



October 14, 2024

SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations

NOTICE OF 15-DAY CHANGES TO PROPOSED RULEMAKING

The Department of Resources Recycling and Recovery (CalRecycle) proposes to revise regulations relative to the SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations. The proposed regulations establish and clarify requirements related to the Plastic Pollution Prevention and Packaging Producer Responsibility Act. CalRecycle intends to adopt the proposed regulations described herein after considering all recommendations, alternatives, comments, and objections regarding the proposed action.

On October 14, 2024, CalRecycle will initiate a 15-day written comment period for the proposed revisions to the SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations. This 15-day written comment period follows an initial 61-day public comment period that began on March 8, 2024, and ended on May 8, 2024. On April 23, 2024, CalRecycle held a public hearing to receive public comments. After considering the comments received from interested parties, CalRecycle made revisions to the proposed regulatory language.

A copy of the proposed revised regulations is available on the [SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Permanent Regulations - CalRecycle Home Page](#) and attached to this notice. A summary of notable changes to the proposed regulations is also included within this notice.

15-DAY WRITTEN COMMENT PERIOD

The 15-day written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to CalRecycle. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section or subsection to which the comment or comments are directed. CalRecycle will only consider written comments sent to CalRecycle and received during the **15-day written comment period which begins on October 14, 2024, and ends on October 29, 2024**. Written comments received by CalRecycle after the close of the 15-day public comment period will not be responded to in the rulemaking file. CalRecycle is only required to respond to comments received during this 15-day public comment period that are related to the newly proposed changes to the regulations.

Please submit your written comments by mail to:

Claire Derksen
SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act
Regulations
Department of Resources Recycling and Recovery, Regulations Unit
1001 "I" St., MS-24B, Sacramento, CA 95814

OR

Electronic submittal: [SB 54 Plastic Pollution Prevention & Packaging Producer Responsibility Act Regulations \(15-Day Public Comment Period\)](#)

In the Final Statement of Reasons, CalRecycle will respond to all relevant comments received during the initial 61-day comment period and this new 15-day comment period.

Please note that under the California Public Records Act (Government Code section 7920.000 et seq.), your written comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

SUMMARY OF NOTABLE CHANGES TO THE PROPOSED REGULATIONS

This summary does not contain all the modifications made to correct typographical or grammatical errors, changes in numbering or formatting, nor does it contain all the non-substantive revisions made to the proposed regulatory language.

The descriptions below are not comprehensive of all changes to the regulation text, please review the proposed revised regulations attached to this Notice for all additions, deletions, and other changes.

The originally proposed regulatory language that was made available during the initial 61-day comment period is shown in plain, clean text because it is not being made available for public comment by this Notice.

The newly revised regulatory language that is being made available via this Notice is shown in ~~strikeout~~ to indicate deletions and underline to indicate additions.

TITLE 14. NATURAL RESOURCES

DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

CHAPTER 11.1. PLASTIC POLLUTION PREVENTION AND PACKAGING PRODUCER RESPONSIBILITY

ARTICLE 1. DEFINITIONS

§18980.1. DEFINITIONS

CalRecycle added definitions of “derivative material,” “distribution and distribute,” “item,” “producer,” and “significant effect on the environment.” CalRecycle added a definition of “non-detachable component” to the definition of “component.”

CalRecycle removed several definitions, including “discrete,” “food packaging,” “intermediate product,” “mixed material,” “organic waste,” “processor,” “viable responsible end market,” and “ton.”

CalRecycle consolidated several definitions into other definitions, including “brand or trademark,” “in the state,” and “person” with the newly added “producer” definition and added a definition for “offered for sale” therein as well. CalRecycle consolidated definitions for “biogas,” “compost,” and “digestate for land application” under “recycled organic product,” and further modified some of the language in those consolidated definitions.

CalRecycle modified several definitions, including “anaerobic digestion,” “component,” “covered material category list,” “food service ware,” “incompatible material,” “intermediate supply chain entity,” “nonplastic,” “plastic,” “plastic or polymers,” “product,” “ratepayer,” “single use,” and “small producer.” In the definition of “alternative collection,” CalRecycle added language regarding the meaning of “curbside collection” under PRC 42041(g). In addition to adding language to the definition of “reusable,” “refillable,” “reuse,” and “refill,” CalRecycle also moved much of the language concerning the criteria set forth in Public Resources Code (PRC) 42041(af) that was previously in this definition to the new section 18980.2.1.

CalRecycle also incorporated two additional documents by reference: JAMS Streamlined Arbitration Rules & Procedures, 6/1/2021 in its entirety and section 9213.1 of the State Administrative Manual, Allocation of Costs—Indirect Cost Rate Determination Methodology, California Department of General Services (as published on 01/2022).

