

# SB 54 July 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)

July 24, 2023 (Day 1)



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# Agenda

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## **Opening Remarks**

Karen Kayfetz, Branch Chief of the Product Stewardship Branch

## **Topic I: Recycling Rate**

Eric Payne, Senior Environmental Scientist (Specialist), Knowledge Integration Section

Fidan Aghayarova, Environmental Scientist, Packaging EPR Section

## **Topic II: Compostable Materials**

Fidan Aghayarova, Environmental Scientist, Packaging EPR Section

## **Topic III: Reusable/Refillable**

Fidan Aghayarova, Environmental Scientist, Packaging EPR Section

# Agenda

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## **Topic IV: Producer Definition**

Dillon Keifer, Attorney IV in the Executive Offices

## **Topic V: Producer Responsibility Organization (PRO) and Independent Producer (IP) Plan**

Marcus Santillano, Manager of Packaging EPR Section

## **Topic VI: Data Reporting**

Burke Lucy, Environmental Scientist, Packaging EPR Section

## **Questions/Discussion**

Karen Kayfetz, Branch Chief of the Product Stewardship Branch

# Overview of Presentation

- **Topic I: Recycling Rate**

- Overview of recycling rate in SB 54
- Regulatory workshop of recycling rate concepts



- **Topic II: Compostable Materials**

- Review on previously workshopped topics
- Regulatory concepts



- **Topic III: Reusable/Refillable**

- Background and Informational Items
- Regulatory concepts



*Follow along using the Discussion Document*

# Overview of Presentation cont.

- **Topic IV: Producer Definition**

- Background and Informational Items
- Regulatory Concepts



- **Topic V: Producer Responsibility Plan**

- Background Information
- Regulatory Concepts



- **Topic VI: Data Reporting**

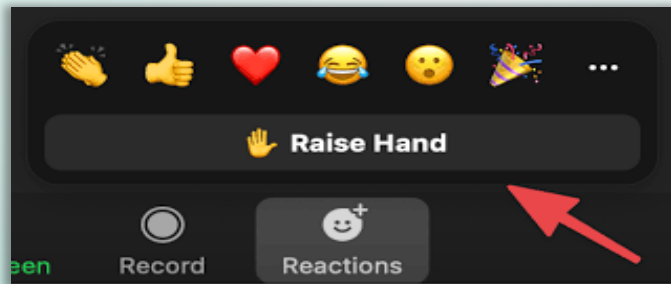
- Background and Informational Items
- Regulatory Concepts



*Follow along using the Discussion Document*

# Submitting 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.

# Opportunity for Written Feedback

- Written feedback or questions may be submitted after the workshop to [packaging@calrecycle.ca.gov](mailto: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 (last page of the Discussion Document for each topic)
- We request all written feedback be submitted by **August 8, 2023**.



# Topic I. Recycling Rate Determination

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**Department of Resources Recycling and Recovery,  
Knowledge Integration Section  
Packaging EPR Section**

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**Eric Payne**

Senior Environmental Scientist (Specialist)

**Fidan Aghayarova**

Environmental Scientist

# Overview of Recycling Rate

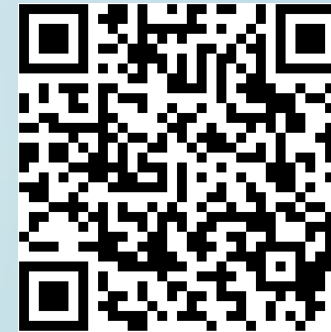
## Part I

- Key Definitions
- Overview of Recycling Rate – CalRecycle and PRO/IP responsibilities

## Part II

- Regulatory Concepts

*Follow along using the Discussion Document*



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# Recycling Rate Definitions

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*Note: Unless specified, CalRecycle is not currently seeking stakeholder feedback on definitions.*

# 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.

*\*See full statutory definition for what “recycle” and “recycling” does and does not include, as well as additional provisions regarding “recycle” and “recycling” – [PRC 42041\(aa\)\(2-5\)](#)*

# Recycling Rate – PRC 42041(ab)

“Recycling Rate” means the percentage, overall and by category, of covered material sold, offered for sale, distributed, or imported in the state that is ultimately recycled. The recycling rate shall be calculated as the amount of covered material that is recycled in a given year divided by the total amount of covered material disposed of, as defined in subdivision (b) of Section 40192, and the amount of covered material recycled, unless and until the department adopts a new methodology for calculating the recycling rate by regulation.

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# Overview of Recycling Rate

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# Recycling Rate – SB 54 Requirements

- PRC 42050(c) – all plastic covered material must meet certain recycling rates:
  - 30% by 1 January 2028
  - 40% by 1 January 2030
  - 65% by 1 January 2032
- PRC 42057(i) – for a producer to sell, offer for sale, distribute, or import into the state expanded polystyrene food service ware, all expanded polystyrene must meet these recycling rates:
  - 25% by 1 January 2025
  - 30% by 1 January 2028
  - 50% by 1 January 2030
  - 65% by 1 January 2032

# Recycling Rate – CalRecycle Responsibilities

- PRC 42060(a)(8) – Develop a methodology and procedure for determining recycling rate
- PRC 42061(b)(1) – By January 1, 2026, calculate and publish current recycling rates achieved in the state for each covered material category
- PRC 42061(f)(1) – Determine a process to update the achieved recycling rates and update these rates at least every two years
- PRC 42062(c) – Publish whether the achieved recycling rate of each covered material category complies with the rates of PRC 42050(c).
- PRC 42061(a)(2) through (a)(5) –
  - By July 1, 2025, publish a characterization study of covered material categories disposed of in California landfills.
  - Repeat the study in 2028, 2030, 2032, and at least every four years thereafter.
  - At any time, CalRecycle may publish relevant additional information



# Recycling Rate – PRO/IP Responsibilities

- Producers must ensure that all plastic covered material achieves the recycling rates required by PRC 42050(c)
- PRC 42083 – A producer may offer covered material in a covered material category that does not meet the recycling rates [of 42050(c)] if the producer demonstrates to the department that the producer has achieved the applicable rate for an amount equal to the producer's market share of that covered material category in the state.
- A producer shall not sell or distribute expanded polystyrene food service ware unless the producer demonstrates to the department that all expanded polystyrene meets the recycling rates required by PRC 42057(i)
- Producer must submit information to CalRecycle annually, including:
  - PRC 42051.3(a)(3)(D)(iv) – current recycling rates
  - PRC 42052(a)(1) and (2) – the weight and number by plastic covered material category of items that are (1) manufactured, sold, distributed, or imported in or into the state; (2) recycled

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# Recycling Rate Regulatory Concepts

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# 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

- Item 1 – Definition of “Recycling Rate”
- Item 2 – Definition of “Generation”
- Item 3 – Methodology for Recycling Rate Determinations
- Item 4 – Process for Recycling Rate Determinations and Updates
- Item 5 – Recycling Rates for New Covered Material Categories

# RR Item 1 – Definition of “Recycling Rate”

PRC 42041(ab) defines the recycling rate as the amount of material recycled divided by the total amount of material recycled and disposed unless CalRecycle adopts a new methodology.

CalRecycle proposes the following definition:

“Recycling rate” means the percentage, overall and by category, of covered material that is ultimately recycled. The recycling rate shall be calculated as the amount of covered material that is recycled in a given year divided by the total amount of covered material generated in a given year.

# RR Item 1 – Definition of “Recycling Rate” (2)

## Request for Feedback:

CalRecycle is seeking feedback on the proposed definition of *Recycling Rate*.

## RR Item 2 – Definition of “Generation”

Because CalRecycle proposes to define recycling rate as the amount of material recycled divided by the amount of material generated, CalRecycle also proposes to define the term generated or generation.

CalRecycle proposes the following definition:

“Generation” or “generated” means, for the purposes of this chapter, the total amount of covered material that is manufactured, sold, distributed, or imported in or into the state.

# RR Item 2 – Definition of “Generation” (2)

## Request for Feedback:

CalRecycle is seeking feedback on the proposed definition of *Generation* or *Generate*.



# RR Item 3 – Methodology for Recycling Rate Determinations

- CalRecycle is required to:
  - Establish a recycling rate methodology [PRC 42060(a)(8)]
  - Calculate recycling rate for covered material categories by January 1, 2026 [PRC 42061(b)(1)]
  - Update recycling rates at least every two years [PRC 42061(f)(1)]
- When calculating recycling rate, CalRecycle proposes a methodology with five components.

