

SB 54 Rulemaking Workshop

Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations

SB 54 (Allen, Chapter 75, Statutes of 2022)

Department of Resources Recycling and
Recovery (CalRecycle)

April 25, 2023



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Agenda

Opening Remarks

Karen Kayfetz, Branch Chief of the Product Stewardship Branch

Part I: Statutory Overview of Covered Materials

Curie Canuela, Senior Environmental Scientist (Supervisor) in the Packaging EPR Program

Part II: Non-Regulatory Workshop on Producer Reporting Systems

Laura Moreno, Senior Environmental Scientist (Supervisor) in the Knowledge Integration Section

Part III: Informal Rulemaking Workshop on Covered Materials

Marcus Santillano, Manager of the Packaging EPR Program

Grant Hisao, Senior Environmental Scientist (Specialist) in the Packaging EPR Program

Questions/Discussion

Moderated by Karen Kayfetz

Overview of Presentation

- **Part I:**
 - Key definitions that will be relevant to today's workshop.
 - Statutory overview regarding “covered material.”
 - Statutory overview regarding “covered material” exemptions.
- **Part II:**
 - Discussion on non-regulatory concepts
- **Part II:**
 - Discussion on Regulation Concepts.
 - Topics are specific to “covered material.”
 - Follow the discussion document provided.

Follow along using the Discussion Document



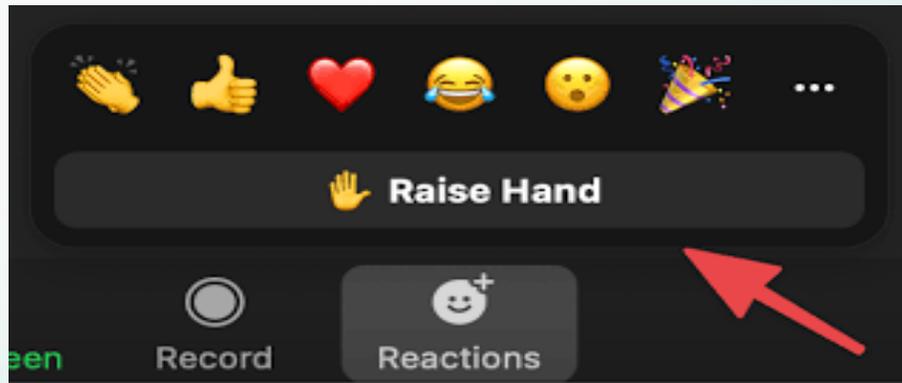
Following items may be mentioned but will be discussed in more detail at a future workshop

- Needs Assessment
- Recyclability
- Recycling Rates
- Compostability
- Responsible End Markets
- Covered Material Category Determination
- Source Reduction
- Enforcement
- PRO Plan*
- Budgets*
- Document submittals*
- Annual reports*

*Covered in Previous Workshops

Submitting Questions and Feedback

- To make a comment in-person, please line up at the podium.
- To make an oral comment via Zoom, please raise your hand and the host will unmute you.



- To make a written comment via Zoom, please use the chat box.

Opportunity for Written Feedback

- Written feedback or questions may also be submitted after the workshop to packaging@calrecycle.ca.gov with subject line “SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations”.
- We have developed a process for providing written feedback (*page 21 of [Discussion Document](#)*)
- We request all written feedback be submitted by **May 9, 2023**.

Part I. Statutory Overview of Covered Materials

Department of Resources Recycling and Recovery,
Materials Management and Local Assistance

Curie Canuela

Senior Environmental Scientist (Supervisor)

Overview of Session

- Statutory Overview of Covered Material & Covered Material Categories
- Relevant Definitions in Statute related to Covered Material
- Exclusions under Covered Material

What are Covered Materials?

- Single-use packaging, regardless of material type, and plastic single-use food service ware with some exclusions.
- Producers of covered materials are required to join the Producer Responsibility Organization (PRO) or comply individually with the requirements of SB 54.
- The source reduction baseline established by the department and source reduction reporting requirements pertains to plastic covered material.

What are Covered Material Categories?

- Groupings of covered materials used in the implementation of SB 54 requirements.
- PRC 42041(f) “...category that includes covered material of a similar type and form, as determined by the department.”
- Many of the requirements of SB 54 are achieved or implemented by covered material category.

Summary of CalRecycle Responsibilities of Covered Material Categories

- List of covered material categories that are deemed recyclable.
- List of covered material categories that are deemed compostable.
- Characterization study of covered material categories disposed of in California landfills.
- Publish recycling rates being achieved in the state for each covered material category
- Publish a needs assessments designed to determine the necessary steps and investment needed for covered material, by covered material category.

