

SB 54 Informal Rulemaking Workshop

SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Draft Regulations

May 27, 2025

Department of Resources Recycling and Recovery

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Overview and Purpose of the Discussion Document

The Department of Resources Recycling and Recovery (CalRecycle) has scheduled a workshop on [May 27, 2025](#), from 10:00AM to 4:00PM, in the Byron Sher Auditorium, located on 2nd Floor, 1001 I Street, Sacramento, CA 95814, to consult with the public, the regulated community, and other interested parties to solicit feedback on some of the requirements outlined in [Plastic Pollution Prevention and Packaging Producer Responsibility Act](#) (SB 54; Senate Bill 54, Allen, Chapter 75, Statutes of 2022).

CalRecycle proposed and circulated regulatory text to implement SB 54 in three comment periods in 2024. CalRecycle has now initiated a new rulemaking proceeding. The purpose of this document is to provide public participants an overall outline of changes to proposed regulatory text in this new rulemaking proceeding, relative to the version of the text that was released in the third public comment period of the 2024 rulemaking proceeding (December, 2024 Version). This document focuses on the changed sections in the proposed regulations and does not contain all the modifications made to correct typographical or grammatical errors and 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 discussion document for all additions, deletions, and other changes.

Workshop information can be found on the SB 54 [webpage](#) under *Events*.

ABBREVIATIONS AND ACRONYM LIST

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

ARTICLE 1. DEFINITIONS

§18980.1. DEFINITIONS

CalRecycle amended the definition of “alternative collection” to further clarify the distinction from “curbside collection.”

CalRecycle amended the definition of “component” to further clarify the distinction between “detachable component” and “non-detachable component.”

CalRecycle added the definition of “covered material” and removed the definition of “derivative material,” as well as the terms “sufficiently durable” and “washable.”

CalRecycle removed the definition of “derivative material” and created a new definition for “covered material” that encompasses the statutory definition in subdivision (e) of PRC 42041 as well as language from the superseded “derivative material” definition.

CalRecycle revised the term “food service ware” to establish the conditions for items that are classified as “food service ware.” Changes to the definition specify that items are not necessarily considered “food service ware” simply based on their function to contain, store, handle, protect, or prepare food.

CalRecycle made minor revisions to correct citations and clarify language in the definitions of “plastic” and “plastic and polymers.”

Finally, CalRecycle revised the definition of “producer” to further clarify the terms “product that used covered material” and “brand or trademark” (referencing section 14202 of the Business and Professions Code) as well as the terms “distribution and distribute” (clarifying when transporters of goods are not producers). Furthermore, CalRecycle amended the section to define the term “agricultural commodity,” clarifying who is not a producer pursuant to paragraph 4 of subdivision (w) of PRC section 42041.

§18980.1.1 PRODUCER IDENTIFICATION

CalRecycle reordered provisions in this section and made minor modifications to clarify how the producer will be identified in the case of multiple brands or trademarks used with a food service ware item pursuant to PRC section 42041(w). Moreover, CalRecycle amended the section to further clarify who is the producer if the manufacturer of the goods is not in the state, and if there are multiple brands or trademarks. The revisions were made for clarity and do not represent a departure from the meaning and intent of the December 2024 version. Recognizing the complexity of the producer identification section, CalRecycle intends to publish illustrations (outside this formal rulemaking) of how the regulations will apply to various circumstances.

ARTICLE 2. COVERED MATERIAL AND COVERED MATERIAL CATEGORIES

§18980.2. CATEGORICALLY EXCLUDED MATERIALS

CalRecycle revised this section to expand on the identification of certain materials which are excluded from being covered materials under the Act. This includes specificity on the narrow scope of “medical products” that are now identified as excluded. The revisions also define categorical exclusions to encompass primary, secondary, and tertiary packaging, except when tertiary packaging contains both excluded and non-excluded goods, in which case the exclusion does not apply.

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

CalRecycle removed language in prior versions providing more specificity on statutory directives as to how materials are considered to be explicitly designed and marketed to be utilized multiple times, considered designed for durability, considered washable, and considered repeatedly recovered and reissued into the supply chain. CalRecycle also simplified the language describing violations of the Act related to false claims of reuse or refill.

§18980.2.2. EXCLUSION OF CERTAIN TYPES OF PACKAGING

CalRecycle amended the language to clarify requirements for a component or group of components to be deemed as de minimis weight or volume. Moreover, CalRecycle provided a pathway for de minimis exclusion requests to be submitted by the PRO or Independent Producer, to be reviewed and approved by CalRecycle separate from the stewardship plan.

§18980.2.4. EXEMPTIONS FOR CERTAIN COVERED MATERIALS

CalRecycle revised this section to modify the minimum duration of exemptions granted for covered materials with unique challenges from one year to two years and to specify that such exemptions may be valid for up to five years. These revisions do not alter the fact that applicants may reapply at the end of the exemption period.