# RR Item 3 – Methodology for Recycling Rate Determinations (2)

- Component 1: CalRecycle will use the best available information to assess recycling and generation. Anticipated sources of data include, but are not limited to:
  - Material characterization studies of disposal facilities – PRC 42061(a)(2) through (a)(5)
  - PRO reporting on recycling and generation of covered materials – PRC 42052
  - Recycling and Disposal Reporting System – 14 CCR 18815.1 through 18815.13
  - Data provided by jurisdictions, producers, or other parties
  - Data from other sources that CalRecycle deems relevant

# RR Item 3 – Methodology for Recycling Rate Determinations (3)

- Component 2: CalRecycle will use data from the most recent calendar year for which data are available.
- Component 3: When assessing recycling for the purposes of the recycling rate, CalRecycle proposes to consider materials as recycled after they have been processed or remanufactured into new material or products by a responsible end market.

# RR Item 3 – Methodology for Recycling Rate Determinations (4)

- Component 4: When calculating recycling rate, the amount of covered material will be estimated in mass. Recycling rate will refer to the mass of recycled material divided by the mass of generation.
- Component 5: When a PRO calculates the recycling rate that it reports to CalRecycle pursuant to PRC 42051.3(a)(3)(D)(iv), the PRO must use the same methodology as CalRecycle, or another methodology that CalRecycle has approved. If the latter, CalRecycle proposes to require the PRO to provide the inputs and assumptions used in the calculation.

# RR Item 3 – Methodology for Recycling Rate Determinations (5)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed methodology for calculating the recycling rate.

# RR Item 4 – Process for Recycling Rate Determinations and Updates

## PRC 42061(f)

(1) The department shall determine a process for updating the rates published pursuant to subdivision (c) of Section 42060. The department shall update the list at least every two years and shall regularly, but no less than once every two years, evaluate the list of rates to determine whether the rates are still accurate. After evaluation, the department may amend the list to remove, add, or change rates. The department shall post any updates to the list on its internet website.

(2) A producer may demonstrate compliance with the rates in subdivision (c) of Section 42050 by submitting to the department evidence that the particular type of covered material meets the applicable recycling rate by reference to a recycling rate on the department's list or through another mechanism approved by the department.

(3) A producer that seeks to have a rate included or changed on the list, or a covered material category added to the list, may be required by the department to submit data for purposes of the department's determination of the rate to include on the list or the appropriateness of adding the category.

(4) Publication of and updates made to the list pursuant to this subdivision are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

# RR Item 4 – Process for Recycling Rate Determinations and Updates (2)

## Regulation Concept:

The department will obtain and analyze updated data prior updating the recycling rates.

- Potential data sources are expected to include, without being limited to, the same sources specified in Methodology for Recycling Rate Determinations.
- Regulations for periodic update of achieved recycling rates will be subject to the similar regulations established for the methodology for recycling rate determinations and shall be updated with regards to the data from the most recent calendar year for which data are available.
- Additionally, the department holds the authority to amend the recycling rates based on amendments to the covered material category list.
- The finalized achieved rates shall be published in a timely manner on the department's official website.

# RR Item 4 – Process for Recycling Rate Determinations and Updates (4)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed concept for updating recycling rates.



# RR Item 5 – Recycling Rates for New Covered Material Categories

According to PRC 42061(f)(3), a producer that seeks to have a rate included or changed on the list, or a covered material category added to the list, may be required by the department to submit data for purposes of the department's determination of the rate to include on the list or the appropriateness of adding the category.

The following regulation concept will outline the procedure for determining the recycling rate in response to the creation of a new covered material category.

# RR Item 5 – Recycling Rates for New Covered Material Categories (2)

## Regulation Concept:

- After a covered material category is updated or removed from the list, the department and PRO will update any required reporting or data collection efforts to reflect the updated list.
- When CalRecycle obtains the most recent calendar year of data after the new covered material category is added, the department shall estimate the recycling rates for new covered material categories.

# RR Item 5 – Recycling Rates for New Covered Material Categories – 3

- Potential data sources are expected to include, without being limited to, the same sources specified in Methodology for Recycling Rate Determinations.
- Establishment of new recycling rates are subject to the same requirements as update of recycling rates.
- The finalized rates shall be published in a timely manner on the department's official website.

# RR Item 5 – Recycling Rates for New Covered Material Categories (4)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed concept for determination of recycling rates of a new covered material category.

# Topic II. Compostable Materials

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**Department of Resources Recycling and Recovery,  
Packaging EPR Section**

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**Fidan Aghayarova**  
Environmental Scientist

# Overview of Session

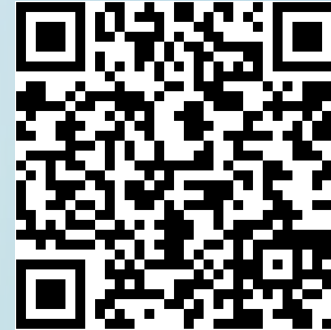
## Part I

- Review on previously workshopped topics

## Part II

- Regulatory Concepts

*Follow along using the  
Discussion Document*



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# Overview of Previous Compost Topics

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# Compost Topics Review

The Department has previously workshopped topics pertaining to [compostability](#). CalRecycle intends to add more clarity to the definition of compostable and the determination of compostability by proposing additional regulation concepts to build on previous material.

List of previously workshopped items:

- Item 1 – Definition of “Compostable.”
- Item 2 – Revised Responsible End Market concept for compostable



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# Regulatory Concepts

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# Regulation Concept Discussion Items

- Item 1 –Third-Party Certification Entity Criteria
- Item 2 – Definition of “Fiber-based”
- Item 3 – Definition of Cellulosic
- Item 4 – Labeling Requirement

# CM Item 1 – Third-Party Certification Entity Criteria

## PRC 42050(b)

Consistent with the policy goal established in Section 41780.01 and consistent with the waste hierarchy established in Section 40051, producers of covered material sold, offered for sale, imported, or distributed in the state shall achieve all of the following with respect to the materials for which they are the producers:

(b) Ensure that all covered material offered for sale, distributed, or imported in or into the state on or after January 1, 2032, is recyclable in the state or eligible for being labeled “compostable” in accordance with Chapter 5.7 (commencing with Section 42355)

# CM Item 1 – Third-Party Certification Entity Criteria (2)

## PRC 42357 (g)(1)(A)

(A) If any standard specification is applicable to the product pursuant to this chapter and **the department has approved a third-party certification entity to certify products** according to that standard specification, the product shall have certification that it meets at least one such standard from an approved third-party certification entity for the standard. This requirement shall only apply on and after January 1, 2024, and it shall not apply unless there is, and has been for at least one year immediately prior to the product being sold or offered for sale, a third-party certification entity approved by the department to provide the applicable certification.

# CM Item 1 – Third-Party Certification Entity Criteria (3)

## Regulation Concept:

- CalRecycle proposes the following draft language:

(a) For purposes of approval pursuant to § 42357(g)(1)(A), a third-party certification entity must satisfy the following criteria:

- (1) ISO/IEC 17025 accreditation issued by an accrediting body that is a signatory member of either the International Accreditation Forum or the International Laboratory Accreditation Cooperation, or both, or is a signatory to a mutual recognition arrangement established by either organization.
- (2) Does not hold any financial interest, whether direct or indirect, of any entity on whose behalf it has issued a certification applicable to any product subject to the labeling restriction imposed by § 42357(g)(1) and does not engage in any business with any such entity other than for the purpose of considering the issuance of such certifications.

# CM Item 1 – Third-Party Certification Entity Criteria (4)

(b) A third-party certification entity shall request approval, or renewal of a prior approval, by submitting the following in the manner prescribed by the department:

(1) Contact information.

(2) Documentation of the accreditation required pursuant to subdivision (a)(1). Identifying an accrediting body's directory or other publication identifying the entity as holding the accreditation required under this section shall be deemed sufficient documentation.

(3) An affidavit, subject to the penalty of perjury, that the entity satisfies the requirements for approval pursuant to subdivision (a).

# CM Item 1 – Third-Party Certification Entity Criteria (5)

(c) The department's approval of a third-party certification entity shall expire on January 1 of the fifth calendar year following the calendar year in which the department approved the entity or as of the date the entity's accreditation expires or otherwise becomes invalid.

(d) Beginning January 1 of the third calendar year following the calendar year in which the department approved the third-party certification entity, the entity may request renewal of the department's approval. Renewed approvals shall expire in the same manner as initial approvals, as described in subdivision (c).