Summary of Producer Responsibility Organization's Responsibilities of Covered Material Categories

- Register and annual report information by covered material category.
- Structure the fee schedule...delineated by covered material category.
- Fulfill data requests made by the department.

2032 Goals are by Covered Material

- All plastic covered material is source reduced by 25% compared to 2023 baseline year.
- All covered material is recyclable or eligible for being labeled “compostable.”
- All plastic covered material achieves a recycling rate of 65%.

Definitions

Note: CalRecycle is not currently seeking stakeholder feedback on definitions unless specified.

Covered Material - PRC 42041(e)(1)

“Covered material” means both of the following:

- (A) **Single-use packaging** that is routinely recycled, disposed of, or discarded after its contents have been used or unpackaged, and typically not refilled or otherwise reused by the producer.
- (B) **Plastic single-use** food service ware, including, but not limited to, plastic-coated paper or plastic-coated paperboard, paper or paperboard with plastic intentionally added during the manufacturing process, and multilayer flexible material. For purposes of this subparagraph, “single-use food service ware” includes both of the following:
 - (i) Trays, plates, bowls, clamshells, lids, cups, utensils, stirrers, hinged or lidded containers, and straws.
 - (ii) Wraps or wrappers and bags sold to food service establishments.

Exemptions to be addressed in later slides

Covered Material Category – PRC 42041(f)

Covered Material Category means:

- A category that includes covered material of a similar type and form, as determined by the department.

Packaging – PRC 42041(s)

“Packaging” means any separable and distinct material component used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods.

“Packaging” includes, but is not limited to, all of the following:

- (1) Sales packaging or primary packaging intended to provide the user or consumer the individual serving or unit of the product and most closely containing the product, food, or beverage.
- (2) Grouped packaging or secondary packaging intended to bundle, sell in bulk, brand, or display the product.
- (3) Transport packaging or tertiary packaging intended to protect the product during transport.

Packaging

PRC 42041(s) - continued 2

(4) Packaging components and ancillary elements integrated into packaging, including ancillary elements directly hung onto or attached to a product and that perform a packaging function, except both of the following:

(A) An element of the packaging or food service ware with a de minimis weight or volume, which is not an independent plastic component, as determined by the department.

(B) A component or element that is an integral part of the product, if all components or elements of the product are intended to be consumed or disposed of together.

Plastic – PRC 42041(t)

“Plastic” means a synthetic or semisynthetic material chemically synthesized by the polymerization of organic substances that can be shaped into various rigid and flexible forms, and includes coatings and adhesives. “Plastic” includes, without limitation, polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl chloride (PVC), low density polyethylene (LDPE), polypropylene (PP), polystyrene (PS), polylactic acid (PLA), and aliphatic biopolyesters, such as polyhydroxyalkanoate (PHA) and polyhydroxybutyrate (PHB).

“Plastic” does not include natural rubber or naturally occurring polymers such as proteins or starches.

Reusable, Refillable, Reuse, Refill PRC 42041 (af)

“Reusable” or “refillable” or “reuse” or “refill,” in regard to packaging or food service ware, means either of the following:

- (1) For packaging or food service ware that is reused or refilled by a producer, it satisfies all of the following:
 - (A) Explicitly designed and marketed to be utilized multiple times for the same product, or for another purposeful packaging use in a supply chain.
 - (B) Designed for durability to function properly in its original condition for multiple uses.
 - (C) Supported by adequate infrastructure to ensure the packaging or food service ware can be conveniently and safely reused or refilled for multiple cycles.
 - (D) Repeatedly recovered, inspected, and repaired, if necessary, and reissued into the supply chain for reuse or refill for multiple cycles.

Reusable, Refillable, Reuse, Refill

PRC 42041(af) - continued 2

(2) For packaging or food service ware that is reused or refilled by a consumer, it satisfies all of the following:

- (A) Explicitly designed and marketed to be utilized multiple times for the same product.
- (B) Designed for durability to function properly in its original condition for multiple uses.
- (C) Supported by adequate and convenient availability of and retail infrastructure for bulk or large format packaging that may be refilled to ensure the packaging or food service ware can be conveniently and safely reused or refilled by the consumer multiple times.

Single Use – PRC 42041(ai)

“Single use” means conventionally disposed of after a single use or not sufficiently durable or washable to be, or not intended to be, reusable or refillable.

