

# **SB 54 Informal Rulemaking Workshop**

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

**July 25, 2023**

**Department of Resources Recycling and Recovery**

**SB 54 Regulation Implementation Team**

**Product Stewardship Compliance Branch**

**Topic: Enforcement**

## **Disclaimer**

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## Overview and Purpose of Workshop

The Department of Resources Recycling and Recovery (CalRecycle) has scheduled a workshop on [July 25, 2023](#), from 10:00AM to 4:00PM, in the Byron Sher Auditorium, located on 2nd Floor, 1001 I Street, Sacramento, CA 95814, to consult with the public, the regulated community, and other interested parties to solicit feedback on some of the requirements outlined in [SB 54 \(Allen, Chapter 75, Statutes of 2022\)](#).

The topic of this discussion document will be on enforcement provisions outlined in statute: audits, investigations, corrective action plans (CAPs), penalties, PRO and producer revocations, terminations, dissolutions, and exemptions. These items will include:

- Statutory references and background information on the requirements discussed in this document.
- Discussion of several regulation concepts to solicit feedback to help prepare for the draft regulatory text.

The purpose of this document is to provide public participants 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 feedback or informational items are specified in a gray textbox.

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

- Recyclability (6/28/2023 workshop)
- Compostability (6/28/2023 workshop)
- Responsible End Markets (5/31/2023 workshop)
- Covered Material Category Determination\* (4/25/2023 and 6/28/2023 workshop)
- Source Reduction (5/31/2023 workshop)
- PRO Plan (3/29/2023 workshop)
- Budgets (3/29/2023 workshop)
- Document submittals (3/29/2023 workshop)
- Annual reports (4/25/2023 workshop)

The topics above were topics that were covered in previous workshops. Others will be addressed at a subsequent workshop. Workshop information can be found on the SB 54 [webpage](#) under *Events*. For other topics being discussed at the July workshop, please refer to the corresponding discussion document for that topic.

# Part I. Background and Informational Items

## Relevant Statutory Definitions

Listed below are the existing statutory definitions relevant to this rulemaking workshop topic. CalRecycle may further refine these definitions in regulations.

## Abbreviations and Acronym List

- CalRecycle: California Department of Resources Recycling and Recovery
- Department: California Department of Resources Recycling and Recovery
- PRO: Producer Responsibility Organization
- Plan: Producer Responsibility Plan
- PRC: Public Resources Code (California Statute)

## Relevant Definitions

Listed below are the existing statutory definitions relevant to the July 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.

Independent Producer – Proposed Definition (June 29, 2023 Regulatory Workshop)  
“Independent Producer” means a producer as defined in PRC Section 42041(w) that chooses to comply with the requirements of this chapter independently from an approved Producer Responsibility Organization.

Producer Responsibility Organization or PRO – 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.

Retailer or Wholesaler – PRC 42041(ae)

- (1) “Retailer” or “wholesaler” means the person or entity who sells covered material in the state to purchasers or offers to purchasers the covered material in the state through any means, including, but not limited to, any of the following:
  - (A) Remote offering, including sales outlets or catalogs.
  - (B) Electronically through the internet.
  - (C) Telephone.
  - (D) Mail.
  - (E) Direct sales
- (2) A person who sells covered material as a third-party seller using an online marketplace as described in paragraph (3) shall be considered the retailer or wholesaler for purposes of such transactions. The owner or operator of the online marketplace shall not be considered the retailer or wholesaler for such sales.
- (3) For purposes of this subdivision, "online marketplace" means a consumer-directed, electronically accessed platform in which all of the following are true:
  - (A) The platform includes features that enable third-party sellers to sell consumer products directly to consumers in the state without the owner or operator of the platform involved in the transaction other than by providing order processing, payment, storage, shipping, or delivery services.
  - (B) Third-party sellers use the features described in subparagraph (A) to sell directly to consumers in the state, with title to the consumer product passing from the third-party sellers directly to consumers and not being held by the owner or operator of the online marketplace at any point during the transaction, including upon receipt of the order and throughout the order fulfillment process.
  - (C) Except as provided by subparagraph (E), the owner or operator of the platform does not directly or indirectly control the covered material used in packaging and shipping of a consumer product in this state.
  - (D) The person or entity operating the platform has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

- (E) Third-party sellers agree, pursuant to the platform's terms and conditions or other enforceable agreement, that they will not use the platform to offer for sale, sell, or distribute into the state covered material that does not meet the requirements of this chapter.