# CM Item 1 – Third-Party Certification Entity Criteria (6)

(e) The department shall maintain on its website a list of currently approved third-party certification entities. Notwithstanding a third-party certification's presence on such list, it shall be deemed not approved as of the date it no longer holds a valid, unexpired accreditation pursuant to subdivision (a)(1). A person selling or offering for sale products labeled with terms restricted pursuant to Pub. Resources § 42357 shall be responsible for verifying that a third-party certification entity held a valid accreditation as of the date it issued a certification for purposes of complying with § 42357(g)(1)(A).



# CM Item 1 – Third-Party Certification Entity Criteria (7)

(f) For the purpose of determining whether the certification requirement pursuant to § 42357(g)(1)(A) applies to a particular product, a third-party certification entity identified on the list published pursuant to subdivision (e) shall be deemed to have been approved as of the date it was added to the list. For all other purposes, however, regardless of when a third-party certification entity is added to that list, its approval shall be retroactive as of the effective date of the accreditation satisfying the requirements of subdivision (a)(1).

# CM Item 1 – Third-Party Certification Entity Criteria (8)

## **Request for Feedback:**

CalRecycle is seeking feedback on accreditation standards for third-party certification entities.

## CM Item 2 – Definition of “Fiber-based”

- June workshop proposed “compostable” definition:
  - “Compostable” means that covered material meets all of the following criteria:
    - (1) Unless the covered material is **fiber-based** and does not contain or incorporate plastic or polymers, the covered material shall meet either of the following standards:
      - (A) The ASTM Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities D6400, as published in 2019.
      - (B) The ASTM Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities D6868, as published in 2019.

*\*See discussion document for full proposed definition of "compostable."*

## CM Item 2 – Definition of “Fiber-based” (2)

- Proposed definition of “fiber-based:”

“Fiber-based” means a covered material that is made from animal or natural cellulosic fibers that meets the ASTM D8410-21 Standard for Evaluation of Cellulosic-Fiber-Based Packaging Materials and Products for Compostability in Municipal or Industrial Aerobic Composting Facilities.

## CM Item 2 – Definition of “Fiber-based” (3)

### **Request for Feedback:**

CalRecycle is seeking feedback on using ASTM D8410-21 for determining what covered materials would qualify as *Fiber-Based*.

# CM Item 3 – Definition of Cellulosic

- To ensure clarity in the previously proposed definition of fiber-based, CalRecycle would like to provide a definition for “cellulosic fibers.”
- Proposed definition of “cellulosic fibers:”  
“Cellulosic fibers” in reference to fiber-based covered materials means fibers derived from plant matter including, but not limited to, seed fibers, bast fibers, and leaf fibers.

## CM Item 3 – Definition of Cellulosic (2)

### **Request for Feedback:**

CalRecycle is seeking feedback on the proposed definition of *Cellulosic*. Please note that processes that add plastics in combination with natural cellulosic fibers are already excluded pursuant to PRC 42356.1 (d)

# CM Item 4 – Labeling Requirement

## PRC 42050(b)

Consistent with the policy goal established in Section 41780.01 and consistent with the waste hierarchy established in Section 40051, producers of covered material sold, offered for sale, imported, or distributed in the state shall achieve all of the following with respect to the materials for which they are the producers:

(b) Ensure that all covered material offered for sale, distributed, or imported in or into the state on or after January 1, 2032, is recyclable in the state or eligible for being labeled “compostable” in accordance with Chapter 5.7 (commencing with Section 42355)



# CM Item 4 – Labeling Requirement (2)

PRC 42357(g)(1)(E)

A person shall not sell or offer for sale a product in this state that is labeled with the term “compostable” or “home compostable” unless the product satisfies all of the following:

(E) Is designed to be associated with the recovery of desirable organic wastes, such as food scraps and yard trimmings, that are collected for composting, unless the product complies with the department’s regulations pursuant to subparagraph (B), to the extent the department elects to adopt such regulations.

# CM Item 4 – Labeling Requirement (3)

## 14 CCR Section 17989.5(a)(1)(A)

(a) A food service packaging item is "compostable" and shall be included on the List if the department determines it meets the requirements of Section 17989.2 and satisfies all the following criteria:

(1) The food service packaging item meets either of the following criteria:

(A) Prior to January 1, 2026, the food service packaging item is comprised of materials that are regularly collected for composting by at least 50 percent of organic waste recycling programs statewide and accepted by at least 50 percent of the compost facilities in the state that accept mixed materials. Effective January 1, 2026, the food service packaging item is comprised of materials that are regularly collected for composting by at least 75 percent of organic waste recycling programs statewide and accepted by at least 75 percent of the compost facilities in the state that accept mixed materials.

# CM Item 4 – Labeling Requirement (4)

CalRecycle proposes the addition of the following criteria:

For purposes of determining whether material is eligible to be labeled “compostable” for purposes of PRC § 42050(b), the material satisfies the criterion stated in PRC § 42357(g)(1)(E) if the material satisfies the collection and acceptance thresholds stated in 14 CCR § 17989.5(a)(1)(A).

# CM Item 4 – Labeling Requirement (5)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed concept regarding eligibility to be labeled “compostable.”

# Topic III. Reusable and Refillable

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Department of Recycling Resources Recycling and Recovery,  
Packaging EPR Section

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**Fidan Aghayarova**  
Environmental Scientist

# Overview of Session

## Part I

- Background and Informational Items

*Follow along using the  
Discussion Document*

## Part II

- Regulatory Concepts



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# Definitions

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*Note: Unless specified, CalRecycle is not currently seeking stakeholder feedback on definitions.*

# Definitions

- Reuse/Refill, Reusable/Refillable – PRC 42041(af)
- Single Use – PRC 42041(ai)
- Source Reduction – PRC 42041(aj)



# Reuse/Refill – PRC 42041(g)

“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.

## Reuse/Refill – PRC 42041(g) cont.

(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(g)

“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.

# Source Reduction – PRC 42041(aj)

“Source reduction” means the reduction in the amount of covered material created by a producer relative to a baseline established pursuant to subdivision (b) of Section 42057. Methods of source reduction include, but are not limited to, shifting covered material to reusable or refillable packaging or a reusable product or eliminating unnecessary packaging. “Source reduction” does not include either of the following:

- (1) Replacing a recyclable or compostable covered material with a nonrecyclable or noncompostable covered material or a covered material that is less likely to be recycled or composted.
- (2) Switching from virgin covered material to postconsumer recycled content.

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# Overview of SB 54 Use of Reuse/Refill

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# Statutory Overview (1)

- Independent producers must demonstrate a source reduction of its covered materials through shifting to refill, reuse, or elimination. – PRC 42051(b)(2)(A)(i)
- The PRO plan must include arrangements to establish and fund reuse or refill infrastructure. – PRC 42051.1(c)(7)
- The PRO plan must include efforts to educate the public and promote reuse and refill behaviors and systems. – PRC 42051.1(e)(2) and (3)
- The PRO budget may accomplish elements of the needs assessment including investments in reuse and refill infrastructure. – PRC 42051.1(i)(3)(H)

## Statutory Overview (2)

- The fee schedule established by the PRO must take into consideration actions by producers to include clear and accurate reuse and refill labeling and instructions and invest in robust and sustainable reuse and refill systems. – PRC 42053(e)(5-6)
- Producers must submit to the PRO, their individual source reduction plans to achieve these goals. – PRC 42057(d)(2)(A) and (D)
- The PRO must report annually to the department the source reduction individual producers achieve by switching to reusable/refillable packaging or food service ware or by switching to bulk packaging that allows consumers to refill home or commercial containers. – PRC 42057(c)(2) and (5)

# Statutory Overview (3)

- By January 1, 2032, the PRO must ensure a 25% source reduction by weight and plastic component of plastic covered materials. Ten percent (10%) of this source reduction is by switching to reusable/refillable packaging or food service ware. The remaining source reduction shall be through other means including shifting to bulk or large format packaging to allow for refill of home or commercial reusable containers. – PRC 42057(a)(2)(A) and (B)
- After January 1, 2032, the PRO may require participant producers to increase source reduction by shifting to reusable or refillable packaging or food service ware if the department has determined an increase in number or weight of plastic components. – PRC 42057(h)(1)



# Statutory Overview (4)

- The needs assessment shall include:
  - An evaluation of state statutory provisions and funding sources related to market development and financial incentives to help achieve the state's goals related to reuse. – PRC 42067(e)(2)(A)
  - Consumer education needs for reuse. – PRC 42067(e)(2)(F)
  - An evaluation for funding needed to develop reuse and refill infrastructure with convenient access for consumers. – PRC 42067(e)(3)(C)
- The advisory board shall provide the department and the PRO with recommendations regarding key barriers and possible pathways toward reusable packaging and products and refillable systems. – PRC 42070(e)(C)

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# Regulatory Concepts

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# Regulation Concept Discussion Items

- Item 1 – Expanding the proposed definition of “durable”
- Item 2 – Proposed definition of “multiple-uses”
- Item 3 – Expanding reuse/refill definition to include “return to marketplace”
- Item 4 – Clarify “safely reused”
- Item 5 – Expanding the definition of “washable”

# R&R Item 1 – Expanding the Proposed Definition of “Durable”

- *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.