ARTICLE 2. COVERED MATERIAL AND COVERED MATERIAL CATEGORIES

§18980.2. CATEGORICALLY EXCLUDED MATERIALS

CalRecycle added language regarding the scope of packaging that is excluded under PRC sections 42041(e)(2)(A) and 42041(e)(2)(E). Additionally, CalRecycle deleted language regarding materials that meet the definition of “reusable” or “refillable.”

§18980.2.1. EXCLUSION OF REUSABLE AND REFILLABLE PACKAGING AND FOOD SERVICE WARE

CalRecycle added this new section to Article 2. CalRecycle added language regarding the criteria, requirements, and standards that will govern the exclusion of reusable and refillable packaging and food service ware under this Act. While much of this language

is new, some of this language was previously in the definition of “reusable,” “refillable,” “reuse,” and “refill,” and some of it was previously in section 18980.2.

CalRecycle added language defining “producer” and “consumer,” as used in PRC 42041(af)(1) and (af)(2). CalRecycle also added language regarding the various criteria set forth under PRC 42041, including whether the packaging or food service ware is “explicitly designed and marketed to be utilized multiple times,” whether it is “designed for durability to function properly in its original condition for multiple uses,” whether it can “be safely reused or refilled...multiple times,” whether adequate infrastructure exists for such convenient and safe reuse or refill, and whether it can be “repeatedly recovered...and reissued into the supply chain for reuse or refill for multiple cycles.”

CalRecycle also added language regarding the availability of notices of violation and inspections under this section, and producers’ required record maintenance procedures under this section.

§18980.2.2. EXCLUSION OF CERTAIN TYPES OF PACKAGING

This section was previously 18980.2.1 and has been renumbered to 18980.2.2. CalRecycle modified language regarding the exclusion for packaging used for the long-term protection or storage of a product under PRC 42041(e)(2)(F), including the applicable criteria and procedures.

CalRecycle added language regarding the exclusion for components that have de minimis weight or volume under PRC 42041(s)(4)(A), including the applicable criteria.

The section name was updated to reflect these changes. Subparts of this section have been renumbered to accommodate the changes.

§18980.2.3. EXEMPTIONS FOR SPECIFIC MATERIAL WITH DEMONSTRATED RECYCLING RATES

This section was previously 18980.2.2 and has been renumbered to 18980.2.3. CalRecycle modified language regarding the scope of exemptions from the definition of “covered material” under PRC section 42041(e)(2)(H). CalRecycle also modified language regarding the procedures and criteria that will govern applications for an exemption and for a renewal of an exemption under this section.

Subparts of this section have been renumbered to accommodate the changes.

§18980.2.4. EXEMPTIONS FOR CERTAIN COVERED MATERIALS

This section was previously 18980.2.3 and has been renumbered to 18980.2.4. CalRecycle modified language regarding the scope of exemptions for covered material pursuant to PRC sections 42060(a)(3) and (a)(4). CalRecycle also modified language regarding the procedures and criteria that will govern applications for an exemption or the termination of an exemption under this section.

Subparts of this section have been renumbered to accommodate the changes.

§18980.2.5. COVERED MATERIAL CATEGORY LIST UPDATES

This section was previously 18980.2.4 and has been renumbered to 18980.2.5. CalRecycle modified language regarding updates to the Covered Material Categories List under PRC section 42061. CalRecycle also added language regarding the applicable timelines, standards, and processes for its review under this section, including by separately addressing the updates to compostability and recyclability determinations and recycling rates. CalRecycle also added language concerning the effect of such updates on the obligations of local jurisdictions under PRC section 42060.5.

Subparts of this section have been renumbered to accommodate the changes.

§18980.2.6. COVERED MATERIAL CATEGORY LIST RECOMMENDATIONS

This section was previously 18980.2.5 and has been renumbered to 18980.2.6. CalRecycle updated language regarding recommendations to the Covered Material Categories List as part of the update process under PRC section 42061, including the scope and procedures for CalRecycle's review of such recommendations. CalRecycle also modified language in this section concerning the required information that must accompany any such recommendations and the supplemental information that may be requested by CalRecycle.

Subparts of this section have been renumbered to accommodate the changes.

§18980.2.7. SCOPE OF EXEMPTIONS

This section was previously 18980.2.6 and has been renumbered to 18980.2.7. CalRecycle altered the language in this section regarding the scope of exemptions granted under this article, including by updating language concerning applicants' ability to request—and CalRecycle's authority to approve—exemptions as to an entire class of products. CalRecycle deleted language indicating it may issue class-wide exemptions at its sole discretion and absent any application. CalRecycle modified language concerning the standards and procedures that govern the expiration, renewal, and termination of class-wide exemptions.

Subparts of this section have been renumbered to accommodate the changes.