Covered Material Exemptions

PRC 42041(e)(2)

(A) Packaging used for any of the following products:

- (i) Medical products and products defined as devices or prescription drugs, as specified in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(g), 321(h), and 353(b)(1)).
- (ii) Drugs that are used for animal medicines, including, but not limited to, parasiticide products for animals.
- (iii) Products intended for animals that are regulated as animal drugs, biologics, parasiticides, medical devices, or diagnostics used to treat, or administered to, animals under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), the federal Virus-Serum-Toxin Act (21 U.S.C. Sec. 151 et seq.), or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).
- (iv) Infant formula, as defined in Section 321(z) of Title 21 of the United States Code.
- (v) Medical food, as defined in Section 360ee(b)(3) of Title 21 of the United States Code.
- (vi) Fortified oral nutritional supplements used for persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined as by the International Classification of Diseases, Tenth Revision, or other medical conditions as determined by the department.

The next set of slides goes into each category.

Medical Products

PRC 42041(e)(2)(A)(i)

(A) Packaging used for any of the following products:

(i) Medical products and products defined as devices or prescription drugs, as specified in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(g), 321(h), and 353(b)(1)).

[21 U.S.C. Sec. 321\(g\)](#)

[21 U.S.C. Sec. 321\(h\)](#)

[21 U.S.C. Sec. 353\(b\)\(1\)](#)



Animal Medicines

PRC 42041(e)(2)(A)(ii)

(A) Packaging used for any of the following products:

(ii) Drugs that are used for animal medicines, including, but not limited to, parasiticide products for animals.

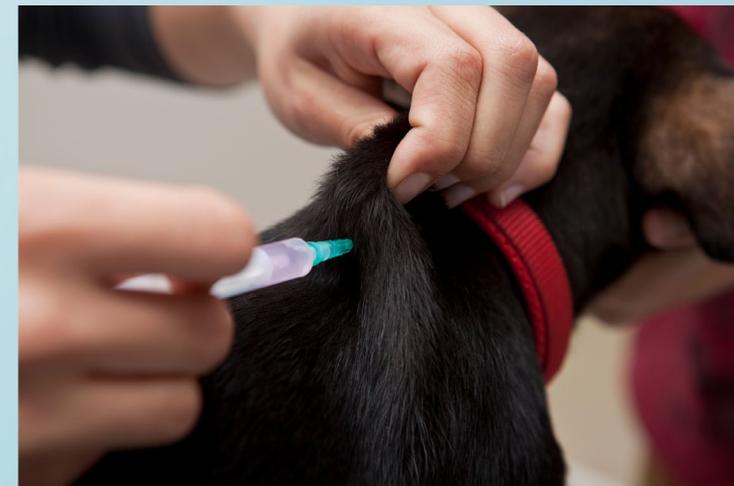


Products Intended to Treat Animals

PRC 42041(e)(2)(A)(iii)

(A) Packaging used for any of the following products:

(iii) Products intended for animals that are regulated as animal drugs, biologics, parasiticides, medical devices, or diagnostics used to treat, or administered to, animals under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), the federal Virus-Serum-Toxin Act (21 U.S.C. Sec. 151 et seq.), or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).



Infant Formula

PRC 42041(e)(2)(A)(iv)

(A) Packaging used for any of the following products:

(iv) Infant formula, as defined in Section 321(z) of Title 21 of the United States Code.

[21 U.S.C. Sec. 321 \(z\)](#)

The term “infant formula” means a food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk.



Medical Food

PRC 42041(e)(2)(A)(v)

(A) Packaging used for any of the following products:

(v) Medical food, as defined in Section 360ee(b)(3) of Title 21 of the United States Code.

[21 U.S.C. Sec. 360ee\(b\)\(3\)](#)

The term “medical food” means a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

Fortified Oral Nutritional Supplements PRC 42041(e)(2)(A)(vi)

(A) Packaging used for any of the following products:

(vi) Fortified oral nutritional supplements used for persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined as by the International Classification of Diseases, Tenth Revision, or other medical conditions as determined by the department.

International Classification of Diseases, Tenth Revision

- [Link to CDC's info webpage](#)



Federal Insecticide, Fungicide & Rodenticide PRC 42041(e)(2)(B)

(B) Packaging used to contain products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

[7 U.S.C. Sec. 136 et seq.](#)



Dangerous Goods or Hazardous Materials PRC 42041(e)(2)(C)

(C) Plastic packaging containers that are used to contain and ship products that are classified for transportation as dangerous goods or hazardous materials under Part 178 (commencing with Section 178.0) of Subchapter C of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations.

[Link to Part 178 – Specifications for Packagings](#)

Hazardous or Flammable Products PRC 42041(e)(2)(D)

(D) Packaging used to contain hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communications Standard (29 C.F.R. 1910.1200).

[Link to OSHA Standard](#)



Beverage Containers PRC 42041(e)(2)(E)

(E) Beverage containers subject to the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500)).

