section 42051.1(b)(3) requires the PRO to include within the plan, a list of technologies and means that will be utilized to achieve recycling requirements. The technologies must be consistent with the definition of recycling specified in Section 42041(aa).

CalRecycle is seeking to clarify this requirement by requiring the PRO submit a list of technologies along with the following information:

- Name and description of the technology, including:
 - How it is used.
 - The covered materials recycled by the technology.
 - The level of contamination the technology is able to tolerate.
 - The end products, including by-products, or residuals produced by the technology, and the destination of those products (i.e., further processing, landfill disposal).
 - Current operational status, including location of proposed and current sites.
 - An explanation of how these technologies are consistent with the definition of recycling specified in PRC 42041(aa).
 - How efficient the technology is in achieving recycling rates.

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept for how these technologies need to be identified and described in the plan pursuant to PRC 42051.1(b)(3). The specific concept focusing on what constitutes recycling will be discussed at a future workshop.

Item 2: Education and Outreach

Statute Sections: PRC 42051.1(e)

42051.1(e)

The plan shall include efforts to use education and promotion to encourage proper participation in recycling and composting collection and reuse and refill systems. The PRO shall ensure coordination between these efforts and existing educational and promotional efforts. These may include, but are not limited to, all of the following:

- (1) Education and engagement to reduce the rate of inbound contamination or unwanted materials.
- (2) Outreach to obtain consistently high levels of public participation in and use of collection services and reuse and refill systems.
- (3) Education and engagement with residents on proper recycling, composting, and reuse and refill behaviors.
- (4) Support for increased statewide and local outreach needed to achieve the plan's goals.

Regulation Concept:

Education and outreach are a critical duty of the PRO. CalRecycle proposes promulgating regulations to clarify this requirement, particularly what education and outreach requirements need to be specified in the plan. The regulations will look to existing examples of education and outreach requirements, including Title 14, California Code of Regulations (14 CCR), [Section 18973.2\(j\)](#) from the Pharmaceutical and Sharps Waste Regulations. At a minimum, CalRecycle believes that the PRO should conduct the following:

- Establishment of an internet website designed with functionality for mobile platforms, provided with language options suited to local demographics, consistent with section 7295 of the Government Code, and maintained to ensure all information is up to date and accurate. The internet website's digital content and navigability must be accessible to disabled individuals. The internet website shall include, but is not limited to, the following:
 - Information of how covered material, by covered material category, should be recycled or composted within a person's local jurisdiction.
 - List of authorized entities who collect covered material.
- The program should lead to ultimate consumer awareness and accessibility.

- The program should encourage consumers to reduce waste and proper sortation of covered materials when recycling, composting, or disposing.
- Conduct activities and produce materials to promote awareness and maximize ultimate participation in the program, including, but not limited to, provision of educational and outreach materials for consumers; materials should be accessible in languages suited to local demographics, consistent with Section 7295 of the Government Code.
- The PRO should, whenever possible, ensure that all materials produced are in compliance with Section 7405 of the Government Code and the Web Content Accessibility Guidelines 2.0 published in 2008 by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria to allow for posting on the department's website.

In addition, the PRO will be required to describe in their plan how they intend to measure the performance of the education and outreach program. Metrics to evaluate performance of the comprehensive education and outreach program, shall include, but not be limited to, ultimate user awareness, program usage, and accessibility.

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept which is modeled off of existing EPR regulations and incorporates specific education and outreach requirements relevant to SB 54.

Item 3: Alternative Collection Systems

Statute Sections: PRC 42051.1(g)(1), PRC 42051.1(j)(1)(A)

PRC 42051.1(g)

(1) The plan shall include a process for determining and paying the costs that will be incurred by local jurisdictions, recycling service providers, alternative collection systems, and others under this chapter. Payment of these costs shall be reflected in the budget pursuant to subdivision (j).

PRC 42051.1(j)

(1) The plan shall include a budget designed to fully fund the costs necessary to implement this chapter. The budget shall include, but not be limited to, fully funding the plan and all other costs associated with implementing the plan, including, but not limited to, all of the following:

- (A) Actions and investments identified in the plan to fund the budget and needs and investments identified in the needs assessments.