ARTICLE 3. EVALUATIONS OF COVERED MATERIAL AND COVERED MATERIAL CATEGORIES

§18980.3. RECYCLABILITY

CalRecycle modified language regarding the criteria that covered material items and covered material categories must meet to be deemed recyclable under this Act. CalRecycle updated language concerning the application of the requirements for recyclability set forth in PRC section 42355.51(d), including the use of relevant data and scope of annual audits under this section. CalRecycle modified language concerning when packaging is considered to be used with food under this section.

Subparts of this section have been renumbered to accommodate the changes.

§18980.3.1. RECYCLABILITY OF CERTAIN COVERED MATERIAL CATEGORIES IDENTIFIED BY THE DEPARTMENT

CalRecycle modified language regarding its identification of covered material categories that are trending toward being considered recyclable under PRC section 42061(a)(3)(B). CalRecycle updated language concerning the criteria, standards, and procedures it will employ when making and confirming such an identification, including the conditions requiring CalRecycle to reconsider its identification under this section.

Subparts of this section have been renumbered to accommodate the changes.

§18980.3.2. METHODOLOGY FOR RECYCLING RATE DETERMINATION

CalRecycle added language as subdivision (a) regarding the treatment of compost and other forms of recycling under PRC section 42041(aa) when calculating recycling rates under this section. CalRecycle added language concerning the methodology for determining recycling rates, including both how the rate will be calculated and the relevant period for calculating the rate on any particular date. CalRecycle added language describing how the weight of covered material recycled, and the weight of covered material disposed will be determined under this section based on the relevant end market.

CalRecycle modified and added language regarding various other aspects of the recycling rate methodology, including the relevant data sources, the applicable status and effects for covered material categories for which sufficient information is not available, and opportunities for the PRO or Independent Producers to utilize an alternative methodology for calculating the recycling rate upon approval by CalRecycle.

Finally, CalRecycle added language defining "all expanded polystyrene," as used in PRC section 42057(i).

Subparts of this section have been renumbered to accommodate the changes.

§18980.3.3. ELIGIBILITY TO BE LABELED COMPOSTABLE

CalRecycle modified language pertaining to the criteria that must be satisfied for covered material categories and covered material items to be deemed eligible to be labeled compostable. CalRecycle added language regarding the process and required documentation for demonstrating covered material items are exempt from certification because they comprise fiber with no plastics or polymers.

CalRecycle also added language concerning the definition of "desirable organic waste," as used in PRC section 42357(g)(1)(E) and its applicability to this section.

CalRecycle also added language concerning satisfaction of the legal requirements to be labeled "home compostable" under PRC 42355 through 42357.5 or any other law and its inapplicability to whether covered material is eligible to be labeled "compostable" under PRC section 42050(b).

Subparts of this section have been renumbered to accommodate the changes.

§18980.3.4. INDEPENDENT THIRD-PARTY VALIDATION FOR POSTCONSUMER RECYCLED CONTENT

CalRecycle significantly revised this section. CalRecycle added language regarding the alternative source reduction credit under PRC 42057(a)(2)(B)(i), including the criteria, standards, and procedures governing the proposal, approval, and application of the alternative compliance formula. CalRecycle also added language concerning the circumstances in which a third party will be deemed approved to perform validation services under this section.

§18980.3.5. DISPOSAL OF COVERED MATERIAL

CalRecycle modified language regarding the disposal of any amount of material, including derivative material and recycled organic product. CalRecycle also deleted language regarding the final deposition of materials and added language regarding the direct deposition of materials in subdivision (d).

Subparts of this section have been renumbered to accommodate the changes.

§18980.3.6. REVIEW OF CERTAIN MATERIAL PROCESSING TECHNOLOGIES

CalRecycle added this new section to Article 3. CalRecycle added language regarding the criteria, standards, and procedures governing the proposal, review, and approval of considering certain material processing technologies recycling under this Act.

CalRecycle also added language defining “hazardous waste” under this section and as used in PRC 42041(aa)(5).

ARTICLE 4. RESPONSIBLE END MARKETS

§18980.4. RESPONSIBLE END MARKET CRITERIA

CalRecycle revised existing language regarding the criteria for an end market to be considered responsible. CalRecycle also revised the existing language in section 18980.4(b) regarding the definition of the end markets corresponding to covered material types.

Subparts of this section have been renumbered to accommodate the changes.

§18980.4.1. END MARKET IDENTIFICATION

CalRecycle updated this section regarding how a PRO or Independent Producer will identify responsible end markets in their plans, and how they will confirm that the responsible end markets meet the requirements of section 18980.4(a). CalRecycle also updated this section regarding record maintenance and record requests.

§18980.4.2. END MARKET COMPLIANCE AUDITS AND VERIFICATION

CalRecycle changed this section regarding end market audits (previously in section 18980.4.3) and end market verification. CalRecycle changed the names of these two

sections from “End Market Verification” and “End Market Audits and Investigations” to accurately reflect the contents of the revised section to reflect the changes and consolidated the name to “End Market Compliance Audits and Verification.