Included in BCRP/Exempt from SB 54

- Beer and Malt Beverages
- Wine Coolers
- Carbonated Fruit Drinks, Water, or Soft Drinks
- Noncarbonated Fruit Drinks, Water, or Soft Drinks
- Coffee and Tea Beverages
- 100% Fruit Juice less than 46 oz.
- Vegetable Juice 16 oz. or less
- Wine (soon to be included)
- Spirits (soon to be included)

Excluded from BCRP

- Milk
- Medical Food (exempted from SB 54)
- Infant Formula (exempted from SB 54)
- 100% Fruit Juice 46 oz. or more
- 100% Vegetable Juice more than 16 oz.
- Food and Non-Beverage Containers



Long-Term Protection or Storage PRC 42041(e)(2)(F)

(F) Packaging used for the long-term protection or storage of a product that has a lifespan of not less than five years, as determined by the department.

Will be soliciting feedback for this definition during Part III of this workshop

Architectural Paint Products PRC 42041(e)(2)(G)

(G) Packaging associated with products covered under the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7.

- References CalRecycle's [Paint EPR program](#).



Producer Demonstrated Exemption PRC 42041(e)(2)(H)

(i) Covered material for which the producer demonstrates to the department that the covered material meets all of the following criteria:

(I) The covered material is not collected through a residential recycling collection service.

(II) The covered material does not undergo separation from other materials at a commingled recycling processing facility.

(III) The covered material is recycled at a responsible end market.

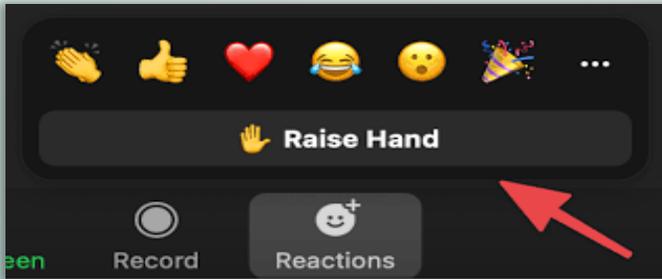
(IV) The material has demonstrated a recycling rate of 65 percent for three consecutive years prior to January 1, 2027, and on and after that date demonstrates a recycling rate at or over 70 percent annually, as demonstrated to the department every two years.

(ii) If only a portion of the covered material sold in or into the state by a producer meets the criteria of clause (i), only the portion of the covered material that meets the criteria of clause (i) is exempt from this chapter and any portion that does not meet the criteria is a covered material for purposes of this chapter.

Will be soliciting feedback for this exemption during Part III of this workshop

Questions and Comments

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Part II. Non-Regulatory Workshop on Producer Reporting Systems

Department of Resources Recycling and Recovery,
Knowledge Integration Section

Laura Moreno

Senior Environmental Scientist (Supervisor)

Item 1: Request for Information on Existing Producer Reporting Systems (1)

PRC 42060(a)(2)(C)(ii)

- To the maximum extent feasible, the department shall seek to use records and information that the local jurisdiction, producer, retailer, wholesaler, or PRO already maintains, in order to minimize the burden imposed by the reporting and recordkeeping requirements while still enabling the department to determine compliance with this chapter.

PRC 42060(a)(2)(D)

- The department shall, to the extent feasible, make the reporting consistent with other recognized third-party reporting systems used by producers or other packaging extended producer responsibility programs.

CalRecycle is seeking feedback on information in Discussion Document on Existing Reporting Systems and two specific questions.

CalRecycle Extended Producer Responsibility (EPR) Program Reporting

- [Paint](#) Stewardship Program Annual Reporting
- [Carpet](#) Stewardship Program Annual Reporting
- [Pharmaceutical](#) and [Sharps Waste](#) Annual Reporting
- [Mattress](#) Stewardship Annual Reporting

Mattress Stewardship Program Reporting

Home » Organizations » [Redacted] » Annual Reports » Add

Complete Annual Report

[Redacted]

Summary Details Contacts **1** Addresses **1** Facilities **1** Annual Reports **6** Comm

Save Cancel **Submit**

Annual Report Period Covered: 1/1/2022 - 12/31/2022

Reporting Year: 2022
Reporting Cycle Status: Open
Status: Incomplete
Review Status: Not Reviewed

Organization

Organization Name: [Redacted]

Street Address	City	State Province	Postal Code	Role Type
[Redacted]	[Redacted]	CA	[Redacted]	Physical Mailing

Edit Contacts

Name	Role Type	Phone	Email
[Redacted]	Designated Contact	[Redacted]	[Redacted]

Mattress Recovery and Recycling Program Database

Facility

Facility Role
Recycler

Facility Name
[Redacted]

Name	Physical Address	Archived
[Redacted]	[Redacted]	

Reporting On Behalf Of

Reporting On Behalf Of Facility Name	Physical Address	Archived
There are no facilities.		