#### 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.

#### Local Jurisdiction – PRC 42041(l)

“Local jurisdiction” means a city, county, city and county, regional agency formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code or Article 3 (commencing with Section 40970) of Chapter 1 of Part 2, or special district that provides solid waste collection services.

### **Overview of Enforcement in SB54**

Entities that do not comply with the requirements of Chapter 3 of Part 3 of Division 30 of the PRC will be subject to enforcement actions as described in Article 5. PRC 42080(a) states that the department may conduct investigations, including by inspecting operations, facilities, and records of producers and PROs and by performing audits of producers and PROs, to determine whether entities are complying with the requirements of this chapter. After an entity is found to be non-compliant, the department may take enforcement actions including issuing a Notice of Violation (NOV), allowing a producer to develop a Corrective Action Plan (CAP) to come into compliance with the requirements of the chapter, and assessing penalties on entities that are not in compliance.

Producers may be able to modify their compliance pathway provided they fulfill specific conditions. These conditions include notifying the Department of their intention to modify their plan and ensuring that they are in compliance with the chapter before abandoning their current compliance pathway.

Per PRC 42060.5(c), rural jurisdictions may be eligible for an exemption from the requirements of this chapter after a thorough review and approval process conducted by the department. The department will assess whether the requirements for rural jurisdiction exemptions are satisfied during this review and approval process. Additionally, the department will periodically evaluate the ongoing eligibility of rural jurisdictions and the renewal of exemptions to ensure continued compliance.

## Part II. Workshop of 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 would like to solicit initial feedback on regulatory concepts pertaining to the enforcement provisions outlined in statute. The topics and regulatory concepts discussed in this workshop include:

- Audits
- Investigations
- Corrective Action Plans
- Administrative Civil Penalties
- PRO and Plan Revocation, Termination, and Dissolution
- Exemptions
- Hearings

We welcome written feedback and suggestions on the proposed concepts. Guidance for providing written feedback is specified on page 17.

### Audits

CalRecycle is not proposing regulatory concepts related to this section at this time and is providing for informational purposes only.

*Statute Sections: PRC 42054, 42080*

#### PRC 42054

- (a) A PRO shall keep minutes, books, and records that clearly reflect the activities and transactions of the PRO.
- (b) The accounting books of the PRO shall be audited at least once per calendar year at the PRO's expense by an independent public accountant certified in the United States and retained by the PRO.
- (c) The PRO shall provide the audit to the department with the annual report required pursuant to Section 42051.3. The department shall review the audit for compliance with this chapter and consistency with the plan adopted pursuant to Section 42051.1 and shall post the audit publicly on its internet website. The department shall notify the PRO of any compliance issues or inconsistencies.
- (d)(1) The department may conduct its own audit.

- (2) The PRO shall reimburse the department for the costs of the department's audit.
- (3) The PRO may obtain copies of the department's audit upon request.
- (e) The department shall hold its audit confidentially to the extent described in subdivision (e) of Section 42080.

#### PRC 42080

- (a) Failure to comply with the requirements of this chapter, including, but not limited to, failure by a PRO to implement and satisfy the requirements of its plan, shall subject a PRO, producer, wholesaler, or retailer to penalties for violations as set forth in this article or revocation of an approved plan. The department may conduct investigations, including by inspecting operations, facilities, and records of producers and PROs and by performing audits of producers and PROs, to determine whether entities are complying with the requirements of this chapter.
- (b) The department may deem the information contained in an audit provided by a PRO pursuant to Section 42054 or the records maintained by the PRO pursuant to subdivision (d) of Section 42052 to be sufficient to establish violations of the requirements of this chapter.
- (c) The department shall notify a PRO, producer, retailer, or wholesaler of any conduct or practice that does not comply with this chapter and of any inconsistencies identified in the department's audit.
- (d) Within 15 calendar days of the director approving a completed audit of a PRO, producer, retailer, or wholesaler, the department shall notify the audited entity that the audit will be posted on the department's internet website. The department shall post the completed audit on the department's internet website no later than 45 calendar days after it provides that notice.
- (e) The department shall hold its audit confidentially only to the extent it contains information that is specifically identified as and constitutes a trade secret pursuant to subdivision (d) of Section 3426.1 of the Civil Code or is otherwise exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Within 15 calendar days of receiving a completed audit and notice from the department that the audit will be posted on the department's internet website, the PRO, producer, retailer, or wholesaler audited by the department shall specifically identify each portion of the audit that it claims constitutes or contains a trade secret. Notwithstanding any provision to the contrary in regulations promulgated pursuant to Section 40062, information not identified as a trade secret and information improperly identified as a trade secret shall be subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) unless exempted from disclosure by another provision of law.