Regulation Concepts:

Section 42051.1(g)(1) and Section 42051.1(j)(1)(A), among other things, require the PRO to provide reimbursements for costs that are incurred by local jurisdictions, recycling service providers, alternative collection systems, and others. Local jurisdictions and recycling service providers are defined in statute, PRC 42041(l) and 42041(ac), respectively. CalRecycle proposes promulgating regulations to clarify this requirement, particularly to identify alternative collection systems. The regulations will look to existing examples of alternative collection systems in current programs. Some examples include:

- Buy-back programs
- Public drop-off points
- Mobile recycling services
- Mail-back programs
- Reverse vending machines

Request from Stakeholders:

CalRecycle is seeking feedback on other potential options to identify as *alternative collection systems*. Local jurisdiction issues will be covered in a future workshop.

Item 4: PRO Budget and Reimbursements

Statute Sections: PRC 42051.1(j), PRC 42053.5

PRC 42051.1(j)

(1) The plan shall include a budget designed to fully fund the costs necessary to implement this chapter. The budget shall include, but not be limited to, fully funding the plan and all other costs associated with implementing the plan, including, but not limited to, all of the following:

(A) Actions and investments identified in the plan to fund the budget and needs and investments identified in the needs assessments.

(B) Costs associated with this chapter incurred by local jurisdictions, recycling service providers, and other collection programs, and costs related to consumer outreach and education; the transportation of covered materials to a materials recovery facility, broker, or viable responsible end market; cleaning, sorting, aggregating, and baling covered materials as necessary to bring those materials to a viable responsible end market; waste stream sampling and reporting required by this chapter for local governments; costs incurred to educate ratepayers to improve the preparation and sorting of covered material; and improvements to collection, sorting, decontamination, remanufacturing, and other infrastructure necessary to achieve recycling rates. These costs include costs related to both curbside and noncurbside collection programs and may be varied

based on population density, distance to a viable responsible end market, and other relevant factors.

(C) Reimbursing costs incurred by department and the California Department of Tax and Fee Administration.

(D) Administering the PRO.

(E) Environmental mitigation activities associated with Section 42064.

(F) Investments to develop and sustain viable responsible end markets for each covered material category.

(G) Other investments necessary to implement the plan and achieve the source reduction, recyclability and compostability, recycling rate, and other requirements of this chapter, including, but not limited to, ensuring that plan implementation avoids and minimizes negative environmental or public health impacts on disadvantaged or low-income communities or rural areas.

(H) If reasonable and able to be discretely directed, funding derived from a material type may be spent on investments needed for that specific material type.

(2) A producer or PRO shall not expend revenue collected for implementation of the plan for any of the following purposes:

(A) To pay an administrative civil penalty pursuant to Section 42081.

(B) To pay costs associated with litigation between the producer or organization and the state.

(C) To compensate a person whose position is primarily representing the PRO relative to the passage, defeat, approval, or modification of legislation that is being considered by a local, state, or federal government body, nor shall the PRO use or permit the use of these funds for paid advertisement 30 calendar days prior to or during a legislative session for the purposes of encouraging the passage, defeat, approval, or modification of legislation that is being considered, or was considered during the previous legislative session.

(D) To subsidize, incentivize, or otherwise support incineration, engineered municipal solid waste conversion, the production of energy or fuels, except for fuels produced using anaerobic digestion of source separated organic materials, or other disposal activities.

(3) (A) A PRO shall not maintain total program reserves exceeding 60 percent of its annual operating expenses, consistent with the requirements of the Financial Accounting Standards Board's Accounting Standards Update 2016-14, Not-for-Profit Entities (Topic 958), and any future updates to that standard.

(B) The department, in approving the annual PRO budget, may authorize the total reserves to be increased to up to 75 percent of the PRO's annual operating expenses if the department determines the increase is necessary to implement the requirements of this chapter.

(C) If a PRO's reserves exceed the amount specified in subparagraph (A) or (B), the department may require the PRO or a participant producer to increase spending on implementing the requirements of this chapter.

PRC 42053.5

(a) (1) On or before the end of the 2026–27 fiscal year, and once every three months thereafter, a PRO shall pay to the department the California circular economy administrative fee. The department shall set the fee at an amount adequate to cover the department’s and any other state agency’s full costs of implementing and enforcing this chapter. The total amount of fees collected shall not exceed the state’s actual and reasonable costs to implement and enforce this chapter. These costs may include the actual and reasonable costs associated with regulatory activities pursuant to this chapter before submission of producer responsibility plans pursuant to Section 42051.1 and annual reports pursuant to Section 42051.3.