CalRecycle updated this section regarding audits and reporting requirements
CalRecycle also updated the references accordingly to correspond to the updates and changes

Subparts of this section have been renumbered to accommodate the changes.

§18980.4.3. END MARKET AUDITS AND INVESTIGATIONS (DELETED)

CalRecycle removed this section and consolidated it with section 18980.4.2.

§18980.4.3. END MARKET DEVELOPMENT

This section was previously 18980.4.4 and has now been renumbered to 18980.4.3. The section was renamed “End Market Development” accordingly. CalRecycle updated the plan requirements regarding describing end market establishment, expansion, and support CalRecycle also revised language with respect to conducting a study on end markets.

ARTICLE 5. REQUIREMENTS FOR PRODUCERS

§18980.5. PRODUCER COMPLIANCE

CalRecycle changed this section regarding producer registration with the Department. register with the Department on or before July 1, 2025, CalRecycle also updated this section with regard to producers that voluntarily withdraw or are dismissed from a PRO. CalRecycle updated references to the PRC accordingly. CalRecycle also included a reference to PRC section 42051(a) and made minor language changes to ensure consistency with PRC section 42051(a).

Subparts of this section have been renumbered as needed to accommodate the changes.

§18980.5.1. APPLICATION FOR INDEPENDENT PRODUCER COMPLIANCE

CalRecycle updated this section with regard to registration requirements for producers applying to become an Independent Producer. CalRecycle also updated this section with regard to the process for submitting a revised application as well as the process for producers who are unsuccessful in getting a revised application.

Subparts of this section have been renumbered as needed to accommodate the changes.

§18980.5.2. EXEMPTIONS FOR SMALL PRODUCERS

CalRecycle updated registration and application requirements for producers applying for a small producer exemption. CalRecycle also made updates with regard to the renewal of the small producer exemption.

ARTICLE 6. REQUIREMENTS FOR THE PRODUCER RESPONSIBILITY ORGANIZATION

§18980.6. PRODUCER PARTICIPATION GENERAL REQUIREMENTS

CalRecycle amended this section regarding information required in a PRO notice to the Department regarding producer noncompliance. CalRecycle made updates regarding the actions a PRO must take to resolve producer noncompliance, as well as what constitutes an acceptable basis for a PRO to dismiss participant producers. Additionally, CalRecycle made updates regarding when a PRO may refuse to accept producers as participants. CalRecycle also added provisions requiring a PRO to provide opportunity for producers to resolve the basis for being dismissed or rejected. The section name was also updated to reflect these changes.

Subparts of this section have been renumbered to accommodate the changes.

§18980.6.1. PRODUCER RESPONSIBILITY PLAN SUBMISSION

CalRecycle updated this section with regard to PRO plan submission to the Department and inclusion of comments received from the public and advisory board. CalRecycle also updated this section with regard to PRO plan submission to the advisory board.

§18980.6.2. PRODUCER RESPONSIBILITY PLAN APPROVAL

CalRecycle amended this section with regard to the Department's review of the advisory board's comments and public comments included within a PRO plan, and how such comments may require a revised plan submittal by the PRO. CalRecycle also updated this section with regard to approval or denial of a PRO plan, as well as timelines for approval and plan validity.

Subparts of this section have been renumbered as needed to accommodate the changes.

§18980.6.3. REVIEW OF UPDATED PRODUCER RESPONSIBILITY PLAN

CalRecycle updated this section in regard to the submission of PRO plan updates to the advisory board and CalRecycle. CalRecycle made updates regarding the review of advisory board and public comments, their inclusion within an updated PRO plan, and corresponding approval or denial depending on whether the plan sufficiently meets the requirements of the Act. Finally, CalRecycle made updates with regard to the timeline for an updated plan to be valid.

Subparts of this section have been renumbered as needed to accommodate the changes.

§18980.6.4. PRODUCER RESPONSIBILITY PLAN AMENDMENTS

CalRecycle made updates to this section with regard to the advisory board's time to review and provide comments regarding proposed PRO plan amendments. Additionally, CalRecycle revised this section with regard to the inclusion of advisory board comments in proposed PRO plan amendments submitted to CalRecycle.

§18980.6.5. ANNUAL REPORTS

CalRecycle amended this section regarding the PRO's annual report submission. CalRecycle also made updates regarding the Department's approval of annual reports. The section name was also updated to reflect these changes.

§18980.6.6. DOCUMENT SUBMITTALS

CalRecycle updated this section to remove initial and annual program budgets from the requirements of this section. CalRecycle also modified this section to include additional regulatory provisions to the criteria for a submitted document to be deemed complete. Finally, CalRecycle made updates to the references in this section accordingly.