§18980.2.5. COVERED MATERIAL CATEGORY LIST UPDATES

CalRecycle revised this section to remove the requirement for separate updates to compostability and recyclability determinations and recycling rates under PRC section 42061. Additionally, CalRecycle deleted language in subdivision (b) of section 18980.2.5 that required updates to the Covered Material Categories List in response to new information or changed circumstances.

ARTICLE 3. EVALUATIONS OF COVERED MATERIAL AND COVERED MATERIAL CATEGORIES

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

CalRecycle made minor edits to clarify that statewide recycling programs and alternative collection programs will both be considered in the determination of whether a covered material category is considered recyclable.

§18980.3.2. METHODOLOGY FOR RECYCLING RATE DETERMINATION

CalRecycle revised the language to add clarity regarding the recycling rate calculation, including additional specificity on the calculation of the recycling rate for expanded polystyrene covered material for the purposes of subdivision (h) of PRC section 42057.

§18980.3.3. ELIGIBILITY FOR BEING LABELED “COMPOSTABLE”

CalRecycle removed the specific requirement for fiber based covered materials to demonstrate that they do not incorporate plastics or polymers via laboratory test results.

§18980.3.5. DISPOSAL OF COVERED MATERIAL

CalRecycle revised the language to more broadly state that disposed covered material is not considered recycled.

§18980.3.6. REVIEW OF CERTAIN TECHNOLOGIES

CalRecycle deleted section 18980.3.6. from the proposed regulations and added text regarding the criteria for including non-mechanical recycling technologies as responsible end markets in section 18980.4.1.

ARTICLE 4. RESPONSIBLE END MARKETS

§ 18980.4. RESPONSIBLE END MARKET CRITERIA

CalRecycle revised the responsible end market criteria for compostable material to clarify that items wholly or partially constituting plastic must be sent to end markets where they fully biologically decompose. For covered materials comprised of fiber or paper without plastic, or wholly derived from other renewable resources, responsible end markets may produce a recycled organic product that does not fully biologically decompose as long as it complies with legal contamination limits.

§18980.4.1. END MARKET IDENTIFICATION

CalRecycle revised this section to address the requirement that the Department's regulations encourage recycling practices that minimize the generation of hazardous waste, pursuant to paragraph 5 of subdivision (aa) of PRC section 42041. The revisions clarify that technologies other than mechanical recycling technologies in use within the state as of the effective date of the Act may only be included in a stewardship plan as responsible end markets if certain criteria are met, including demonstration that any hazardous waste generated is not significant. These include operational consistency

with ISO 59014:2024, and reporting on hazardous and acute hazardous waste generated as well as processing yield. The PRO or Independent Producer must justify in its plan that technology does not produce significant amounts of hazardous waste.

§18980.4.2. END MARKET COMPLIANCE AUDITS AND VERIFICATION

CalRecycle deleted the requirement for PRO and Independent Producers to perform randomized material tracking.

ARTICLE 5. REQUIREMENTS FOR PRODUCERS

§18980.5. PRODUCER COMPLIANCE

CalRecycle set a deadline for all producers to register with CalRecycle no later than 30 days from the effective date of the regulations, and to either become a participant producer of the PRO or apply to be an independent producer by that same date.

CalRecycle also required producers who register with the PRO as participant producers to submit their supply data, as described in section 18980.10.2, at the time of registration.

§18980.5.2. EXEMPTIONS FOR SMALL PRODUCERS

CalRecycle extended the duration of the small producer exemption from one year to two years.

ARTICLE 6. REQUIREMENTS FOR THE PRODUCER RESPONSIBILITY ORGANIZATION

§18980.6.1. PRODUCER RESPONSIBILITY PLAN SUBMISSION

CalRecycle revised this section to extend the deadline for the initial PRO Plan submission. The extension may be exercised provided the PRO waives the full 120-day period for resubmitting the plan in response to advisory board comments and instead agrees to submit its revised plan within 60 days of receiving those comments. In turn, CalRecycle will review the revised plan within 75 calendar days of receipt, if the PRO has elected to use the extended deadline.

§18980.6.2. PRODUCER RESPONSIBILITY PLAN APPROVAL

CalRecycle revised the language to only require a summary of comments and responses in the PRO plan.

§18980.6.3. REVIEW OF UPDATED PRODUCER RESPONSIBILITY PLAN

CalRecycle revised the review of updated PRO plan section to align with section 18980.6.2.

§18980.6.4. PRODUCER RESPONSIBILITY PLAN AMENDMENTS

CalRecycle revised the PRO plan amendments section to align with section 18980.6.2.

§18980.6.5. ANNUAL REPORTS

CalRecycle modified the PRO annual report timeline and submittal process to the Department which is separated into two phases. The first phase is on or before July 1, 2028, and on or before July 1 of each year thereafter and the second phase is on or before October 1, 2028, and on or before October of each year thereafter.

In the first phase a PRO will submit the information described in subdivisions (a)(2) and (a)(3)(B), (C), (D), and (E) of PRC section 42051.3 whereas the second phase includes only the information described in (a)(3)(A) of PRC section 42051.3.