Recycler Report

New Annual Report

1. Number of units received from CA sources
[Input field]

2. Did you receive units from non-CA sources?
[Dropdown menu]

3. Calculation method for units received
[Dropdown menu: Select]

4. Number of units recycled
[Input field]

5. Calculation Method for units recycled
[Dropdown menu: Select]

6. Did you send used mattresses out of CA (for recycling or other method of disposition)?
[Dropdown menu]

7. Pounds of foam recycled/reused
[Input field]

7a. Uses of foam recycled/reused
 Reuse
 Product
 Other

8. Pounds of wood recycled/reused
[Input field]

8a. Uses of wood recycled/reused
 Reuse
 Product
 Biomass
 Other

9. Pounds of steel recycled/reused
[Input field]

Division of Recycling Integrated Information System (DORIIS)

 **Beverage Manufacturer**

[Navigator](#) [Favorites](#) [Diagnostics](#) [Home](#) [Logout](#) [Preferences](#) [Help](#)

* Indicates required field

COMPLETED BY BEVERAGE MANUFACTURER

* BM Id Reporting Year From First Day Of To Last Day Of Nothing to Report

Company Name
Address

Container Type	Container Count (A)	Unit Fee (B)	Processing Fee (A)x(B)
<input type="text" value="1 Plastic PETE Processing"/>	<input type="text" value="15000"/>	<input type="text" value="0.00012"/>	<input type="text" value="1.8"/>
<input type="text" value="BI-METAL Processing Fee"/>	<input type="text" value="480"/>	<input type="text" value="0.03145"/>	<input type="text" value="15.1"/>

Total Due

Interest at the rate earned by the pooled money investment account and civil penalties of up to 15% of the amount due for payment may be assessed for each underpayment or late payment.
In addition, civil penalties of up to five thousand dollars (\$5000) per day may be assessed for failure to report.
I certify that the facts presented herein are true and correct to the best of my knowledge.

* I Agree Submission Date

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Item 1: Request for Information on Existing Producer Reporting Systems (2)

Request from Stakeholders:

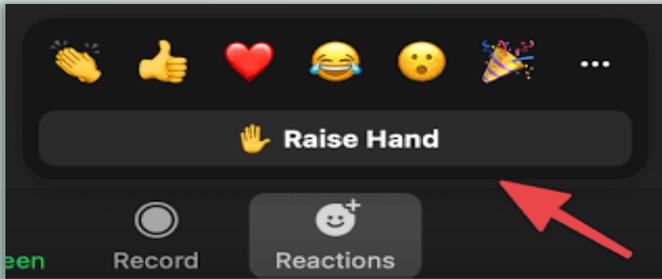
CalRecycle is seeking feedback on the above information in Existing Reporting Systems and the following questions to gather information in line with PRC 42060(a)(2)(C)(ii) and 42060(a)(2)(D):

Question 1: What third-party reporting systems or other reporting schemes do producers currently use to report and/or track information on single-use packaging and plastic food service ware?

Question 2: What groupings of materials, categorizations for packaging and plastic food service ware, or other standards are used when reporting into these systems, including categorizations in terms of different forms, designs, and materials?

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Part III. Workshop of Regulation Concepts

Department of Resources Recycling and Recovery,
Materials Management and Local Assistance

Marcus Santillano

Packaging EPR Program Manager

Grant S. Hisao

Senior Environmental Scientist (Specialist)

Rulemaking Process

- 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.

Regulation Concept Discussion Items

Concepts pertaining to definitions:

- Item 1 – Clarification of the definition of “single use.”
- Item 2 – Clarification of the definition of “reusable.”
- Item 3 – Clarification of the terms “food service ware,” “single-use food service ware,” and “plastic single-use food service ware.”
- Item 4 – Clarification of the terms “packaging,” “single-use packaging,” and “plastic single-use packaging.”
- Item 5 – Clarification of the term “plastic covered material.”

Concepts pertaining to exemptions from covered material:

- Item 6 – Long-term protection or storage exemption.
- Item 7 – Producer demonstrated exemption.

*Follow along using the
Discussion Document*



Clarification of Definitions

Item 1 – Definition of “single use” (1)

PRC 42041(ai):

“Single use” means conventionally disposed of after a single use or not sufficiently **durable** or **washable** to be, or not intended to be, reusable or refillable.”