Subparts of this section have been renumbered as needed to accommodate the changes.

§18980.6.7. ECO-MODULATED FEE AND FEE SCHEDULE

CalRecycle amended this section with regard to the costs the PRO will be required to reimburse to the Department. CalRecycle modified language regarding the calculation of individual assessments and any adjustments under PRC section 42053(c). CalRecycle modified language regarding the PRO's calculation of each participant's market share and corresponding surcharge assessment. Finally, CalRecycle updated language regarding the application of criteria to deem specific elements detrimental to recycling or composting under PRC 42053(d)(2).

Subparts of this section have been renumbered as needed to accommodate the changes.

§18980.6.8. RECORDKEEPING AND REPORTING REQUIREMENTS

CalRecycle amended this section regarding the documentation a PRO must maintain. CalRecycle added language regarding the responsibility of participant producers to ensure sufficient records are maintained to ensure compliance with PRC section 42052(d). CalRecycle also added language regarding the use of specified terms under this section.

ARTICLE 7. REQUIREMENTS FOR INDEPENDENT PRODUCERS

§18980.7. INDEPENDENT PRODUCER PLAN SUBMISSION

CalRecycle updated this section regarding the requirements of a producer responsibility plan, including submission of said plan to the advisory board. CalRecycle also provided updates with regard to an Independent Producer's submission of their plan to the advisory board, along with updates regarding the inclusion of corresponding comments.

Subparts of this section have been renumbered as needed to accommodate the changes.

§18980.7.1. INDEPENDENT PRODUCER PLAN APPROVAL

CalRecycle updated this section regarding Department review of the advisory board and public comments included within an Independent Producer plan, as well as requirements regarding corresponding plan revisions by an Independent Producer. This Additionally, CalRecycle provided updates regarding the timeline for Independent Plan approval following submission, criteria pertaining to approval or denial of the plan, as well as the timeline for validity of an approved plan. This section name was updated to reflect these changes, and subparts of this section have been renumbered as needed to accommodate the changes.

§18980.7.2. REVIEW OF UPDATED INDEPENDENT PRODUCER PLAN

CalRecycle revised this section to update the due date for an Independent Producer to submit a proposed updated plan to the advisory board. Additionally, CalRecycle updated this section with regard to an Independent Producer's obligations surrounding advisory board and public comments, their incorporation of said comments into the plan as necessary, and CalRecycle's discretion to request a revised plan accordingly. This section name was updated to reflect these changes, and subparts of this section have been renumbered as needed to accommodate these changes.

§18980.7.3. INDEPENDENT PRODUCER PLAN AMENDMENTS

CalRecycle updated this section with regard to the advisory board's timeline for review of an Independent Producer's revised plan. Additionally, CalRecycle updated this section with regard to a proposed plan amendment submitted to the Department. In particular, updates were made regarding a proposed plan amendment to include all comments received from the advisory board, as well as specific identification of comments which propose plan amendments in order for CalRecycle to determine whether an amended plan is warranted. Finally, this section name was updated to reflect these changes, and subparts of this section have been renumbered as needed to accommodate these changes.

§18980.7.4. INDEPENDENT PRODUCER ANNUAL REPORTS

CalRecycle updated this section regarding an Independent Producer's requirement to submit annual reporting to CalRecycle. CalRecycle also updated the section name to reflect these changes, and subparts of this section have been renumbered as needed to accommodate these changes.

§18980.7.5. INDEPENDENT PRODUCER DOCUMENT SUBMITTALS

CalRecycle updated this section with regard to documents related to budgets being submitted in plans and annual reports. Additionally, CalRecycle updated this section regarding who may sign documents on behalf of the person submitting them

References were updated accordingly, and subparts of this section have been renumbered to accommodate these changes. CalRecycle also removed language that specified a party with signature authority responsible for document contents must sign documents and replaced it with signature by "An individual authorized to act on behalf of

the person submitting the document.” CalRecycle also added references to sections 18980.8 and 18980.9.1 in subparagraph (a)(2)(A) to comprehensively identify the relevant sections the Department must consider in evaluating if document submittals are complete.

§18980.7.6. INDEPENDENT PRODUCER ENVIRONMENTAL MITIGATION FEE

CalRecycle amended this section regarding the methodology the Department will use to determine Independent Producer fees.

§18980.7.7. INDEPENDENT PRODUCER RECORDKEEPING AND REPORTING REQUIREMENTS

CalRecycle updated this section with regard to documentation an Independent Producer must maintain regarding recycling and disposal of covered materials for the previous calendar year, as well as the documentation an Independent Producer must maintain related to covered material collection through a non-curbside program. CalRecycle further updated this section regarding records an Independent Producer must maintain pertaining to complaints received on responsible end markets. CalRecycle also made updates regarding records an Independent Producer must maintain to demonstrate compliance, which are required to be available for inspection by the Department or another authorized agency. CalRecycle made updates with regard to timelines for regulated entities to submit documents to the Department. Lastly, CalRecycle made updates regarding calculations for material recycled and disposed of consistent with sections 18980.3.2(b)(2) and (b)(3), respectively.