**Request for Feedback:**

The Department is not proposing regulatory concepts related to audits at this time.



## Investigations Item 1: Investigation Process

*Statute Section: PRC 42080*

### PRC 42080

(a) Failure to comply with the requirements of this chapter, including, but not limited to, failure by a PRO to implement and satisfy the requirements of its plan, shall subject a PRO, producer, wholesaler, or retailer to penalties for violations as set forth in this article or revocation of an approved plan. The department may conduct investigations, including by inspecting operations, facilities, and records of producers and PROs and by performing audits of producers and PROs, to determine whether entities are complying with the requirements of this chapter.

### **Regulation Concepts:**

To clarify the process for Department investigations and record requests, the Department is proposing the following regulatory concepts:

- Establish process to support the Department's investigation of operational activities and records for all regulated entities.
- Establish timeline for record request and submission for all regulated entities.

### **Request for Feedback:**

The Department is seeking feedback on the proposed regulatory concepts being considered to clarify the investigation process pursuant to PRC 42080(a).

### **Statutory References for Corrective Action Plans (CAP) Items 1-5:**

#### PRC 42081(b)(1)

Before determining whether to assess a penalty, the department may allow a producer or a PRO to develop and submit a corrective action plan to the department detailing how and when the producer or a PRO will come into compliance with this chapter. Corrective action plans may include, but are not limited to, actions such as shifting production to covered material categories that meet the recycling rates required pursuant to subdivision (c) of Section 42050, no longer offering the covered material for sale, reaching a minimum recycled content standard set by the department, or establishing a take-back system or deposit system for the covered material that would increase the recycling rate of the material. The department shall not assess a penalty and the producer shall not be listed as noncompliant pursuant to Section 42082 for material covered in a corrective action plan if the producer complies with the corrective action plan. A producer or PRO may request approval from the department to comply with a corrective action plan or elements of a corrective action plan in cooperation with other producers or PROs.

## **CAP Item 1: CAP Submissions**

*Statute Section: PRC 42081(b)(1) – See Above*

### **Regulation Concepts:**

To clarify the necessary information and the process for CAP submissions to the Department for review, the Department is proposing the following regulatory concept:

CAP submissions shall include the following at a minimum:

- Contact information
- A detailed description of the violations
- A description of the proposed actions that will be taken to remedy the violations within the timeline of the proposed schedule
- Justification with supporting documentation or records describing why the entity is unable to comply

## **CAP Item 2: CAP Approval and Issuance**

*Statute Section: PRC 42081(b)(1) – See Above*

### **Regulation Concept:**

To clarify the process for approving a CAP submission and issuing a CAP, the Department is proposing the following regulatory concept:

- The Department will evaluate the CAP submission, and if approved will provide a notification of CAP submission approval and issuance in writing.
  - The notification will include the approved CAP with the specific tasks and associated timelines, as well as the terms of the CAP.

## **CAP Item 3: Disapproval of a CAP Submission**

*Statute Section: PRC 42081(b)(1) – See Above*

### **Regulation Concepts:**

To clarify the process for disapproving a CAP submission, the Department is proposing the following regulatory concept:

- The Department will evaluate the CAP submission and provide in writing:
  - Request for additional information, or
  - Reasons for disapproval, or
  - Possible, limited opportunity for resubmission

## **CAP Item 4: Monitoring a CAP**

*Statute Section: PRC 42081(b)(1) – See Above*

**Regulation Concept:**

To clarify the process for ensuring that a producer or PRO is completing tasks on time as outlined in the CAP, the Department is proposing the following regulatory concept:

- The entity shall submit monitoring updates or progress reports at a frequency determined by the Department as part of the CAP submission approval and issuance.