(2) For a PRO, the administrative fee paid pursuant to paragraph (1) shall be funded by the producers that make up the PRO.

(b) The department shall deposit administrative fees paid by a PRO pursuant to subdivision (a) into the California Circular Economy Fund, which is hereby established in the State Treasury. Upon appropriation by the Legislature, moneys in the fund may be expended by the department for the department’s activities pursuant to this chapter and to reimburse any outstanding loans made from other funds used to finance the initial costs of the department’s activities pursuant to this chapter. Moneys in the fund shall not be expended for any purpose not enumerated in this chapter.

Regulation Concepts:

A budget is required to be submitted as part of the plan and will include an itemized list of anticipated costs, pursuant to the items listed in PRC 42051.1.(j)(1) (e.g., investments identified in the needs assessment, reimbursements to local jurisdictions and recycling service providers, administrative costs, reimbursing CalRecycle and CDTFA, mitigation fund, etc.). Updates to the budget are submitted as part of the PRO’s annual reports.

CalRecycle proposes promulgating regulations to clarify this requirement, particularly, what specific requirements regarding budgets need to be included in the plan. The regulations will look to existing program budget requirements, including [14 CCR, Section 18973.6](#) from the Pharmaceutical and Sharps Waste Regulations. At a minimum, CalRecycle believes the program budget requirements should at minimum, include the following:

- Contact information
- Anticipated costs for program implementation
- Recommended reserve level amount along with justification
- Recommended funding level necessary to cover budgeted costs
- Description of the types of activities relative to each line-item cost category
- Independent financial audit

The program budget will also include items specified in PRC 42051.1(j).

Informational Item for Stakeholders:

The budget shall include all other costs associated with implementing the plan, including costs incurred by the California Department of Tax and Fee Administration specified in 42051.1(j)(1)(C). CalRecycle would like to clarify this cost is the same as the Circular Economy Administrative fee, identified in PRC 42053.5.

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept which is modeled off of existing EPR regulations and incorporates specific program budget requirements relevant to SB 54.

Item 5: Document Submittals

Statute Section: PRC 42051.2, PRC 42051.3, PRC 42063

PRC 42051.2

(a) Before submitting the plan to the department for approval, the PRO shall submit a proposed plan to the advisory board for review and comment pursuant to subdivision (h) of Section 42070. The advisory board may provide written comments within 60 calendar days. The PRO shall consider the comments, along with any public comments, and may incorporate these comments into the plan.

(b) (1) The PRO shall submit the plan to the department with revisions, if any, in response to comments by the advisory board or public within 120 calendar days of receipt of the advisory board's comments.

(2) The department shall review the plan for compliance with this chapter. Within 90 calendar days of receipt of the plan from the PRO, the department shall, in accordance with Section 42063, respond with an approval, disapproval, conditional approval, request for additional information, or timeline for a decision on approval or disapproval.

(3) If the department conditionally approves the plan pursuant to paragraph (2), the department shall explain, in writing, how the plan or parts of the plan does not comply with this chapter, and the PRO shall ensure the conditions are met and resubmit a revised plan within 12 months.

(4) If the department disapproves the plan pursuant to paragraph (2), the department shall explain, in writing, how the plan does not comply with this chapter, and the PRO shall resubmit a plan to the department. If the department finds that the plan resubmitted by the PRO does not comply with the requirements of this chapter, the PRO shall not be deemed in compliance with this chapter until the organization submits a plan that the department finds complies with the requirements of this chapter.

(5) The approved plan shall be a public record, except that financial, production, or sales data reported to the department by the PRO is not a public record for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall not be open to public inspection. The department shall release financial, production, or sales data in summary form only so the information cannot be attributable to a specific producer, retailer, or wholesaler, or to any other entity.

(c) Within 90 calendar days after approval or conditional approval of the plan by the department, the PRO shall implement the approved plan and post the plan on the PRO's internet website.

(d) (1) Except as provided in subdivision (e), a plan approved by the department under this section is valid for five years.

(2) No less than 180 calendar days before a plan's five-year expiration date, the PRO shall submit a proposed updated plan to be reviewed by the advisory board and approved by the department for an additional five years. An updated plan submitted for approval under this paragraph shall satisfy the requirements of this chapter, including Section 42051.1, and describe any changes from the previously approved plan. The department may allow for an extension of a previously approved plan until a plan submitted under this paragraph is approved or rejected.