Subparts of this section have been renumbered as needed to accommodate the changes.

ARTICLE 8. PRODUCER RESPONSIBILITY PLAN REQUIREMENTS

§18980.8. PRODUCER RESPONSIBILITY PLAN

CalRecycle updated this section regarding the plan requirements that do not apply to independent producers. CalRecycle also updated provisions concerning various parts of plans, including recycling technologies, education of ratepayers, and the formal complaint process regarding responsible end markets. CalRecycle added provisions concerning determinations of costs that are subject to reimbursement requirements and resolution of disputes over such costs.

Provisions concerning notices of violation and accrual of penalties upon disapproval of a plan were removed from this section.

Subparts of this section were renumbered to accommodate these changes.

§18980.8.1. PLAN REQUIREMENTS SPECIFIC TO A PRO

CalRecycle restructured this section and provided updates to provisions regarding plan elements addressing substantiation of claims that packaging or food service ware is reusable or refillable. Similar provisions were previously found within section

18980(a)(34). CalRecycle also added detail concerning the record maintenance protocol that PRO plans must include.

Subparts of this section were renumbered to accommodate these changes.

§18980.8.2. CLOSURE AND TRANSFER PLAN REQUIREMENTS

CalRecycle revised the information required in the Closure and Transfer Plan concerning the Trustees or Agents that will implement the Closure and Transfer Plan. CalRecycle also added documentation requirements related to the Closure and Transfer plan and updated details concerning the timing and funding requirements.

CalRecycle also provided updates regarding various PRO obligations, including providing notices to CalRecycle, actions to be taken upon dissolution of the PRO or termination of its plan, and records that must be provided to a Trustee or Agent.

CalRecycle updated provisions regarding actions the Department may take with respect findings made by a Trustee or Agent and extending or extinguishing the Closure and Transfer Plan.

Subparts of this section have been renumbered to accommodate the changes.

§18980.8.3. SOURCE REDUCTION ADJUSTMENTS

CalRecycle added requirement that accounting for inflation must rely on data published by the California Department of Finance.

ARTICLE 9. SOURCE REDUCTION BASELINE REPORT AND ANNUAL REPORTS

CalRecycle changed the title of Article 9 from “Annual Report and Program Budget” to “Source Reduction Baseline Report and Annual Reports” to reflect the changes identified below.

§18980.9. SOURCE REDUCTION BASELINE REPORT

CalRecycle changed the title of this section from “Source Reduction Baseline Reporting” to “Source Reduction Baseline Report.”

CalRecycle revised provisions related to submission of source reduction baseline reports, including when such reports are required and the data, they must include CalRecycle also broadened the information that it will use to update the source reduction baseline to include certain information provided in a PRO plan.

§18980.9.1. ANNUAL REPORTS

CalRecycle changed the title of this section from “Annual Report and Annual Budget” to “Annual Reports” to reflect the changes to the section.

CalRecycle revised how it refers to annual reports and budgets, so that they are no longer referred to as separate submissions. CalRecycle also added provisions

concerning the specific information that annual reports must include and the extent to which annual report requirements mentioned in the Act apply to Independent Producers. For the information that PRO annual reports must include, CalRecycle added requirements related to source reduction through reuse and refill strategies, application of an alternative compliance formula related to postconsumer recycled content, adjustment factors pursuant to section 18980.8.3(b), and Closure and Transfer Plan information.

CalRecycle also removed language requiring it to issue a notice of violation for any annual report that is deemed incomplete.

Subparts of this section have been renumbered to accommodate the changes.

ARTICLE 10. REGISTRATION AND DATA REPORTING REQUIREMENTS

CalRecycle updated the title of Article 10 from “Data Reporting Requirements” to “Registration and Data Reporting Requirements” to reflect the updated subsections in the Article.

§18980.10. REGISTRATION AND MAINTAINING ADDRESS ON FILE

CalRecycle updated this section with regard to which persons who are required to register with the Department and what information must be provided in connection with registering.

This section has also been updated with respect to producers’ obligation to notify the department of changes in their operations and activities affecting whether reporting requirements apply to them. Additional detail has also been provided about the process for inactivation and reactivation of a producer’s registration status, the effect of inactivation on reporting obligations.

Subparts of this section have been renumbered to accommodate the changes.

§18980.10.1. DATA REPORTING SUBMISSION

CalRecycle revised the timeline for reporting entities to correct errors identified in its previously submitted report, changing it from 10 business days to 14 calendar days. Detail has also been added concerning extensions of the deadline.

