

SB 54 Informational Session

Producer Responsibility Organization Application

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

Department of Resources Recycling and Recovery (CalRecycle)

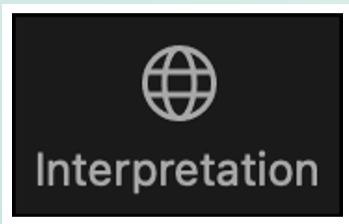
October 12, 2023



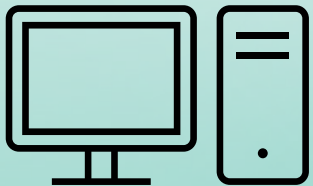
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Agenda

Opening Remarks

Karen Kayfetz, Branch Chief of the Product Stewardship Branch

Topic I: Statutory Overview of the Producer Responsibility Organization

Priya Balasubramaniam, Senior Environmental Scientist (Supervisor),
Packaging EPR Section

Topic II: PRO Application Overview

Grant S. Hisao, Senior Environmental Scientist (Specialist),
Packaging EPR Section

Part I: Statutory Overview of the Producer Responsibility Organization (PRO)

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

Priya Balasubramaniam
Senior Environmental Scientist (Supervisor)

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 Organization – PRC 42051(a)

By January 1, 2024, producers of covered material shall form and join a PRO for the purposes of complying with this chapter.

The governing body of the PRO shall submit an application to the department describing how the PRO meets the requirements to be an approved PRO pursuant to this chapter, as described in Section 42061.5.

If the department approves the PRO, the PRO shall proceed to carry out the requirements of this chapter.

If applications for more than one PRO are submitted to the department by January 1, 2024, the department shall determine which proposed PRO can most effectively implement this chapter.

Responsibilities of the PRO (PRC 42050- 42057)-1

- Develop and submit a producer responsibility plan and annual budget.
- Submit annual reports to the department describing
 - How the PRO is implementing the plan
 - How the PRO has complied with the requirements of the statute and regulations
- Register with CalRecycle's reporting system and report specified data
- Maintain records of
 - Covered material offered for sale, sold, distributed, or imported into the state
 - Minutes, books and records of the activities and transactions of the PRO
- Provide contact information of participant producers if requested by the department

Responsibilities of the PRO (PRC 42050- 42057)- 2

- Have an annual audit of the PRO's books and provide a copy of the audit to the department for review.
- Set fees for participant producers to fund the budget and pay
 - The California Circular Economy Administrative Fee
 - 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

Responsibilities of the PRO (PRC 42050- 42057)-3

- Establish a trust fund or escrow account to deposit unexpended funds which would be used if
 - The PRO's plan terminates or is revoked
 - 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 non-compliance by a participant producer

Minimum Qualifications of a PRO

- 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.

Part II: PRO Application Overview

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

Grant S. Hisao

Senior Environmental Scientist (Specialist)

Background on the PRO Application

- Pursuant to PRC 42051(a), CalRecycle is required to receive applications for prospective PROs.
- CalRecycle has developed an online application to facilitate this process.
- In this presentation, we'll go through:
 - Application form
 - Required supporting documents
 - General requests and expectations from applicants

Application Process

- URL to PRO Application Page:

<https://calrecycle.ca.gov/packaging/packaging-epr/pro-application/>



- Link to Letter of Solicitation:

<https://www2.calrecycle.ca.gov/Docs/Web/125673>



- Application Components:

- Application Form ([Download](#)).
- Supporting Documents.



- Electronically submitted.

Application Form and Questions

[Download Form](#) (MS Word Document).

Form Components

- Basic Contact Information.
- 5 general questions about the organization.
- 4 questions specific to financial information of the organization.

Contact Information

Contact Information.

- Organization
 - Organization Name
 - Employer ID Number
 - Phone Number
 - Physical Address
 - Website
- Contact Person
 - Contact Person Name
 - Title
 - Phone Number
 - Physical Address
 - Email Address

General Questions (1)

1. Provide a summary of the organization and a description of how the organization is qualified to serve as the PRO.
2. Explain why this organization is interested in serving as the PRO.

From the responses to these questions, CalRecycle hopes to get a general understanding of the organization.

General Questions (2)

3. List the voting members and titles of the organization's governing board along with the following information:
 - Term lengths for each member and information on whether a board member is eligible for reappointment.
 - List of the producer(s) that each member represents.
 - List of covered materials placed in the market by these entities. Please provide a detailed and specific list of materials. Covered materials are defined in PRC 42041(e).

4. List the nonvoting members and titles of the organization's governing board and the following information:
 - Term lengths for each member and information on whether a board member is eligible for reappointment.
 - List of material trade associations and companies represented that each nonvoting member represents.
 - List the types of covered material represented by each organization.