**CAP Item 5: Resolved CAPs**

*Statute Section: PRC 42081(b)(1) – See Above*

**Regulation Concept:**

To clarify the process to determine that an entity has resolved a CAP, the Department is proposing the following regulatory concept:

- A CAP is determined to be resolved when all the CAP requirements have been met, all tasks have been completed, and all violations outlined in the CAP have been corrected.

**CAP Item 6: CAP Extensions**

*Statute Section: PRC 42080(b)(2)*

PRC 42080(b)(2)

(A) The duration of a corrective action plan shall not exceed 24 months. The department may extend a corrective action plan up to an additional 12 months if the department sets forth steps and a timeline for the producer or PRO to comply with the corrective action plan and if the producer or PRO made a substantial effort to comply but was reasonably prevented from doing so due to extenuating circumstances.

(B) For purposes of this paragraph, making a “substantial effort” means taking all practicable actions to comply with a corrective action plan. Substantial effort is not made in circumstances in which a producer or PRO has not taken reasonable steps to comply with a corrective action plan, including, but not limited to, providing staff resources and funding necessary for compliance.

**Regulation Concepts:**

To clarify the process by which CAP extension request will be evaluated, the Department is proposing the following regulatory concepts:

- The following factors will be considered in the Department’s determination of whether all practicable actions to comply were made:
  - The tasks outlined in the CAP are completed on time.
  - All progress reports are submitted complete and on time.
- “Extenuating Circumstances” include:

- Acts of nature, such as earthquakes, wildfires, mudslides, flooding, or natural disasters
- Public health emergencies
- Delays in obtaining discretionary permits
  - Alternative paths to compliance must be considered by the entity
- Additional circumstances reviewed and approved by the Department

**Request for Feedback:**

The Department is seeking feedback on the proposed regulatory concepts related to CAPs.

**Administrative Civil Penalties:**

CalRecycle is not proposing regulatory concepts related to this section at this time and is providing for informational purposes only.

*Statute Sections: PRC Section 42080(a), 42081(a)(1-4), 42081(b)(3), 42081(c)(1-8)*

**PRC 42080(a)**

Failure to comply with the requirements of this chapter, including, but not limited to, failure by a PRO to implement and satisfy the requirements of its plan, shall subject a PRO, producer, wholesaler, or retailer to penalties for violations as set forth in this article or revocation of an approved plan. The department may conduct investigations, including by inspecting operations, facilities, and records of producers and PROs and by performing audits of producers and PROs, to determine whether entities are complying with the requirements of this chapter.

**PRC 42081(a)**

- (1) The department may issue a notice of violation to, and impose an administrative civil penalty not to exceed fifty thousand dollars (\$50,000) per day per violation on, any entity not in compliance with this chapter or any of the regulations the department adopts to implement this chapter, unless the entity meets the criteria of paragraph (5) of subdivision (a) of Section 42061, in which case the civil penalty shall not exceed twenty-five thousand dollars (\$25,000) per day per violation.
- (2) A violation of Section 42050 by a producer or the PRO shall be determined based on the brand name, package or product line, package or product form, covered material category, and package or product size that the department deems is not in compliance.
- (3) Penalties against a PRO or producer shall not begin accruing with respect to a violation until 30 calendar days following the notification of the violation.
- (4) The department shall deposit all penalties collected pursuant to this section into the Circular Economy Penalty Account, which is hereby created in the State Treasury. Moneys in the Circular Economy Penalty Account shall be available upon appropriation by the Legislature for purposes that further this chapter.

PRC 42081(b)(3)

The department's authority under this article to impose penalties and to consider a corrective action plan do not affect the department's authority to withdraw its approval of a PRO plan pursuant to Section 42051.2 and the department may impose penalties and consider corrective action plans against the PRO or producers without revoking an approved plan.