- Previously workshopped definition:

Durable: For a product to be considered sufficiently “durable,” CalRecycle will require the item to remain reusable for its intended purpose for a minimum of one year. This standard is modified from 14 CCR Sec. 17989.3(a)(2).

# R&R Item 1 – Expanding the Proposed Definition of “Durable” (2)

- CalRecycle proposes this revised definition of “durable:”

“Durable,” in regard to packaging or food service ware, means the product will remain usable for its *original* intended purpose and *multiple-uses*. This standard is modified from 14 CCR Section 17989.3(a)(2)

# R&R Item 1 – Expanding the Proposed Definition of “Durable” (3)

## **Request for Feedback:**

CalRecycle is seeking feedback on additions to the proposed definition of *Durable*.

## R&R Item 2 – Proposed Definition of “Multiple-Uses”

“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**.

# R&R Item 2 – Proposed Definition of “Multiple-Uses” (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***.



## R&R Item 2 – Proposed definition of “Multiple-Uses” (3)

- Revised definition of “durable:”  
“Durable,” in regard to packaging or food service ware, means the product will remain usable for its original intended purpose and ***multiple-uses***.
- CalRecycle proposes this definition of “multiple-uses or multiple cycles or multiple times”:  
“Multiple-uses,” “multiple cycles,” or “multiple times” in regard to packaging or food service ware designed for reuse or refill, means that the material is used enough times that the environmental benefits exceed the use of its single-use counterpart, including the impacts of the material’s end-of-life management.

# R&R Item 2 – Proposed definition of “Multiple-Uses” (4)

## Request for Feedback:

CalRecycle is seeking feedback on the proposed definition of *Multiple-Uses/Cycles/Times*.

# R&R Item 3 – Expanding Reuse/Refill Definition to Include “Return to Marketplace”

- Language used in other states to define reuse or reusable:
  - Oregon: ORS 459A.822: “return...into the economic stream”
  - Maine: Title 38 Section 1771: “change in ownership”
  - Colorado: HB 2255: “return to the marketplace”
- Current definition of reusable/refillable for items intended for reuse *by the producer* has four conditions. CalRecycle seeks to add language that aligns with other states.

# R&R Item 3 – Expanding Reuse/Refill Definition to Include “Return to Marketplace” (2)

CalRecycle proposes an additional condition for definition of “reusable”:

- Returns into the marketplace for resale or distribution.

# R&R Item 3 – Expanding Reuse/Refill Definition to Include “Return to Marketplace” (3)

## **Request for Feedback:**

CalRecycle is seeking feedback on adding “return to the marketplace” to clarify “reuse or refill.”

# R&R Item 4 – Clarify “Safely Reused”

“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.

## R&R Item 4 – Clarify “Safely Reused” (2)

- CalRecycle seeks to expand upon this usage to prevent potential harm to the public or environment.

CalRecycle proposes this additional condition for definition of “reusable”:

- Retains its form and function during reuse and washing without posing a negative environmental or public health risk; including but not limited to chemical leaching and microplastic shedding.

# R&R Item 4 – Clarify “Safely Reused” (3)

## **Request for Feedback:**

CalRecycle is seeking feedback on adding language to clarify potential harmful effects to define *Reuse/Refill*.



# R&R Item 5 – Expanding the Definition of “Washable”

- “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. – *PRC 42041(ai)*
- CalRecycle proposes the following definition for "washable:"

*"Washable"* means either of the following:

1. For purposes of packaging, excluding food packaging, washable means that the packaging can be sufficiently cleaned to safely and hygienically refill or reuse.
2. For purposes of food service ware and food packaging, washable means that a product maintains 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.

# R&R Item 5 – Expanding the definition of “Washable” (2)

## Request for Feedback:

CalRecycle is seeking feedback on the proposed definition of *Washable*.

# Topic IV. Definition of "Producer"

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**Department of Resources Recycling and Recovery,  
Legal Affairs Office**

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**Dillon Keifer**

Attorney IV

# Overview of Topic

## Part I

- Background and Informational Items

## Part II

- Regulatory Concepts

*Follow along using the  
Discussion Document*



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# Definitions

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*Note: Unless specified, CalRecycle is not currently seeking stakeholder feedback on definitions.*

# Definitions

- Producer – PRC 42041(w)

# 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.

# Producer – PRC 42041(w)

- (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.



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# Regulatory Concepts

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# Regulation Concept Discussion Items

- Item 1 – Definition of "person"
- Item 2 – Definition of "product"
- Item 3 – Definition of "uses covered material"
- Item 4 – Definition of terms related to "brand" or "trademark"
- Item 5 – Definition of "in the state"

# PD Item 1 – Definition of "Person"

- The definition of producer uses the term “person.” CalRecycle is seeking to define the term “person” and is deriving it from the definition of person in PRC 40170.
- Proposed definition:

“Person” means an individual, firm, limited liability company, association, partnership, public or private corporation, or any other non-governmental legal entity and, for purposes of whether a person other than a natural person is in the state pursuant to PRC § 42041(w), any entity owning, directly or indirectly, a majority or controlling interest in such entity.

# PD Item 1 – Definition of "Person" (2)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed definition of *Person*.

## PD Item 2 – Definition of "Product"

- The definition of producer uses the term “product.” CalRecycle is seeking to define the term “product.”
- Proposed definition:

“Product” means a physical good and all packaging associated with said good for any of the purposes stated in § 42041(s). For purposes of determining whether a particular person is the producer pursuant to § 42041(w)(3) of covered material used by a product, what constitutes the product shall be evaluated as of the time the person sells, offers for sale, or distributes the product.

## PD Item 2 – Definition of "Product" (2)

### **Request for Feedback:**

CalRecycle is seeking feedback on the proposed definition of *Product*.

# PD Item 3 – Definition of "Uses Covered Material"

- The definition of producer uses the term “uses covered material.” CalRecycle is seeking to clarify the phrase.
- Proposed definition:  
“Uses covered material” and “using covered material” means is covered material or is wholly or partially composed of covered material.

# PD Item 3 – Definition of "Uses Covered Material" (2)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed definition of the phrase *Uses covered material*.



# PD Item 4 – Definition of Terms Related to "Brand" or "Trademark"

- The definition of producer uses the term “brand” and "trademark." CalRecycle is seeking to clarify this terminology.
- Part I: Proposed Definition of "Brand" or "Trademark"  
"Brand or "trademark" means a trademark or service mark, as those terms are defined in California Business and Professions Code § 14202(a) and (b).

# PD Item 4 – Definition of Terms Related to "Brand" or "Trademark" (2)

## Informational Item:

BPC 14202

(a) "Trademark" means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of that person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if that source is unknown.

(b) "Service mark" means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of that person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

# PD Item 4 – Definition of Terms Related to "Brand" or "Trademark" (3)

- Part II: Proposed definition of “use” or “used” with respect to trademark or service mark.

“Use” or “used” means, with respect to a trademark or service mark, use of a trademark or service mark on goods or services as described in California Business and Professions Code § 14202(h). For purposes of § 42041(w)(1) and (w)(2), commercial activity involving goods and services is deemed under a brand or trademark when the brand or trademark is used on such goods and services.

# PD Item 4 – Definition of Terms Related to "Brand" or "Trademark" (4)

## Informational Item:

BPC 14202(h)

“Use” means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For the purposes of this chapter, a mark shall be deemed to be in use if it is used on either of the following:

- (1) On goods when it is placed in any manner on the goods or other containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes that placement impracticable, then on documents associated with the goods or their sale, and the goods are sold or transported in commerce in this state.
- (2) On services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.