CalRecycle is proposing clarify the phrase “sufficiently durable or washable” based on standards implemented in SB 1335 (Allen, Ch. 610, Stats. 2018):

- To be considered “**washable**,” a product must maintain its shape, structure, and function after 780 cycles in a cleaning and sanitizing process as defined in California Health and Safety Code Section 114101 and 114099.7, respectively, as demonstrated by test results from an ISO/IEC 17025:2017 accredited laboratory.
- To be considered “**durable**,” a product must remain reusable for its intended purpose for a minimum of one year.

Item 1 – Definition of “single use” (2)

- CalRecycle recognizes that Food Service Ware and Packaging are distinct items.
 - SB 1335 is specific to food service ware.
 - SB 54 applies to a larger breadth of materials types.
 - Different types of packaging may require different treatments.
- CalRecycle is evaluating how the proposed standards could be altered to apply to different material types.

Item 1 – Definition of “single use” (3)

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept to clarify the definition of *single use* by adding new terms (washable and durable) to the list of definitions and developing language based on reusability standards specified in the regulations for SB 1335 (Allen, Chapter 610, Statutes of 2018)

Item 2 – Definition of “reusable” (1)

Reusable, Refillable, Reuse, Refill – PRC 42041(af)

“Reusable” or “refillable” or “reuse” or “refill,” in regard to packaging or food service ware, means either of the following:

- (1) For packaging or food service ware that is reused or refilled by a producer, it satisfies all of the following:
 - (A) Explicitly designed and marketed to be utilized multiple times for the same product, or for another purposeful packaging use in a supply chain.
 - (B) Designed for **durability** to function properly in its original condition for multiple uses.
 - (C) Supported by adequate infrastructure to ensure the packaging or food service ware can be conveniently and safely reused or refilled for multiple cycles.
 - (D) Repeatedly recovered, inspected, and repaired, if necessary, and reissued into the supply chain for reuse or refill for multiple cycles.
- (2) For packaging or food service ware that is reused or refilled by a consumer, it satisfies all of the following:
 - (A) Explicitly designed and marketed to be utilized multiple times for the same product.
 - (B) Designed for **durability** to function properly in its original condition for multiple uses.
 - (C) Supported by adequate and convenient availability of and retail infrastructure for bulk or large format packaging that may be refilled to ensure the packaging or food service ware can be conveniently and safely reused or refilled by the consumer multiple times.

Item 1 – Definition of “single use” (4)

- Additional clarification on “single use.”
- Throughout the SB 54 statute, the term “single use” appears to be used interchangeable as “single-use.”
- CalRecycle will clarify in regulations that “single-use” has the same definition as “single use.”

Item 2 – Definition of “reusable” (2)

- Similar to Item 1.
- CalRecycle is proposing clarify the phrase “durable” in the definition of “reusable:”
To be “durable,” a product must remain reusable for its intended purpose for a minimum of one year.

Item 2 – Definition of “reusable” (3)

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept to clarify the definition of *Reusable*, *Refillable*, *Reuse*, *Refill* by adding a new term (durable) to the list of definitions and developing language based on reusability standards specified in the regulations for SB 1335 (Allen, Chapter 610, Statutes of 2018).

Item 3 – Clarification of the terms “food service ware,” “single-use food service ware,” and “plastic single-use food service ware” (1)

- SB 54 lacks a clear definition of “food service ware.”
- PRC 42041(e)(1)(B), which is the definition of “covered material,” has an implied definition of “plastic single-use food service ware.”
- CalRecycle will clarify the following terms in regulations:
 - Food service ware
 - Single-use food service ware
 - Reusable food service ware
 - Plastic single-use food service ware
 - Plastic reusable food service ware

Item 3 – Clarification of the terms “food service ware,” “single-use food service ware,” and “plastic single-use food service ware” (2)

Proposed Definitions

Food service ware: “Food service ware” includes but is not limited to trays, plates, bowls, clamshells, lids, cups, utensils, stirrers, hinged or lidded containers, straws, wraps or wrappers and bags sold to food service establishments that is intended to contain, serve, store, handle, protect, or market food, foodstuffs, or beverages, and to facilitate the consumption of food or beverages.

Single-use food service ware: “Single-use food service ware” includes food service ware as defined in Section X (i.e., definition of *food service ware* above) that meets the definition of single use as defined in PRC 42041(ai).

Reusable food service ware: “Reusable food service ware” includes food service ware as defined in Section X (i.e., definition of *food service ware* above) that meets the definition of *reusable or refillable or reuse or refill* as defined in PRC 42041(af).

Plastic Single-use food service ware: “Single-use food service ware” includes food service ware as defined in Section X (i.e., definition of *food service ware* above) that meets the definition of single use as defined in PRC 42041(ai) and is made partially or entirely of plastic as defined in PRC 42041(t).