CalRecycle added a new subdivision (b). The content of that subdivision was previously located in the definition of “reporting entity” (former section 18980.1(a)(31)).

Additionally, CalRecycle revised provisions concerning how inactivation of a producer’s registration affects reporting requirements, such as requirements related to activities conducted before the circumstances justifying inactivation arose.

Subparts of this section have been renumbered to accommodate the changes.

§18980.10.2. DATA REPORT CONTENTS

CalRecycle revised provisions setting forth the specific data that report must contain, including with respect to amounts of covered material, how the amounts are to be determined, and required information about alternative collection programs.

Subparts of this section have been renumbered to accommodate the changes.

ARTICLE 11. REQUIREMENTS, EXEMPTIONS, AND EXTENSIONS FOR LOCAL JURISDICTIONS AND RECYCLING SERVICE PROVIDERS

§18980.11. REQUIREMENTS FOR LOCAL JURISDICTIONS AND RECYCLING SERVICE PROVIDERS

CalRecycle revised this section so that it focuses on requirements imposed on local jurisdictions and recycling service providers, without discussion of the processes for obtaining exemptions from those requirements. That discussion has been moved to section 18980.11.1.

CalRecycle added an explanation of when section 42060.5(a) of the Public Resources Code takes effect and descriptions of how that statutory provision applies in particular circumstances, such as when the covered material categories list is amended.

Provisions regarding agreements between a PRO and Independent Producers concerning funding have been removed.

§18980.11.1. EXTENSIONS OR EXEMPTIONS FOR LOCAL JURISDICTIONS AND RECYCLING SERVICE PROVIDERS

This section now contains procedural details previously located in section 18980.11 concerning requests for exemptions from section 42060.5(a) of the Public Resources Code. CalRecycle added new descriptions of the required application and related procedural requirements. Various procedural requirements were added, including requirements related to notices that must be given to producers and PROs, the opportunity for PROs and producers to submit comments regarding an application, and the process for renewing previously granted extensions or exemptions.

CalRecycle revised provisions concerning covered materials that are the subject of the request, updated practicability and plan requirements language, and added consideration of technological or economic limitations and legal restrictions or requirements. CalRecycle also removed consideration of “greenhouse gasses.”

CalRecycle also added provisions concerning approval of extensions or exemptions and termination of extensions or exemptions.

Subparts of this section have been renumbered to accommodate the changes.

§18980.11.2. EXEMPTION FOR RURAL COUNTIES AND RURAL JURISDICTIONS

This section was previously 18980.11.1. It has been renumbered to 18980.11.2, with minor changes to wording.

ARTICLE 12. REQUIREMENTS FOR THE ADVISORY BOARD

§18980.12. MEMBERSHIP TERMS AND APPOINTMENTS

CalRecycle modified this section by adding provisions concerning effective dates of appointments and the circumstances under which appointments may be revoked. .

ARTICLE 13. ENFORCEMENT OVERSIGHT BY THE DEPARTMENT AND ADMINISTRATIVE CIVIL PENALTIES

§18980.13. COMPLIANCE EVALUATION AND DETERMINATION

CalRecycle added minor details concerning the scope of requirements of the regulations and the Act and CalRecycle's investigations into violations of those requirements.

CalRecycle also modified the description of how it will evaluate whether a violation has occurred based on the failure of covered material to satisfy recycling rate requirements will be evaluated.

CalRecycle also added a description of the burden of proof applicable to factual determinations that it makes pursuant to the regulations. Subparts of this section have been renumbered to accommodate the changes.

§18980.13.1. CORRECTIVE ACTION PLAN

CalRecycle added various provisions concerning corrective action plans and its evaluation of them.

For example, CalRecycle added: detailed descriptions of the considerations that will guide its decision on whether to allow corrective action plan proposals and whether ultimately to approve them; the relationship between corrective action plans and the notices of violations to be addressed by them; details concerning procedures that apply when a corrective action plan fails to resolve violations of the Act; and explanation of the how penalties accrue upon failure of corrective action plans.

§18980.13.2. ADMINISTRATIVE CIVIL PENALTIES

CalRecycle made only minor changes to wording of this section.

§18980.13.3. NOTICES

CalRecycle made only minor changes to wording of this section and broadened the range of acceptable means for serving accusations commencing administrative penalty proceedings.

§18980.13.4. PROCEDURE FOR A HEARING

CalRecycle modified how this section describes informal hearing procedures applicable to impositions of penalties for violations of the Act. CalRecycle also added a requirement concerning notice that will be provided to a respondent concerning those procedures.

§18980.13.5. DISCIPLINARY ACTIONS

CalRecycle added minor details to the description of when it may take disciplinary action other than imposing civil penalties. CalRecycle also added details concerning the procedures applicable to revocation of a plan approval or an approval a PRO.