(e) (1) An amendment to the plan that modifies actions to meet the obligations set forth in Section 42050, modifies the setting and collection of fees, changes the implementation of this chapter with respect to costs incurred by local governments or recycling service providers, or changes the funding of costs to implement the plan, including costs to source reduce covered material, shall not be made to an approved plan unless the proposed amendment is submitted to the advisory board for comment, and approved by the department. That submission and review shall be conducted according to the same process set forth in subdivision (d).

(2) The department's rejection or revocation of a plan or plan amendment submitted for approval under this section does not relieve the PRO or a participant producer from its obligations pursuant to the previously approved plan or the requirements of this chapter.

(3) The submission of a plan amendment for approval under this section does not relieve the PRO or a participant producer from its obligations pursuant to the approved plan prior to action by the department on the plan amendment.

(4) The department may approve or disapprove a proposed plan amendment based on a determination of whether the amendment is sufficient to result in actions reasonably likely to meet the requirements of this chapter.

PRC 42051.3

(a) (1) A PRO shall annually submit to the department and make publicly available on its internet website an annual report and budget that describes how the PRO is

implementing the approved plan and how the PRO has complied with the requirements of this chapter and its implementing regulations.

(2) The annual report shall describe in detail progress made toward meeting or exceeding the requirements in Section 42050 and shall include an evaluation of whether the PRO is reasonably likely to meet those requirements. If the PRO is not reasonably likely to meet those requirements, the PRO shall submit to the department an amendment to the plan to include additional measures to be implemented to ensure the requirements are met.

(3) The annual report shall include all of the following:

(A) The PRO's cost and revenues, including an updated budget and any updates to the fee schedule necessary to ensure the revenues are sufficient to cover the full costs of implementing this chapter in the upcoming year.

(B) An updated list of the names and contact information of each participant of the plan.

(C) A description of outreach efforts and education to consumers.

(D) A report on activities the PRO has taken to implement each provision of the plan, including, but not limited to, all of the following:

(i) A description of the methods used to collect, transport, process, and recycle or compost covered material.

(ii) The recycling technologies and means that will be utilized to achieve recycling requirements, including demonstration that the means and technologies meet the conditions specified in subdivision (aa) of Section 42041.

(iii) Progress made in meeting source reduction goals.

(iv) Current recycling rates and progress made in meeting recycling rates and any investments made to achieve recycling rate requirements.

(E) The source reduction data specified in subdivision (c) of Section 42057.

(b) (1) Within 90 calendar days of receiving an annual report, the department shall, in accordance with Section 42063, review the report and notify the PRO of any deficiencies in the annual report. No later than 60 calendar days after receiving this notice from the department, the PRO shall provide additional information, modifications, or corrections in response to the department's notification.

(2) Within 90 calendar days of receipt of an annual report deemed complete, the department shall review the report for compliance with this chapter and shall approve, disapprove, or conditionally approve the annual report. As part of this review, the department shall evaluate the annual report to determine whether the PRO, in light of its implementation of the plan and any amendments or pending amendments to the plan pursuant to paragraph (1) of subdivision (e) of Section 42051.2, is reasonably likely to meet the requirements of the plan and this chapter.

(3) (A) If the department conditionally approves or disapproves the annual report, the PRO shall resubmit a revised annual report addressing the department's written reasons for its decision within 30 calendar days of the conditional approval or disapproval.

(B) The department, within 60 calendar days from the date a PRO resubmits a revised annual report, shall approve or disapprove a final annual report.

(4) If the department disapproves a revised annual report submitted pursuant to subparagraph (A) of paragraph (3), the PRO may submit only one additional final annual report, subject to review in accordance with subparagraph (B) of paragraph (3), which shall include the revisions necessary for approval by the department.

(5) If a PRO fails to submit an annual report that obtains approval by the department, the department may deem the PRO no longer in compliance with this chapter.

PRC 42063

(a) In accordance with Sections 42051.2 and 42051.3, the department shall review a plan, plan amendment, or annual report submitted by a PRO for compliance with this chapter and shall approve, conditionally approve, or reject the document within 90 calendar days of receipt of the document, or notify the PRO of the timeline for determination if additional time is needed.