PRC 42081(c)

The department, in determining the penalty amount and whether to assess a penalty under this section, shall consider, at a minimum, all of the following:

- (1) The nature, circumstances, extent, and gravity of the violation or a condition giving rise to the violation and the various remedies and penalties that are appropriate in the given circumstances, with primary emphasis on protecting the public health and safety and the environment.
- (2) Whether the violation or conditions giving rise to the violation have been corrected in a timely fashion or whether reasonable progress is being made to correct the violation or conditions giving rise to the violation.
- (3) Whether the violation or conditions giving rise to the violation demonstrate a pattern of noncompliance with this chapter or the regulations adopted pursuant to this chapter. If the violation is a first offense, and the nature and gravity of the violation is not considered egregious, the department shall consider assessing a penalty not to exceed twenty-five thousand dollars (\$25,000) per day.
- (4) Whether the violation or conditions giving rise to the violation were intentional.
- (5) Whether the violation or conditions giving rise to the violation were voluntarily and promptly reported to the department before the commencement of an investigation or audit by the department.
- (6) Whether the violation or conditions giving rise to the violation were due to circumstances beyond the reasonable control of the producer or PRO or were otherwise unavoidable under the circumstances, including, but not limited to, unforeseen changes in market conditions. This does not include circumstances in which curbside collection either was not available or not suitable for the collection and processing of the covered material and the PRO or producer failed to adequately invest in or develop other means to collect or process the covered material.
- (7) The size and economic condition of the producer or PRO.
- (8) The magnitude of the impact on the environment, human health, and disadvantaged or low-income communities or rural areas reasonably anticipated from the violation.

**Request for Feedback:**

The Department is not proposing regulatory concepts related to administrative penalties at this time.

## **PRO and Plan Revocation, Termination, Dissolution Item 1: Plan Termination or PRO Dissolution**

*Statute Section: PRC 42056*

PRC 42056

(b) If a plan terminates or is revoked, the trustee or escrow agent of a trust fund or escrow account set up pursuant to subdivision (a) shall do both of the following, starting within 30 calendar days:

(1) Accept payments directly from producers into the trust fund or escrow account that would have been made to the PRO before the plan's termination or revocation.

(2) Make payments from the trust fund or escrow account as the department shall direct, in writing, to implement the most recently approved plan.

(c) If a new plan has not been approved by the department within one year after termination or revocation, the department may make modifications to the previously approved plan, as it deems necessary, and continue to direct payments from the trust fund or escrow account in accordance with paragraph (2) of subdivision (b) to implement the modified plan.

### **Regulation Concepts:**

To clarify the process for PRO dissolution and/or plan termination, the Department is proposing the following regulatory concepts:

- The PRO or producer must provide a written notice of intent to terminate plan or dissolve.
- The Department will establish the effective date of the plan termination or PRO dissolution.

## **PRO and Plan Revocation, Termination, Dissolution Item 2: General Provisions**

*Statute Sections: PRC Section 42051.1(f), 42051.2(e)(2), 42080(a)*

PRC 42051.1(f)

The plan shall include a closure or transfer plan to settle the affairs of the PRO that ensures that producers who are participants of the PRO's approved plan will continue to meet their obligations in the event of dissolution of the organization or revocation of a plan by the department and that describes a process for notifying the department, the advisory board, local jurisdictions, and any contractors of the dissolution. The closure or transfer plan shall provide for sufficient reserve funds in the trust fund or escrow account established pursuant to Section 42056 to allow the PRO to satisfy all obligations in the event of dissolution of the PRO until the participants of the PRO's approved plan have become a participant of a different PRO's approved plan.

#### PRC 42051.2(e)(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.

#### PRC 42056

(a) A PRO, as part of its producer responsibility plan, shall set up a trust fund or an escrow account in California, into which it shall deposit all unexpended funds for use in accordance with this section if the plan terminates or is revoked or the PRO dissolves in accordance with the closure or transfer plan required pursuant to subdivision (f) of Section 42051.1.

(b) If a plan terminates or is revoked, the trustee or escrow agent of a trust fund or escrow account set up pursuant to subdivision (a) shall do both of the following, starting within 30 calendar days:

(1) Accept payments directly from producers into the trust fund or escrow account that would have been made to the PRO before the plan's termination or revocation.

(2) Make payments from the trust fund or escrow account as the department shall direct, in writing, to implement the most recently approved plan.

(c) If a new plan has not been approved by the department within one year after termination or revocation, the department may make modifications to the previously approved plan, as it deems necessary, and continue to direct payments from the trust fund or escrow account in accordance with paragraph (2) of subdivision (b) to implement the modified plan.

#### PRC 42080(a)

Failure to comply with the requirements of this chapter, including, but not limited to, failure by a PRO to implement and satisfy the requirements of its plan, shall subject a PRO, producer, wholesaler, or retailer to penalties for violations as set forth in this article or revocation of an approved plan.