Plastic Reusable food service ware: “Reusable food service ware” includes food service ware as defined in Section X (i.e., definition of *food service ware* above) that meets the definition of *reusable or refillable or reuse or refill* as defined in PRC 42041(af) and is made partially or entirely of plastic as defined in PRC 42041(t).

Item 3 – Clarification of the terms “food service ware,” “single-use food service ware,” and “plastic single-use food service ware” (3)

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept to add new terms pertaining to “food service ware” to the list of definitions in order to provide additional clarity for the purpose of data collection and drafting regulatory text.

Item 4 – Clarification of the term “packaging” (1)

Packaging – PRC 42041(s)

“Packaging” means any **separable and distinct** material component used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods. “Packaging” includes, but is not limited to, all of the following:

- (1) Sales packaging or primary packaging intended to provide the user or consumer the individual serving or unit of the product and most closely containing the product, food, or beverage.
- (2) Grouped packaging or secondary packaging intended to bundle, sell in bulk, brand, or display the product.
- (3) Transport packaging or tertiary packaging intended to protect the product during transport.
- (4) Packaging components and ancillary elements integrated into packaging, including ancillary elements directly hung onto or attached to a product and that perform a packaging function, except both of the following:
 - (A) An element of the packaging or food service ware with a de minimis weight or volume, which is not an independent plastic component, as determined by the department.
 - (B) A component or element that is an integral part of the product, if all components or elements of the product are intended to be consumed or disposed of together.

Proposing to clarify the terms “separable” and “distinct.”

Item 4 – Clarification of the term “packaging” (2)

Proposed Definitions

- “Separable” means any covered material designed by the producer to be detachable upon use.
- “Distinct” means any recognizably distinguishable component of the covered material.

Item 4 – Clarification of the term “packaging” (3)

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept to clarify the definition of “packaging” by adding new terms to the list of definitions (separable and distinct).

Item 5 – Clarification of the term “plastic covered material” (1)

- “Plastic covered material” is used throughout the statute.
- CalRecycle proposes to clarify the term by defining the following:
 - Plastic covered material
 - Plastic single-use packaging
 - Plastic single-use food ware

Item 5 – Clarification of the term “plastic covered material” (2)

Proposed Definitions

Plastic single-use packaging: “Plastic single-use packaging” includes materials that meet the definition of packaging as defined in Section PRC 42041(a) that meets the definition of single use as defined in PRC 42041(ai) and is made partially or entirely of plastic as defined in PRC 42041(t).

Plastic single-use food ware: “Single-use food service ware” includes food service ware as defined in Section X (i.e., definition of *food service ware* in Part 3, Item 3) that meets the definition of single use as defined in PRC 42041(ai) and is made partially or entirely of plastic as defined in PRC 42041(t).

Plastic covered material: “Plastic covered material” includes but is not limited to plastic single-use packaging as defined in Section X (definition of *plastic covered material* above) and plastic single-use food ware as defined in Section Y (i.e., definition as *plastic single-use food ware* above).

Item 5 – Clarification of the term “plastic covered material” (3)

Informational Item for Stakeholders:

SB 54 implies the definition of “plastic covered material” based on the definitions of “plastic” and “covered material.” CalRecycle intends to codify the definition in regulations.

Exemptions to Covered Material

Item 6 – Exemption for packaging used for “long-term protection or storage.” (1)

- PRC 42041(e)(2)(F):
 - (2) Notwithstanding paragraph (1), “covered material” does not include any of the following:
 - (F) Packaging used for the long-term protection or storage of a product that has a lifespan of not less than five years, as determined by the department.
- Proposed concept: To be exempt, the packaging must meet all of the following:
 - The packaging is designed for ongoing protection, transportation, or storage of a product throughout the product’s useful life.
 - The packaging is designed to remain with the product throughout the product’s useful life.
 - The packaging and/or product must have a useful life of at least 5 years or must be covered under warranty for a 5-year period.
 - This exemption does not include single use items.
- In addition, CalRecycle is seeking to define “useful life:”
 - “Useful life” means the amount of time during which a product is in good enough condition to be used for its original intent.

Item 6 – Exemption for packaging used for “long-term protection or storage.” (2)

Request from Stakeholders:

CalRecycle is soliciting feedback on the proposed concept to provide additional criteria for long-term protection or storage of products in order to meet exemption from covered material and defining the new term “useful life.”

Item 7 – Producer Demonstrated Exemption (1)

PRC 42041(e)(2)(H)

(2) Notwithstanding paragraph (1), “covered material” does not include any of the following:

(H)

(i) Covered material for which the producer demonstrates to the department that the covered material meets all of the following criteria:

(I) The covered material is not collected through a residential recycling collection service.