# PD Item 4 – Definition of Terms Related to "Brand" or "Trademark" (5)

- Part III: Proposed definition of “used in a commercial enterprise” with respect to products.
  - “Used in a commercial enterprise” means, with respect to a physical good, directly associated with commercial activity, regardless of whether any brand or trademark is used (as defined in this section) on the physical good itself.”

# PD Item 4 – Definition of Terms Related to "Brand" or "Trademark" (6)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed definitions.

# PD Item 5 – Definition of "in the State" (1)

- SB 54 uses the term "in the state." CalRecycle is seeking to clarify the phrase.
- Proposed definition:

“In the state,” as that term is used in PRC §§ 42040 – 42084 with respect to a person, means that service of process, excluding service by publication and any other manner of service requiring a court order, on the person may be completed in the state or in any other state pursuant to the Code of Civil Procedure sections 413.10 – 417.40 (Article 1 of Chapter 4 of Title 5 of Part 2 of the CCP) or California Corporations Code § 2110 and the person is subject to jurisdiction of California courts pursuant to CCP § 410.10 based on the manufacture, sale, offer of sale, or distribution in the state of products using covered material.

# PD Item 5 – Definition of "in the State" (2)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed definitions of the phrase *In the State*.



# Part V. Producer Responsibility Plan

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**Department of Resources Recycling and Recovery,  
Packaging EPR Section**

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**Marcus Santillano**  
Program Manager

# Overview of Session

## Part I

- Review on previously workshopped topics

*Follow along using the  
Discussion Document*



## Part II

- Regulatory Concepts

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# Overview of Previous Producer Responsibility Plan Topics

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# Producer Responsibility Plan Topic Review

The Department has previously workshopped Producer Responsibility Organization and Independent Producers topics. Please refer to the following discussion documents:

- March Workshop
  - [Discussion document pertaining to the Producer Responsibility Organization](#)
- June Workshop
  - [Discussion document pertaining to Independent Producers](#)

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# Definitions

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*Note: Unless specified, CalRecycle is not currently seeking stakeholder feedback on definitions.*

# 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

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# Regulatory Concepts

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# Regulation Concept Discussion Items

- Item 1 – Producer Responsibility Plan Implementation

# PRP Item 1 – Producer Responsibility Plan Implementation

- CalRecycle proposes to promulgate regulations to specify what information is required in a producer responsibility plan, building off of requirements specified in PRC 42051.1.
- This concept intends to provide the full list of components required in a producer responsibility plan, but also includes concepts developed in the March SB 54 workshop.
- The concepts from the March workshop have been included in this concept along with revisions based on feedback received.
- CalRecycle is seeking feedback on this entire concept as a whole, which identifies the current requirements for a producer responsibility plan, including specific requirements for the PRO and IP's.

# PRP Item 1 – Producer Responsibility Plan Implementation (2)

## Section 1 – Producer Responsibility Plan Implementation:

A PRO or Independent Producer shall develop a producer responsibility plan that includes the following:

- (a) A source reduction plan required pursuant to Section 42057.
  - (1) For any covered material that is not reasonably anticipated 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.
- (b) Technologies and means that will be utilized to achieve recycling requirements. The plan shall include but not limited to the following:
  - (1) How it is used.
  - (2) The covered materials recycled by the technology.
  - (3) The level of contamination the technology is able to tolerate.

# PRP Item 1 – Producer Responsibility Plan Implementation (3)

- (4) The list of overall inputs, including chemicals used (if applicable)
- (5) The end products, including the amount of by-products, or residuals produced by the technology, and the destination of those products (i.e., further processing, landfill disposal).
- (6) Current operational status, including location of proposed and current sites.
- (7) Potential environmental impacts to disadvantaged, low-income or rural communities.
- (8) How efficient the technology is in achieving recycling rates.
- (9) Information on financial viability and capacity.
- (10) Cost effectiveness.

# PRP Item 1 – Producer Responsibility Plan Implementation (4)

- (11) Operational and performance history, including violations or other forms of enforcement action taken against it.
- (12) Demonstration that the means and technologies meet the conditions specified in the definition of “recycle” or “recycling” pursuant to PRC Section 42041(aa).
- (13) Any other information requested by the Department.

# PRP Item 1 – Producer Responsibility Plan Implementation (5)

(c) Objective and measurable criteria whenever possible. The plan shall describe the following:

(1) How the requirements of this chapter will be met, including but not limited to:

(A) How it will, in an economically efficient and practical manner, provide for the necessary infrastructure and viable responsible end markets to ensure the covered material will achieve the requirements of Section 42050 based on the needs assessments.

# PRP Item 1 – Producer Responsibility Plan Implementation (6)

- (2) How the PRO or Independent Producer will support and achieve, and how the budget will fund, the collection, processing, recycling, or composting of, and the development of viable responsible end markets for, covered materials to meet the requirements of this chapter, including but not limited to:
- (A) Actions necessary to sort, segregate, break or flake, and process material to specifications for sale to a responsible end market.
  - (B) For purposes of this paragraph, “specifications” means the third-party purchasing specifications issued by a buyer or buyers of recycled materials for reprocessing into a new product.
- (3) How the plan is supplemental to, and not in conflict with, disruptive of, or adversely affecting, the performance of the solid waste network providing services in accordance with local solid waste handling requirements and the intent described in PRC Section 40004.

# PRP Item 1– Producer Responsibility Plan Implementation (7)

- (4) How the PRO or Independent Producer will leverage and utilize existing collection programs and recycling, composting, sorting, and processing infrastructure.
- (5) Except as specified in subdivisions (b), (c), (d), and (e) of PRC Section 42060.5, how the plan will be implemented in a manner utilizing solid waste collection programs and solid waste facilities as the designated system for the curbside collection and processing of covered material.
- (6) In accordance with Section 40059, how the plan and the activities undertaken pursuant to the plan will be implemented in compliance with state and local laws, rules, and regulations applicable to solid waste handling and in a manner that does not violate existing franchise agreements.



# PRP Item 1 – Producer Responsibility Plan Implementation (8)

- (7) How covered material will be collected, processed, and managed, and recycled, remanufactured, or composted, consistent with the goals, standards, and practices required by this chapter, including ensuring covered material collected for recycling will be transferred to viable responsible end markets for processing into new packaging or products, including, but not limited to, how the plan will enhance or expand viable responsible end markets in California including manufacturing.
- (8) Arrangements with processors or recyclers to ensure that covered materials that are not collected through a curbside collection program are collected and recycled at a viable responsible end market, including any investment that will be made to cover the cost of the covered material being processed or recycled by processors or recyclers.

# PRP Item 1 – Producer Responsibility Plan Implementation (9)

- (9) Arrangements to establish and fund reuse or refill infrastructure, fund facility retrofits, or other needed infrastructure to eliminate plastic covered material, shift covered material from plastic to a nonplastic covered material category, or any other actions taken, or that will be taken, to implement the source reduction requirements pursuant to PRC Section 42057.
- (10) How postconsumer recycled content will be incorporated into covered material, including the amounts of postconsumer recycled content.
- (11) How the plan will be implemented in a manner consistent with the waste hierarchy established in Section 40051.

# PRP Item 1 – Producer Responsibility Plan Implementation (10)

- (d) Efforts to use education and promotion to encourage proper participation in recycling and composting collection and reuse and refill systems. The PRO or Independent Producer 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.

# PRP Item 1 – Producer Responsibility Plan Implementation (11)

- (5) 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:
- (A) Information of how covered material, by covered material category, should be recycled or composted within a person's local jurisdiction.
  - (B) List of authorized entities who collect covered material.

# PRP Item 1 – Producer Responsibility Plan Implementation (12)

- (6) The program should lead to ultimate consumer awareness and accessibility. The program should educate and encourage consumers to reduce waste and proper sortation of covered materials when recycling, composting, or disposing.
- (7) 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.
- (8) 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.

# PRP Item 1 – Producer Responsibility Plan Implementation (13)

- (9) How the performance of the education and outreach program is being measured, which shall include but not be limited to, metrics to evaluate performance of the comprehensive education and outreach program, including, ultimate user awareness, program usage, and accessibility
- (10) To the extent possible, develop materials in collaboration with other entities including but not limited to, local jurisdictions, and trade associations
- (e) 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).