ARTICLE 14. ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS (DELETED)

§18980.14. APPROVAL OF ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS (DELETED)

CalRecycle removed this article from the regulations.

ARTICLE 14. PUBLIC RECORDS

§18980.14. DESIGNATION OF TRADE SECRETS AND OTHER NON-DISCLOSABLE INFORMATION

Because previous Article 14 was removed, the section was renumbered to 18980.14. CalRecycle added details concerning its obligations under the Public Records Act and the substantive and procedural requirements for records to be exempt from disclosure under that law.

TITLE 14. NATURAL RESOURCES DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY CHAPTER 11.5. ENVIRONMENTAL MARKETING AND LABELING

ARTICLE 1. APPROVAL OF CERTIFICATION ENTITIES

§18981. THIRD-PARTY CERTIFICATION ENTITY CRITERIA AND APPROVAL PROCESS

CalRecycle added reference to “SO/IEC 17065:2012” and changed the requirements for the accreditation that a third-party certification must hold. CalRecycle also added details concerning circumstances that may cause an entity not to be independent, impartial, and free of conflicts of interest.

CHANGES TO THE DOCUMENTS RELIED UPON

The Standardized Regulatory Impact Assessment (SRIA), Economic and Fiscal Impact Statement (STD 399), STD 399 Appendix, and Direct Impacts Model (DIM) have been revised so that each document can exist as a standalone document.

ADDITIONAL DOCUMENTS RELIED UPON

Subsequent to the 61-day public comment period, which ended on May 8, 2024, additional documents were incorporated into the rulemaking record.

Attachment 8: Revised Economic and Fiscal Impact Statement (STD 399)

Attachment 9: Revised STD 399 Appendix

Attachment 10: Revised Standardized Regulatory Impact Assessment

Attachment 11: Revised Direct Impacts Model

Attachment 12: U.S. Bureau of Economic Analysis (BEA), Durable goods definition, 2018, 7-29-2024, <https://www.bea.gov/help/glossary/durable-goods>

Attachment 13: Assembly Committee on Natural Resources, SB 54 (Allen), date of hearing: 6-28-2022

Attachment 14: Senate Rules Committee, SB 54 (Allen), Office of Senate Floor Analyses, 6-29-2022

Attachment 15: Senate Third Reading, SB 54 (Allen), Assembly Floor Analyses, version 6-26-2022

Please note that the Documents Relied Upon attachments 1-7 that were included in the initial rulemaking record published on March 8, 2024, are not included in this notice. Attachments 4-7 have been revised and are included in this 15-day notice as new attachments 8-11.

All Documents Relied Upon will be included in the final rulemaking record once it is finalized and approved by Office of Administrative Law (OAL).

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

JAMS Streamlined Arbitration Rules & Procedures, 6/1/2021

California Department of General Services, State Administrative Manual, Allocation of Costs – Indirect Cost Rate Determination Methodology – section 9213.1, as renumbered in January 2022, <https://www.dgs.ca.gov/en/Resources/SAM/TOC/9200/9213-1>

AVAILABILITY STATEMENTS

Availability of Initial Statement of Reasons, Text of Proposed Regulations, Information Upon Which this Proposal is Based, and Rulemaking File

CalRecycle will have the entire rulemaking file, the express terms of the proposed regulations, and all information that provides the basis for the proposed action, available for public inspection and copying during normal business hours at the address provided above. As of the date this Notice is published, the rulemaking file consists of the original Notice of Proposed Action and original text of proposed regulations that were published for a 61-day public comment period, the Initial Statement of Reasons, the documents relied upon for the proposed action, the economic and fiscal impact statement, standardized regulatory impact assessment, and this Notice and proposed revised text of the regulations. Copies may be obtained by contacting the contact persons at the address, email, or phone number listed below.

Availability of Modified Text

CalRecycle may adopt the proposed regulations substantially as described in this Notice. If CalRecycle makes modifications that are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least fifteen (15) days before CalRecycle adopts the regulations as revised. Requests for the modified text should be made to the contact persons named above. CalRecycle will transmit any modified text to all persons who testify at the scheduled public hearing, all persons who submit a written comment at the scheduled public hearing, all persons whose comments are received during the comment period, and all persons who request notification of the availability of such changes. CalRecycle will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

Availability of the Final Statement of Reasons

Upon its completion, copies of the Final Statement of Reasons may be obtained by request from the contact persons identified in this Notice or accessed through CalRecycle's website at www.calrecycle.ca.gov/Laws/Rulemaking.

INTERNET ACCESS

For more timely access to the rulemaking file, and in the interest of waste prevention, interested parties are encouraged to access CalRecycle's Internet webpage for the rulemaking at www.calrecycle.ca.gov/Laws/Rulemaking. All rulemaking files published through CalRecycle's internet website will be available on that page.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

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