

# **Plastic Pollution Prevention and Packaging Producer Responsibility Act Solicitation of the Producer Responsibility Organization**

## **Purpose**

The Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54, Allen, Chapter 75, Statutes of 2022, Public Resources Code (PRC) Section 42070) requires the Department of Resources Recycling and Recovery (CalRecycle) to select a nonprofit organization to serve as the producer responsibility organization (PRO). Interested organizations are to submit applications to the department by January 1, 2024. This document briefly describes the statutory requirements of the PRO, the general timeline for the application and selection process, and the information on how an organization can apply to be the PRO.

## **Responsibilities of the PRO**

The responsibilities for the PRO are specified in Article 2 of the statute (PRC 42050 to PRC 42057). Listed below is a brief summary of the duties the PRO must conduct (note: this list is not comprehensive):

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

- Develop a closure or transfer plan should the producer responsibility plan be revoked or the PRO dissolves.
- Develop and implement a source reduction plan and submit specified data.
- Report information regarding noncompliance by a participant producer.

### **Minimum Qualifications for a PRO**

Any organization that is seeking to serve as the PRO must demonstrate the following:

- Pursuant to PRC 42041(x), the organization must be exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code of 1986.
- Pursuant to PRC 42061.5(a)(1), the organization must demonstrate to CalRecycle that its governing board consists of producers that represent the diversity of covered material placed in the market by those entities and that the board also includes nonvoting members with representation of material trade associations and companies if those material types are covered by the organization.
- Pursuant to PRC 42061.5(a)(2), the organization must demonstrate to CalRecycle that it has adequate financial responsibility and financial controls in place, such as fraud prevention measures and an audit schedule.

### **Application Instructions**

CalRecycle has developed the following [website](#), which allows organizations to electronically submit their application. Applicants can download the application form, electronically fill out the application form and save their application as a PDF, and upload the PDF document, along with all other required supporting documentation, through the online application platform.

All application materials are deemed public records, pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). To promote transparency, CalRecycle will be making portions of the application publicly available. To help facilitate the process, CalRecycle requests applicants to ensure the following:

- All documents are in compliance with GOV 7405 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.
- Identify information that is deemed confidential and explain why the information should be kept confidential.

### **Timeline**

Applications are due to CalRecycle by January 1, 2024 at 11:59 PM. This is a statutory deadline, specified by PRC 42051(a). Thus, CalRecycle cannot grant any extensions or modifications to the deadline.