# PRP Item 1 – Producer Responsibility Plan Implementation (14)

- (1) The plan shall include a process to resolve disputes for determining and paying the reasonable costs pursuant to paragraph (1) that arise between the PRO and a local jurisdiction or a recycling service provider. This process shall be reviewed by the advisory board to ensure the PRO or Independent Producer covers costs related to this chapter and shall become effective upon plan approval by the department.
- (f) Source reduction data specified in subdivision (c) of Section 42057.
- (g) Consideration of the needs assessment and any recommended investments to meet the needs identified in the needs assessments and inform the budget.
  - (1) The budget shall not propose investing in activities in violation of Section 40004 or an agreement entered into pursuant to PRC Section 40059 and shall include a mechanism to disburse funds for identified activities.

# PRP Item 1 – Producer Responsibility Plan Implementation (15)

- (2) The budget may include, but shall not be limited to, elements that will accomplish all of the following:
- (A) Expanding access to or improvement of curbside collection services wherever feasible.
  - (B) Expanding access to drop-off recycling services or other mechanisms where curbside collection services are not feasible, or as necessary in order to supplement curbside collection services to achieve the requirements of this chapter.
  - (C) Expanding access to collection services in public spaces.



# PRP Item 1 – Producer Responsibility Plan Implementation (16)

- (D) Providing or facilitating deployment of innovative enhanced collection, composting, and recycling systems and innovative recycling systems within a recycling center or MRF that utilizes advanced technology, such as artificial intelligence and robotics, to improve the identification and sorting of covered materials, where feasible.
- (E) Creation of on-premises access to recycling or composting services for multifamily residences.
- (F) Funding, providing, or facilitating the efficient transport of materials from remote or rural areas to centralized sorting facilities, brokers, or viable responsible end markets.

# PRP Item 1 – Producer Responsibility Plan Implementation (17)

- (G) Enhancing existing materials recycling or composting infrastructure by developing a quality incentive payment, grants, and other mechanisms sufficient to cover the cost of separating, processing, baling, recycling, composting, remanufacturing, and transporting desired materials that meet viable responsible end market quality specifications, or for reducing the rate of inbound contamination to composting facilities.
- (H) Infrastructure or other mechanisms needed to implement a source reduction plan, including, but not limited to, investments in reuse, refill, and composting infrastructure.
- (I) Infrastructure or other activities needed to achieve recycling rates for all covered material under the plan and ensure covered material is recyclable or compostable.

# PRP Item 1 – Producer Responsibility Plan Implementation (18)

- (3) In developing the budget, the PRO or Independent Producer may delineate investments the PRO or Independent Producer will make based on covered material categories.
- (h) The plan shall include a budget designed to fully fund the costs necessary to implement this chapter.
  - (1) 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.

# PRP Item 1 – Producer Responsibility Plan Implementation (19)

(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.

# PRP Item 1 – Producer Responsibility Plan Implementation (20)

- (C) Reimbursing costs incurred by department and the California Department of Tax and Fee Administration.
- (D) Administering the PRO or Independent Producer.
- (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.

# PRP Item 1 – Producer Responsibility Plan Implementation (21)

(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 or Independent Producer 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.

# PRP Item 1 – Producer Responsibility Plan Implementation (22)

- (C) To compensate a person whose position is primarily representing the PRO, or Independent Producer 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 or Independent Producer 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.

# PRP Item 1 – Producer Responsibility Plan Implementation (23)

(3) A PRO or Independent Producer 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.

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



# PRP Item 1 – Producer Responsibility Plan Implementation (24)

- (B) If a PRO's or Independent Producer's reserves exceed the amount specified in subparagraph (A) or (B), the department may require the PRO or a participant producer, or an Independent Producer to increase spending on implementing the requirements of this chapter.
- (i) Consistent with subdivision (I), the PRO, or a participant producer of the PRO, or an Independent Producer may rely on a range of means to collect and recycle or compost various categories of covered materials that are not collected and recycled or composted through a curbside collection program, including, but not limited to, dropoff recycling services and retailer take-back.
- (j) Curbside recycling and composting collection for covered materials under any of the following circumstances:
  - (1) The category of covered materials can be made suitable for curbside collection and can be effectively sorted by the facilities receiving the curbside collected material for recycling or composting.

# PRP Item 1 – Producer Responsibility Plan Implementation (25)

- (2) The recycling facility providing processing and sorting service, in consultation with the local jurisdiction, agrees to include the category of covered materials as an accepted material for recycling or composting and agrees to collect and sort the material in a manner that achieves the quality necessary for recycling and remanufacturing or composting.
- (3) The provider of the curbside collection and recycling or composting service agrees to the costs arrangement.
- (4) Additionally, for the PRO:
  - (A) If a MRF chooses to send material to another sorting facility for additional sorting and recycling of covered materials, the PRO shall provide the initial MRF a rebate based on criteria the PRO shall develop to cover transportation costs of the covered materials provided the covered material is free of toxic or hazardous materials.

# PRP Item 1 – Producer Responsibility Plan Implementation (26)

- (k) The PRO or Independent Producer shall ensure that the plan implementation avoids or minimizes negative environmental or public health impacts on disadvantaged or low-income communities or rural areas and vulnerable communities outside the state.
- (l) Identify all responsible end markets covered material is sent, and for each responsible end market, provide information including but not limited to:
  - (1) Name of entity.
  - (2) Address of entity.
  - (3) Name of a representative of the entity.
  - (4) Contact information of the representative.
  - (5) Description of the entity, including the type of business the entity is.

# PRP Item 1 – Producer Responsibility Plan Implementation (27)

- (6) List of local, state, and federal laws and international treaties that apply to the entity.
- (7) List of permits, licenses, or other clearances held by the entity.
- (8) Description of how this entity meets the criteria for being deemed a Responsible End Market pursuant to this chapter.
- (9) A summary of any violations or enforcement history the entity has had in the past five years prior to the submission of the plan.
- (10) For the PRO:
  - (A) The list of producers registered with the PRO that are sending covered material to this responsible end market.

# PRP Item 1 – Producer Responsibility Plan Implementation (28)

## Section 2 – Producer Responsibility Plan Requirements specific to the PRO:

A PRO shall in addition to the requirements specified in Section 1, include in their Producer Responsibility Plan the following:

(a) 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.

(b) A fee for participants of the PRO consistent with the provisions of Section 42053, set forth the calculation of the fee, and describe the process through which the PRO will collect the fee from producers that are participants of the PRO's approved plan. This shall include but not be limited to:

(1) A description of the fee structure and a schedule of the fees actually charged to producers who are participants of a PRO's approved plan.

# PRP Item 1 – Producer Responsibility Plan Implementation (29)

(2) A fee schedule for each producer and shall annually charge each producer the total amount identified in the fee schedule once the plan is approved. The fee schedule shall include:

- (A) The base fee for the producer, as described in subdivision (c).
- (B) Any additional malus fees charged to the producer.
- (C) Any credits awarded to the producer.
- (D) The producer's contribution to covering the administrative costs of the PRO.
- (E) The producer's contribution to reimburse the department.
- (F) The producer's contribution towards reimbursing costs to department incurred through administering the advisory board.
- (G) The producer's contribution to the California Plastic Pollution Mitigation Fund, pertaining to Section 42064 of the Public Resources Code.
- (H) Any other costs identified in the PRO's budget.

# PRP Item 1 – Producer Responsibility Plan Implementation (30)

(c) 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.

(d) Specific measures to ensure that producers participating in the plan comply with the requirements of the plan and this chapter. Those measures shall include, at a minimum, all of the following elements:

- (1) Adequate incentives for compliance, including, but not limited to, fees for failing to provide accurate and timely information required to be provided to the PRO or otherwise materially violating requirements of the plan or this chapter. Notwithstanding the PRO's assessment of a fee, the department may take enforcement action pursuant to Article 5 (commencing with Section 42080) against individual producers or the PRO in violation of this chapter.

# PRP Item 1 – Producer Responsibility Plan Implementation (31)

- (2) Protocols to ensure that the PRO becomes aware, within a reasonable time, of producers' violations of the requirements of the plan or this chapter.
- (3) Criteria for determining when a producer's performance merits terminating the producer's participation in the PRO's plan, and a process for making that determination.
- (4) Record maintenance protocols requiring the PRO to maintain records sufficient to demonstrate whether each producer participating in the plan has complied with the requirements of the plan and this chapter for at least the previous three years. Those protocols shall ensure that all records remain reasonably accessible by the department upon request.
- (5) The plan shall include the specific data information required under subdivision (c) of Section 42057.