(b) (1) If the department disapproves a plan, plan amendment, or annual report, the department shall explain, in writing, how the plan, plan amendment, or annual report is noncompliant, and the PRO shall resubmit the plan, plan amendment, or annual report with any additional information, modifications, or corrections to the department within 30 calendar days.

(2) If the department finds that the plan, plan amendment, or annual report resubmitted by the PRO still does not comply with the requirements of this section, the department shall direct changes to the document and require the PRO to resubmit the plan, plan amendment, or annual report to the department within 30 calendar days.

(3) If the department determines the PRO has not incorporated the changes into the plan, plan amendment, or annual report, the department shall determine the PRO to be out of compliance with this chapter and shall take enforcement action pursuant to Article 5 (commencing with Section 42080).

(4) If a PRO's updated plan, plan amendment, or annual report is rejected by the department, the department may allow the previously approved plan to remain in effect.

(c) An approved annual report and approved plan shall be a public record, except that financial, production, or sales data reported to the department by the PRO is not a public record for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall not

be open to public inspection. The department shall release financial, production, or sales data in summary form so the information cannot be attributable to a specific producer, retailer, or wholesaler, or to any other entity.

Regulation Concepts:

The PRO is required to submit to CalRecycle plans, plan amendments, budgets, and annual reports. CalRecycle proposes promulgating regulations to clarify this requirement, particularly to identify the process for document submittal. The regulations will look to existing EPR regulations as a model for developing SB 54 regulations, as the Pharmaceutical and Sharps Waste Regulations contain requirements for submitting plans, budgets, and annual reports (specified in [14 CCR, Section 18973](#)).

All documents will be required to be in compliance with section 7405 of the Government Code and the Web Content Accessibility Guidelines 2.0 published in 2008 by the Web Accessibility Initiative of the World Wide Web Consortium, at a minimum Level AA success criteria, to allow for posting on the department's website. CalRecycle will require all plans, plan amendments, budgets, and annual reports be submitted to CalRecycle electronically, with the date of electronic submittal considered the date of receipt by the department. All documents shall be provided to the department under penalty of perjury and be complete and correct.

Existing EPR regulations (specified in [14 CCR, Section 18973.1](#)) require CalRecycle to conduct a review within 30 days of receipt to determine if a document is complete or incomplete. Documents are complete if they contain provisions intended to meet each requirement, which will be specified further through regulatory text development. Following a completeness determination, if documents are determined complete, CalRecycle will approve, conditionally approve, or disapprove the document within 90 days from the date of original receipt of the document.

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept which is modeled off of existing EPR regulations and incorporates specific document submittal requirements relevant to SB 54.

Item 6: Annual Reports

Statute Sections: PRC 42051.3

PRC 42051.3

(a) (1) A PRO shall annually submit to the department and make publicly available on its internet website an annual report and budget that describes how the PRO is

implementing the approved plan and how the PRO has complied with the requirements of this chapter and its implementing regulations.

(2) The annual report shall describe in detail progress made toward meeting or exceeding the requirements in Section 42050 and shall include an evaluation of whether the PRO is reasonably likely to meet those requirements. If the PRO is not reasonably likely to meet those requirements, the PRO shall submit to the department an amendment to the plan to include additional measures to be implemented to ensure the requirements are met.

(3) The annual report shall include all of the following:

(A) The PRO's cost and revenues, including an updated budget and any updates to the fee schedule necessary to ensure the revenues are sufficient to cover the full costs of implementing this chapter in the upcoming year.

(B) An updated list of the names and contact information of each participant of the plan.

(C) A description of outreach efforts and education to consumers.

(D) A report on activities the PRO has taken to implement each provision of the plan, including, but not limited to, all of the following:

(i) A description of the methods used to collect, transport, process, and recycle or compost covered material.

(ii) The recycling technologies and means that will be utilized to achieve recycling requirements, including demonstration that the means and technologies meet the conditions specified in subdivision (aa) of Section 42041.

(iii) Progress made in meeting source reduction goals.

(iv) Current recycling rates and progress made in meeting recycling rates and any investments made to achieve recycling rate requirements.

(E) The source reduction data specified in subdivision (c) of Section 42057.