§18980.6.7. ECO-MODULATED FEE AND FEE SCHEDULE

CalRecycle amended the proposed regulations to allow the PRO to implement the eco-modulation fee two years after the PRO Plan is adopted.

ARTICLE 7. REQUIREMENTS FOR INDEPENDENT PRODUCERS

§18980.7.4. INDEPENDENT PRODUCER ANNUAL REPORTS

CalRecycle revised the deadline for annual reporting for Independent Producers to October 1 of each year.

§18980.7.6. INDEPENDENT PRODUCER ENVIRONMENTAL MITIGATION SURCHARGE

CalRecycle revised this section to clarify that the percentage of the environmental mitigation surcharge to be remitted by an independent producer is calculated based on the weight of plastic covered material and the number of plastic components, rather than all covered material.

ARTICLE 8. PRODUCER RESPONSIBILITY PLAN REQUIREMENTS

§18980.8. PRODUCER RESPONSIBILITY PLAN

CalRecycle revised the term “reimbursement” to “covered costs” to clarify that the PRO has the flexibility for costs to be funded through a variety of mechanisms, including a “claims-based” approach, or a “performance based” approach, in addition to reimbursement. Additionally, CalRecycle added a requirement that when costs are deemed covered for a recycling service provider, the PRO or Independent Producer must notify the local jurisdiction on whose behalf the provider delivers solid waste handling services. Finally, CalRecycle amended provisions concerning resolution of disputes to provide additional flexibility to the parties involved in the arbitration process.

§18980.8.2. CLOSURE AND TRANSFER PLAN REQUIREMENTS

CalRecycle included language to clarify that funding for the environmental mitigation surcharge need not be maintained as part of the Closure Fund.

§18980.8.3. SOURCE REDUCTION ADJUSTMENTS

CalRecycle deleted the section on source reduction adjustments.

ARTICLE 9. SOURCE REDUCTION BASELINE REPORT AND ANNUAL REPORTS

§18980.9. SOURCE REDUCTION BASELINE REPORT

CalRecycle updated the deadline for all reporting entities to submit their source reduction baseline report to the Department, from July 1, 2027 to July 1, 2026, in order to support a new commitment that CalRecycle will, by November 1, 2026, publish an update to the source reduction baseline.

§18980.9.1. ANNUAL REPORTS

CalRecycle revised the annual reports section to align with the changes in section 18980.6.5.

ARTICLE 10. REGISTRATION AND DATA REPORTING REQUIREMENTS

§18980.10. REGISTRATION AND MAINTAINING ADDRESS ON FILE

CalRecycle amended the language to allow identification numbers for Importers of Record that do not have a Federal Employer Identification Number.

§18980.10.1. DATA REPORTING SUBMISSION

CalRecycle revised the reporting timeline to align with the changes in section 18980.6.1.

§18980.10.2. DATA REPORT CONTENTS

CalRecycle revised the reporting increments from monthly to annual increments and deleted the requirement to submit derivative material data.

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

§18980.11. REQUIREMENTS FOR LOCAL JURISDICTIONS AND RECYCLING SERVICE PROVIDERS

CalRecycle amended the proposed regulations to clarify what is required by local jurisdictions or recycling service providers with respect to compliance with PRC section 42060.5. CalRecycle also clarified that local jurisdictions do not have the burden of establishing responsible end markets. The regulation now states that the absence of responsible end markets can constitute impracticability, thereby justifying exemptions from that section.

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

CalRecycle revised this section to clarify the application processes for extensions and exemptions and to reduce the frequency of required renewals from annually to once

every two years. CalRecycle also revised this section to prohibit resubmission of an application for the same material within 90 days of a denial.

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

§18980.13. COMPLIANCE EVALUATION AND DETERMINATION

CalRecycle revised this section to provide relief to local jurisdictions and recycling service providers from penalty accrual during the pendency of a request for an extension or an exemption from requirements under subdivision (a) of PRC section 42060.5.

§18980.13.1. CORRECTIVE ACTION PLAN

CalRecycle revised this section to clarify the Department's authority to approve corrective action plan submissions and to specify the required elements of those plans. CalRecycle clarified the conditions under which penalty accrual may be paused and introduced a provision to prohibit resubmission of a corrective action plan application within 90 days of a denial. Additional revisions were made to improve clarity without altering the substance of the requirements.

§18980.13.3. NOTICES

CalRecycle amended the proposed regulations to clarify how physical and electronic mailing addresses are to be utilized for persons to receive notices.

ARTICLE 15. ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS

§18980.15 APPROVAL OF ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS

CalRecycle deleted Article 15 from the proposed regulations.

CHAPTER 11.5 ENVIRONMENTAL MARKETING AND LABELING

ARTICLE 1: APPROVAL OF CERTIFICATION ENTITIES

§ 18981. Third-Party Certification Entity Criteria and Approval Process

CalRecycle made minor revisions in Chapter 11.5 to correct drafting errors and ensure alignment with the language in PRC section 18980.3.4.