# PRP Item 1 – Producer Responsibility Plan Implementation (31)

- (2) Protocols to ensure that the PRO becomes aware, within a reasonable time, of producers' violations of the requirements of the plan or this chapter.
- (3) Criteria for determining when a producer's performance merits terminating the producer's participation in the PRO's plan, and a process for making that determination.
- (4) Record maintenance protocols requiring the PRO to maintain records sufficient to demonstrate whether each producer participating in the plan has complied with the requirements of the plan and this chapter for at least the previous three years. Those protocols shall ensure that all records remain reasonably accessible by the department upon request.
- (5) The plan shall include the specific data information required under subdivision (c) of Section 42057.

# PRP Item 1 – Producer Responsibility Plan Implementation (32)

## Section 3 – Producer Responsibility Plan Requirements specific to Independent Producers:

An Independent Producer shall in addition to the requirements specified in Section 1, include in their Producer Responsibility Plan the following:

- (a) A source reduction plan that meets all of the applicable requirements of a PRO source reduction plan prepared in accordance with subdivision (d) of Section 42057, including, but not limited to, the review, update, and approval process.
- (b) How the Independent Producer will fully cover the costs associated with implementing this chapter to the same extent as any other producer participating in a PRO based on the producer's share of covered material.

# PRP Item 1 – Producer Responsibility Plan Implementation (33)

## **Request for Feedback:**

CalRecycle is seeking feedback on the proposed regulatory concepts pertaining to the Producer Responsibility Plan, including the overall plan requirements, requirements specific to the PRO and Independent Producers.

# Part VI. Data Reporting

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**Department of Resources Recycling and Recovery,  
Packaging EPR Section**

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**Burke Lucy**  
Environmental Scientist

# Overview of Session

## Part I

- Background and Informational Items

## Part II

- Regulatory Concepts

*Follow along using the  
Discussion Document*



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# Definitions

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*Note: Unless specified, CalRecycle is not currently seeking stakeholder feedback on definitions.*

# Definitions

- Local Jurisdiction – PRC 42041(I)
- Producer – PRC 42041 (w)
- Producer Responsibility Organization or PRO – 42041(x)
- Retailer or Wholesaler – 42041(ae)

# Local Jurisdiction – PRC 42041(I)

“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.



# 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 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.

# Retailer or Wholesaler – PRC 42041(ae) cont.

- (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.

(Continued on Next Slide)

## Retailer or Wholesaler – PRC 42041(ae) cont.

(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.

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# Overview of SB 54 Impacts on Data Reporting

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# Independent Producers – PRC 42051(b)(2)(B)(iii)

Annually report sales, recycling, composting, and source reduction data to the department.

# PRO Annual Report – PRC 42052(a)

A PRO shall register in the department's Recycling and Disposal Reporting System, or an alternative reporting system established by the department, and annually submit to the system all of the following information on behalf of each producer who participates in the PRO's approved plan:

- (1) The aggregate quantities in total weight and the number of plastic components of covered material, by covered material category and by type of plastic component, manufactured, sold, distributed, or imported in or into the state, as the department deems necessary to determine compliance with this chapter in a form, manner, and frequency determined by the department pursuant to paragraph (2) of subdivision (a) of Section 42060.



# PRO Annual Report – PRC 42052(a) cont.

(2) The aggregate quantities in total weight and number of plastic components, of covered material by covered material category recycled as the department deems necessary to determine compliance with this chapter in a form and manner determined by the department pursuant to paragraph (2) of subdivision (a) of Section 42060.

(3) For covered material not collected through a curbside collection program, the PRO shall collect, validate, and submit to the system data demonstrating take-back and dropoff and alternative collection and recycling program performance, including the amount and type of covered materials collected.

(4) Any additional information deemed necessary by the department to collect and report data pursuant to subdivision (a) of Section 42060.

# PRO Annual Report – PRC 42051.3(a)(3) cont.

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.

# PRO Annual Report – PRC 42051.3(a)(3) cont.

- (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.

# PRO Plan, Plan Update or Annual Report – PRC 42057(c)

As part of any producer responsibility plan, plan update, or annual report submitted to the department, the PRO shall report the following data, disaggregated by each participant producer:

- (1) The amount of plastic covered material and products sold in plastic covered material, including the number of plastic components and weight of plastic covered material, sold, offered for sale, or distributed in the state.
- (2) The number of plastic components and the weight of plastic covered material shifted to a refillable or reusable packaging or food service ware.
- (3) The number of plastic components and the weight of plastic covered material eliminated.

## PRO Plan, Plan Update or Annual Report – PRC 42057(c) cont.

- (4) The number of plastic components and the weight of plastic covered material shifted from a plastic covered material to a nonplastic covered material.
- (5) The number of plastic components and the weight of plastic covered material reduced through concentration, right-sizing, and shifting to bulk or large format packaging that allows consumers to refill home or commercial reusable containers.
- (6) The amount of postconsumer recycled content used compared to virgin plastic in covered material.

# Source Reduction Plans – PRC 42057(d)

(d) Producers who are members of the PRO shall submit to the PRO individual source reduction plans that include both of the following:

- (1) In the first individual producer source reduction plan, the producer shall include any amount of covered material, by number of plastic components and weight of covered material, the producer source reduced since January 1, 2013.
- (2) The amount of plastic covered material, by number of plastic components and weight of plastic covered material, the producer plans to source reduce by January 1, 2027, January 1, 2030, and January 1, 2032. The producer shall describe how much will be source reduced in each of the following ways:
  - (A) The number of plastic components and the weight of plastic covered material shifted to a refillable or reusable package.

# Source Reduction Plans – PRC 42057(d) cont.

- (B) The number of plastic components and the weight of plastic covered material eliminated.
- (C) The number of plastic components and the weight of plastic covered material shifted from a plastic covered material to a nonplastic material.
- (D) The number of plastic components and the weight of covered material source reduced through concentration, right-sizing, lightweighting, and shifting to bulk or large format packaging that allows consumers to refill home or commercial reusable containers.
- (E) The amount of postconsumer recycled content used compared to virgin plastic in covered material.

# Recycling Rates

- In determining a recycling rate, the department may consider data and information received from producers and by the department. – PRC 42061(b)(2)(H) and (I)
- A producer may be required to submit data to the department when requesting a rate be included or changed on the list, or a covered material category added to the list. – PRC 42061(f)(3)
- Starting in 2026 and every two years after, the department will review relevant data to assess whether the recycling rate needs to be adjusted. – PRC 42062(a)



# Miscellaneous Data Requirements

- Each producer in the state shall file its primary business address with the department in a manner prescribed by regulation. Each producer shall notify the department of any change in their business address within 30 days. A PRO may satisfy the requirements of this subdivision on behalf of a producer by including the producer's primary business address in a plan, update, or annual report per PRC 42051.3(a)(3)(B) or otherwise notifying the department of the address and any changes of address. – PRC 42051(c)
- The PRO plan shall include specific measures to ensure that producers participating in the plan comply with the requirements of the plan and statute including record maintenance protocols requiring the PRO to maintain records sufficient to demonstrate whether each producer participating in the plan has complied with the requirements of the plan and statute for at least the previous three years. Those protocols shall ensure that all records remain reasonably accessible by the department upon request. – PRC 42051.1(m)(4)

# Miscellaneous Data Requirements (2)

- 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. – PRC 42051.2(b)(5) and PRC 42063(c)
- To determine if a producer complies with statute during an audit, the department determines the form and manner that a producer or PRO shall maintain records of covered materials offered for sale, sold, distributed, or imported in or into the state. – PRC 42052(d)

## Miscellaneous Data Requirements (3)

- The department shall request data consistent with established covered material categories. – PRC 42060(a)(2)(C)(i)
- 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 statute. – PRC 42060(a)(2)(C)(ii)

# Miscellaneous Data Requirements (4)

- 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 – PRC 42060(a)(2)(D)
- Market-sensitive trade secret data received by the department pursuant to this chapter shall be held confidentially by the department as required by Section 40062 and any implementing regulations, provided that the furnisher of the data complies with the requirements set forth in subdivision (b) of Section 40062 and any implementing regulations for identifying the information claimed to be a trade secret. – PRC 42060(a)(2)(E)

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# Regulatory Concepts

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# Regulatory Concepts

- Item 1: Registration and reporting requirements
- Item 2: Recordkeeping and data requirements

# DR Item 1: Registration and reporting requirements

## PRC 42052(a)

A PRO shall register in the department's Recycling and Disposal Reporting System, or an alternative reporting system established by the department, and annually submit to the system all of the following information on behalf of each producer who participates in the PRO's approved plan.