(II) The covered material does not undergo separation from other materials at a commingled recycling processing facility.

(III) The covered material is recycled at a responsible end market.

(IV) The material has demonstrated a recycling rate of 65 percent for three consecutive years prior to January 1, 2027, and on and after that date demonstrates a recycling rate at or over 70 percent annually, as demonstrated to the department every two years.

(ii) If only a portion of the covered material sold in or into the state by a producer meets the criteria of clause (i), only the portion of the covered material that meets the criteria of clause (i) is exempt from this chapter and any portion that does not meet the criteria is a covered material for purposes of this chapter.

CalRecycle is proposing to develop an application for this exemption.

Item 7 – Producer Demonstrated Exemption (2)

- CalRecycle uses online application systems for other programs:
 - Reusable Grocery Bag Reporting System
 - Sustainable Packaging Act Reporting System
- CalRecycle proposes to develop a similar online form for producers seeking an exemption through PRC 42041(e)(2)(H).
 - Form will be tailored to the requirements in statute
 - Requirements:
 - Material is not collected through a residential recycling collection service.
 - Material does not undergo separation from other materials at a commingled recycling processing facility.
 - Material is recycled at a responsible end market.
 - Material has a recycling rate of 65% for 3 consecutive years prior to January 1, 2027 and has a recycling rate at 70% annually thereafter.
- Producers who receive this exemption will have to biannually update the department on the material's recycling rate.

Item 7 – Producer Demonstrated Exemption (3)

- For producers participating in the PRO's plan.
 - The PRO can submit an application on behalf of the producer.
 - The PRO can also submit the biannual update to the recycling rate as part of the PRO's annual report.
- For independent producers, the application and biannual reports are solely the responsibility of the producer.
- For producers seeking this exemption to avoid participating in the PRO's plan (i.e., producers seeking a full exemption):
 - Producer is responsible for submitting application.
 - If exemption is denied, the producer must either participate in the PRO's plan or submit their individual plan pursuant to PRC 42051(b)(2).

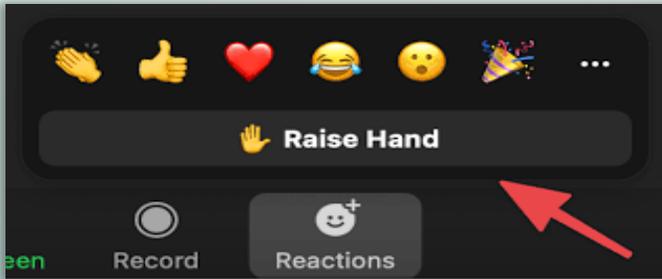
Item 7 – Producer Demonstrated Exemption (4)

Request from Stakeholders:

CalRecycle is seeking feedback on the proposed concept of establishing a process for producers to demonstrate to the department whether their product can be exempt from the program or not. CalRecycle is basing this process upon other online systems developed from other implementation programs (i.e., RGBRS).

Questions and Comments

- To make a comment in-person, please line up at the podium.
- To make an oral comment via Zoom, please raise your hand and the host will unmute you.



- To make a written comment via Zoom, please use the chat box.

Discussion Items

Non-regulatory concepts pertaining to reporting systems.

Regulation concepts pertaining to definitions:

- Item 1 – Clarification of the definition of “single use.”
- Item 2 – Clarification of the definition of “reusable.”
- Item 3 – Clarification of the terms “food service ware,” “single-use food service ware,” and “plastic single-use food service ware.”
- Item 4 – Clarification of the terms “packaging,” “single-use packaging,” and “plastic single-use packaging.”
- Item 5 – Clarification of the term “plastic covered material.”

Regulation concepts pertaining to exemptions from covered material:

- Item 6 – Long-term protection or storage exemption.
- Item 7 – Producer demonstrated exemption.

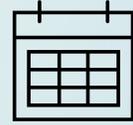
Opportunity for Written Feedback

- Written feedback or questions may be submitted after the workshop to packaging@calrecycle.ca.gov with subject line “SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations”.
- We have developed a process for providing written feedback (*page 21 of [Discussion Document](#)*)
- We request all written feedback be submitted by **May 9, 2023**.



Sign-up for our SB 54 Listserv

May and June SB 54 Informational Session and Informal Rulemaking Workshops:



- May 31, 2023 at 10:00 AM
- June 1, 2023 at 10:00 AM
 - Located in the Coastal Hearing Room (CalEPA HQ)
 - Hybrid (Zoom/Webcast)

Subject to change.



More information forthcoming; will be distributed through our listserv and available on the SB 54 Webpage.

Email: Packaging@CalRecycle.ca.gov

Ways to stay informed