#### **Regulation Concepts:**

To clarify PRO or Independent Producer obligations after a revocation, termination, or dissolution, the Department is proposing the following concepts:

- The PRO or Independent Producer must submit a final Annual Report or meet reporting requirements within a timeframe specified by the Department.
- The PRO or Independent Producer must provide updates to the Department on how closure and transfer activities are being implemented as outlined in their plan, at a frequency determined by the Department.
  - Updates shall include, but not be limited to, descriptions and documentation of how these actions are implemented.
- The PRO or Independent Producer is responsible for meeting the requirements of their plan and may be subject to penalties for violations of the chapter that occurred until the revocation, termination, or dissolution is resolved.

## **PRO and Plan Revocation, Termination, Dissolution Item 3: Producers Modifying Compliance Pathway**

*Statute Sections: PRC Section 42051.1(f), 42051.2(e)(2), 42080(a)*

### **PRC 42051.1(f)**

The plan shall include a closure or transfer plan to settle the affairs of the PRO that ensures that producers who are participants of the PRO's approved plan will continue to meet their obligations in the event of dissolution of the organization or revocation of a plan by the department and that describes a process for notifying the department, the advisory board, local jurisdictions, and any contractors of the dissolution. The closure or transfer plan shall provide for sufficient reserve funds in the trust fund or escrow account established pursuant to Section 42056 to allow the PRO to satisfy all obligations in the event of dissolution of the PRO until the participants of the PRO's approved plan have become a participant of a different PRO's approved plan.

### **PRC 42051.2(e)(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.

### **PRC 42080(a)**

Failure to comply with the requirements of this chapter, including, but not limited to, failure by a PRO to implement and satisfy the requirements of its plan, shall subject a PRO, producer, wholesaler, or retailer to penalties for violations as set forth in this article or revocation of an approved plan.

### **Regulation Concepts:**

To clarify the process for producers to modify their compliance pathway by switching from individual compliance to compliance via a PRO (or vice-a-versa), the Department is proposing the following regulatory concepts:

- The entity will be required to notify the Department when they intend to modify its compliance pathway.
- The entity will need to verify compliance with the new (modified) compliance pathway prior to abandoning the previous compliance pathway.
- Entities with violations of the previous compliance pathway may still be subject to penalties.

#### **Request for Feedback:**

The Department is seeking feedback on the proposed regulatory concepts regarding PRO and producer plan revocation, termination, and dissolution.



## **Exemptions Item 1: Rural Jurisdiction and Rural County Exemptions**

*Statute Section: PRC 42060.5(c)*

PRC 42060.5(c)

A county board of supervisors of a rural county or a rural jurisdiction, as those terms are defined in Section 42649.8, may adopt a resolution to exempt the rural county or rural jurisdiction from the requirements of this section. If a rural jurisdiction is a regional agency composed of jurisdictions that are located entirely within one or more rural counties, the board of the regional agency may adopt a resolution, as prescribed in this subdivision, to exempt the rural jurisdiction from the requirements of this section. An exemption for a rural county or a rural jurisdiction does not in any way relieve a producer or PRO from meeting the requirements of this chapter.

### **Regulation Concepts:**

To establish what is needed to demonstrate to the Department regarding approval of a rural county exemption, CalRecycle is proposing the following regulatory concepts:

- Rural exemptions are subject to Department review and approval.
- The Department will verify if requirements are met as part of the review and approval.
- The Department will review the continued eligibility of rural jurisdictions and exemptions renewals.

#### **Request for Feedback:**

The Department is seeking feedback on the proposed regulatory concept regarding rural jurisdiction and rural county exemptions.

## **Hearings Item 1: Hearings**

*Statute Sections: No statutory language related to hearings.*

### **Regulation Concepts:**

The Department will utilize its authority under the Government Code to establish protocols related to administrative hearings, including the procedures that govern hearings.

#### **Request for Feedback:**

The Department is seeking feedback on the proposed regulatory concept regarding hearings.

## Process for Submitting Written Feedback

CalRecycle has developed a process for requesting written feedback or questions from interested parties. 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](mailto: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 July 25, 2023 Workshop is submitted no later than **August 8, 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 *Investigations Item 1 – Investigation Process*, the preferred format would be:

Investigations Item 1 – Investigation Process  
*Specific feedback related to this item...*

This process can be repeated for each regulation concept an interested party 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 an interested party 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*