# DR Item 1: Registration and reporting requirements (2)

## **Article 9.25. Recycling and Disposal Reporting System**

### Overlap with SB 54 Requirements

- § 18815.3. Registration, Reporting and Exemptions.
- § 18815.4. Reporting Requirements for Haulers.
- § 18815.5. Reporting Requirements for Transfer/Processors.
- § 18815.6. Reporting Requirements for Disposal Facilities.
- § 18815.7. Reporting Requirements for Recycling and Composting Facilities and Operations.
- § 18815.8. Reporting Requirements for Brokers and Transporters.
- § 18815.9. Methods.
- § 18815.11. Record Retention Requirements for a Reporting Entity.
- § 18815.12. Confidentiality of Reports and Records and Record Review Requirements for a Reporting Entity.
- § 18815.13. Complaints Regarding Non-Compliance.



# DR Item 1: Registration and reporting requirements (3)

## **Article 9.25. Recycling and Disposal Reporting System**

### No Overlap with SB 54 Requirements

- § 18815.1. Scope and Purpose.
- § 18815.2. Definitions.
- § 18815.10. Procedure for Imposing Civil Liabilities.

# DR Item 1: Registration and reporting requirements (4)

CalRecycle proposes the following regulations:

- a) An independent producer, producer, retailer, wholesaler and PRO operating on behalf of a producer, retailer or wholesaler, hereby known as reporting entity for this section, shall register with the department pursuant to 42051(c) and meet reporting requirements pursuant to Chapter 3, Part 3, Division 30 of the Public Resources Code.
- b) The reporting entity shall file its primary business address with contact information for the primary and secondary contact with the department in a format determined by the department, by January 1, 2027, pursuant to PRC 42051(c).
  - (1) Contact information includes, but is not limited to, name, title, business name, mailing address, physical address, phone number, and email address.

# DR Item 1: Registration and reporting requirements (5)

- c) A reporting entity who begins operation, or changes activities such that reporting is required, after January 1, 2027, shall register with the department within six (6) months of being subject to the reporting requirements per subsection (a) and begin reporting for the following reporting cycle.
- d) Upon the date a producer, retailer, or wholesaler no longer participates in the PRO's approved plan, the PRO shall notify the department within 30 calendar days pursuant to Section PRC 42051(d), and either:
  - (1) Request that their reporting system registration status become permanently inactivated.
  - (2) Transfer their registration to the appropriate reporting entity identity as applicable.

# DR Item 1: Registration and reporting requirements (6)

- e) Registered reporting entities whose activities have permanently changed such that they no longer meet the reporting requirements outlined in this section, they may request that the department permanently inactivate their reporting system registration.
  - 1) In that request, the reporting entity shall demonstrate to the department why they no longer should be registered. The burden of proof shall be on the reporting entity.
  - 2) The department shall act on a request within 60 days.
  - 3) A reporting entity shall continue to report until and unless the department permanently inactivates the reporting entity from the reporting system registration.

# DR Item 1: Registration and reporting requirements (7)

- f) Registered reporting entities that are exempt from the registration and reporting requirements pursuant to PRC 42060(a)(5) may request that the department permanently inactivate their reporting system pursuant to paragraph (1) through (3) of subsection (e) in this section.
- g) Reporting entities shall commence filing reports using the department's reporting system on or before August 1, 2026, and on or before August 1 each year thereafter for the period covering the entire previous calendar year in a format and platform determined by the department.

# DR Item 1: Registration and reporting requirements (8)

(h) A registered reporting entity shall file a report for each reporting period using the department's reporting system and ensure that the information they submit is accurate and complete.

- (1) A reporting entity shall use information available at the time the report is due.
- (2) If the reporting entity has not received the required information from a person, either directly or through the department's reporting system, then the reporting entity shall submit all available information in their report to the department and identify the reporting entities who have not provided them with the required information.

# DR Item 1: Registration and reporting requirements (9)

- (i) Each report to the department shall include:
  - (1) Updated contact information of the person submitting the report if different from subsection (b)
  - (2) Data as required per the Data Requirements of [DR Item #2]
    - (A) If a reporting entity identifies an error in a previously submitted report, then they shall notify the department within 30 calendar days pursuant to PRC 42051(d)(1) and correct the error, unless additional time is necessary to correct the error. In no case shall the corrections be delayed more than an additional 14 days, unless agreed to by the department.
    - (B) If the data is not complete, the department will act accordingly pursuant to PRC 42051.3(b)(1)
    - (C) If the department requests additional data, a producer or PRO shall respond within 14 calendar days to the request and the department will act accordingly pursuant to PRC 42052(c).

# DR Item 1: Registration and reporting requirements (10)

(j) Reports shall be submitted in a frequency determined by the department pursuant to subsection (c) and (d) of section [DR Item #2]

(1) If the report due date is a weekend or holiday, the reporting entity shall submit the report on the next business day.



# DR Item 1: Registration and reporting requirements (11)

## **Request for Feedback:**

CalRecycle is seeking feedback on the need for an alternative reporting system and the registration and reporting requirements. CalRecycle is also seeking feedback on whether the RDRS requirements specified above would overlap with SB 54 requirements or not.

# DR Item 2: Recordkeeping and data requirements

- SB 54 outlines what types of data should be reported annually by the PRO, retailers, wholesalers, and independent producers.
- CalRecycle would like to promulgate regulations to include:
  - Additional data points
  - Increase the reporting requirements
  - Specify a record retention policy

# DR Item 2: Recordkeeping and data requirements (2)

Recordkeeping and Data Requirements proposal:

- a. Independent producers, retailers, and wholesalers, or a PRO operating on behalf of a producer, retailer, or wholesaler, shall keep the following records:
  - (1) Data as specified in PRC 42051(b)(2)(B), 42051.1(m), 42051.3(a)(3), 42052(a), and 42057(c)
  - (2) In addition to the amount and type of covered materials collected as stated in PRC 42052(a)(3), the covered material category shall be included.
  - (3) Amount of material accepted at a responsible end market (workshopped in June as a 'defined stream.')
  - (4) Amount of raw material to determine amount reclaimed (workshopped in June.)

## DR Item 2: Recordkeeping and data requirements (3)

(5) Amount of material disposed at a responsible end market.

(6) Amount of material sent to a facility that is not a responsible end market.

(7) Complaints received by the PRO from producers, responsible end markets, local jurisdictions, advisory board and interested parties.

(A) Complaint records shall include name, address, location, and description of complaint unless complaint was made anonymously.

(B) Complaint records shall include how the PRO processed, addressed or resolved the complaint.

(b) A reporting entity shall maintain the documentation described in this section in a usable format, either electronically or on paper.

## DR Item 2: Recordkeeping and data requirements (4)

(c) Data as listed in subsection (a) shall be submitted to the department annually on or before August 1, 2026, and on or before August 1 each year thereafter for the period covering the entire previous calendar year in a format and platform determined by the department.

(1) Whenever there is a plan update or an amendment to the plan, data as required by this section shall be submitted to the department.

(d) Data as listed in paragraph (3) through (6) of subsection (a) in this section shall be reported to the department quarterly in a format and platform determined by the department.

## DR Item 2: Recordkeeping and data requirements (5)

(e) All records required by this article shall be kept in one location and accessible for three (3) years and shall be made available for inspection by the department during normal hours.

(f) The independent producer, or a producer, retailer, wholesaler or a PRO operating on behalf of a producer, retailer, or wholesalers shall submit copies of specified records to the department upon request or at a frequency approved by the department.

# DR Item 2: Recordkeeping and data requirements (6)

## **Request for Feedback:**

CalRecycle would like feedback on the recordkeeping and reporting requirements for producers, independent producers, retailers, wholesalers, and the PRO.

# Recap

- **Topic I: Recycling Rate**
- **Topic II: Compostable Materials**
- **Topic III: Reusable/Refillable**
- **Topic IV: Producer Definition**
- **Topic V: Producer Responsibility Plan**
- **Topic VI: Data Reporting**



# Opportunity for Written Feedback

- Written feedback or questions may be submitted after the workshop to [packaging@calrecycle.ca.gov](mailto: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 (last page of the Discussion Document for each topic)
- We request all written feedback be submitted by **August 8, 2023**.

# Break

**Please return by:  
1:00 PM**