Responses to these questions will help to evaluate the criteria specified in PRC 42061.5(a)(1).

General Questions (3)

5. Describe how your organization can most effectively implement this chapter including, but not limited to, responding to the following:
- Describe the organization's experience in establishing and/or operating producer responsibility organizations/stewardship organizations.
 - Describe this organization's commitment to environmental and social justice.
 - Disclosure of any entities or organizations that the PRO has conducted business with or has any financial or contractual affiliation with.
 - Provide a list of the producers, including brands, who are currently members of or are affiliated with this organization. For each producer, please specify what covered material types they produce.
 - Provide any other information to demonstrate that the organization can effectively implement the requirements of the law and is relevant to the organizations' qualifications to be the producer responsibility organization.

CalRecycle is required, per PRC 42051(a), to select the PRO who can most effectively implement this chapter. Responses to this question will allow CalRecycle to best evaluate each applicant.

Financial Questions (1)

- PRC 42061.5(a)(2) states:

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

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

Responses to these financial questions will assist CalRecycle in evaluating this criterion related to financial responsibility.

Financial Questions (2)

1. Describe the types of audits conducted and their associated audit schedule.
2. Describe what fraud prevention measures the organization has implemented.
3. Pursuant to PRC 42051.1(j)(3), the PRO shall not maintain total program reserves exceeding 60% of its annual operating expenses. How will the organization meet this requirement? What policies regarding reserve funding does the organization have or will implement?

Financial Questions (3)

4. Explain any other ways your organization demonstrates that it has adequate financial responsibility and financial controls in place to ensure proper management of funds. For example:
 - Financial Policies and Procedures that outline guidelines for financial management, including budgeting, spending, procurement, and reporting, ensuring consistency and transparency in financial operations.
 - Qualified and Trained Staff who possess the necessary skills and knowledge to handle financial matters effectively.
 - Proper oversight of financial matters through regular review of financial reports and approval of budgets and expenses, ensuring the PRO's financial sustainability.
 - Internal financial controls, such as segregation of duties, multiple approvals for financial transactions, and regular audits or reconciliations, to prevent fraud, errors, and ensure accuracy and integrity of financial data.

Supporting Documents

In addition to the application form, CalRecycle requests the following additional uploads:

- IRS Form 990 (if available).
- IRS 501(c)(3) determination or affirmation letter.
- Organization's Articles of Incorporation of a Nonprofit.
- Organization's bylaws.
- Organization's organizational chart.
- Copies of most recent audits (if available).

These uploads will allow CalRecycle to verify the organization's 501(c)(3) status and will further assist CalRecycle in evaluating the organization.

Application Form Instructions

- Applicants download the [Application Form](#), which is an MS Word Document.
- Applicants type their responses to the questions in the form.
No page or character limit to responses.
- Applicant saves the completed application as a PDF and will proceed to submission.

Submission Process

- Once an applicant completes the application form and prepares all documents for upload, the applicant shall submit the materials online:
<https://calrecycle.ca.gov/packaging/packaging-epr/pro-application/>
- Once submitted:
 - The applicant should see a confirmation message.
 - The applicant should also receive a confirmation email.
- Any issues, please contact packaging@calrecycle.ca.gov.
- Deadline: January 1, 2024 at 11:59 PM PST.



Request to Applicants

Public Record

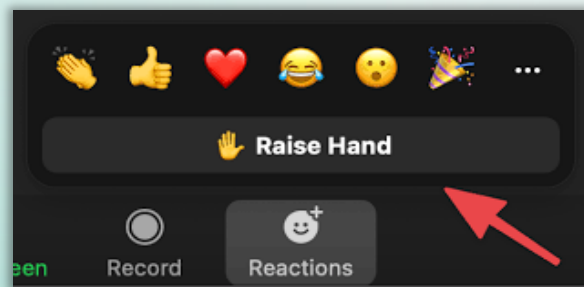
- All application materials are deemed public records, pursuant to the California Public Records Act.
- CalRecycle requests the applicant identify confidential information with an explanation as to why the information is confidential.

Public Availability of Applications

- CalRecycle intends to post the applications online.
- Documents must be made accessible for CalRecycle to post on our website, pursuant to [GOV 11546.7](#).
- CalRecycle requests that applicants submit documents that meet accessibility requirements.
- If a document is submitted that does not meet accessibility requirements, interested parties can access the documents through a Public Records Act Request.

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.



[Sign-up for our SB 54 Listserv](#)

No future workshop scheduled at this time. More information forthcoming; will be distributed through our [listserv](#) and available on the [SB 54 Webpage](#).



Email: Packaging@CalRecycle.ca.gov