(b) (1) Within 90 calendar days of receiving an annual report, the department shall, in accordance with Section 42063, review the report and notify the PRO of any deficiencies in the annual report. No later than 60 calendar days after receiving this notice from the department, the PRO shall provide additional information, modifications, or corrections in response to the department's notification.

(2) Within 90 calendar days of receipt of an annual report deemed complete, the department shall review the report for compliance with this chapter and shall approve, disapprove, or conditionally approve the annual report. As part of this review, the department shall evaluate the annual report to determine whether the PRO, in light of its implementation of the plan and any amendments or pending amendments to the plan pursuant to paragraph (1) of subdivision (e) of Section 42051.2, is reasonably likely to meet the requirements of the plan and this chapter.

(3) (A) If the department conditionally approves or disapproves the annual report, the PRO shall resubmit a revised annual report addressing the department's written reasons for its decision within 30 calendar days of the conditional approval or disapproval.

(B) The department, within 60 calendar days from the date a PRO resubmits a revised annual report, shall approve or disapprove a final annual report.

(4) If the department disapproves a revised annual report submitted pursuant to subparagraph (A) of paragraph (3), the PRO may submit only one additional final annual report, subject to review in accordance with subparagraph (B) of paragraph (3), which shall include the revisions necessary for approval by the department.

(5) If a PRO fails to submit an annual report that obtains approval by the department, the department may deem the PRO no longer in compliance with this chapter.

Regulation Concepts:

All EPR programs require the PRO to submit annual reports to CalRecycle. The annual report describes the progress the PRO has made in implementing the approved plan and also includes updates to critical information, such as the budget as well as the list of participating producers and relevant contact information. CalRecycle proposes promulgating regulations to clarify this requirement, particularly to identify what information needs to be specified in the annual report. The regulations will look to existing EPR regulations as a model for developing SB 54 regulations to maintain consistency throughout other EPR programs to the extent possible. CalRecycle has identified some standard requirements specified in each of the EPR programs:

- Existing Regulations:
 - Carpet: [14 CCR, Section 18944](#)
 - Paint: [14 CCR, Section 18954](#)
 - Mattress: [14 CCR, Section 18964](#)
 - Pharm: [14 CCR, Section 18973.4](#)
 - Sharps: [14 CCR, Section 18973.5](#)

- Components of an Annual Report:
 - Contact information
 - Executive Summary
 - Program Outline
 - Collection System
 - Financing Mechanism
 - Policies and Procedures
 - Education and Outreach
 - Audits

The annual report will also include all items specified in PRC 42051.3(a)(3)

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept which is modeled off of existing EPR regulations and incorporates specific annual reporting requirements relevant to SB 54.

Process for Submitting Written Feedback

CalRecycle has developed a process for requesting written feedback or questions from interested stakeholders. While this process is not a specific requirement, CalRecycle requests all written feedback and questions to be submitted using the specified format below, for the purposes of maintaining consistency in the way in which the information is received, and to aid with expedited review and processing. All written feedback can be submitted to packaging@calrecycle.ca.gov with the subject line: *SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations*. Written feedback can be provided prior to the workshop and after. CalRecycle requests all feedback specific to the March 29, 2023 Workshop is submitted no later than **April 12, 2023**. Preferred formats include e-mail, .docx and PDF.

Requested Feedback on Specific Regulation Concepts:

When providing feedback or asking questions on a specific regulation concept, please include (1) the Item Number [e.g., Item 1, Item 2], including the specific title, (2) feedback or questions related to that regulation concept. For example, when providing feedback on *Item 1 – Recycling Technologies*, the preferred format would be:

Item 1 – Recycling Technologies:
Specific feedback related to this item...

This process can be repeated for each regulation concept a stakeholder wants to address. All feedback and questions can be included in the same email or document.

Questions or Feedback for Specific Public Resources Code (PRC) Sections:

When providing feedback or asking questions on a specific section in the statute, please include (1) the full section number, including any subsections associated with it, (2) feedback or questions related to that section. For example:

PRC 42051.1(b)(3)
Specific feedback or question related to this section...

This process can be repeated for each section a stakeholder wants to address. All feedback and questions can be included in the same email or document.

General Questions or Comments:

When asking general questions or providing general comments on topics related to this workshop that do not focus on a specific regulation concept or specific PRC section, please list each question and comment in numerical order:

Question 1: *General question on this discussion document*

Question 2: *General question on this discussion document*

Comment 1: *General comment on this discussion document*