

**Department of Resources Recycling and Recovery**  
SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility  
Act Regulations

**FINAL STATEMENT OF REASONS**

**UPDATE TO INITIAL STATEMENT OF REASONS**

The Initial Statement of Reasons (ISOR), released on August 22, 2025, is incorporated by reference herein. The ISOR contained a description of the rationale for the proposed regulations. On August 22, 2025, all Documents Relied Upon and identified in the ISOR were made available to the public. The updates to the proposed regulatory action that were made subsequent to the release of the ISOR and the reasons supporting those changes are set forth below.

**UPDATED SPECIFIC PURPOSE AND NECESSITY OF THE AMENDED PROPOSED REGULATION**

The following contains updated purpose and necessity statements for the submitted regulation text.

**TITLE 14. Natural Resources**

**DIVISION 7. Department Of Resources Recycling and Recovery**

**CHAPTER 11.1. Plastic Pollution Prevention and Packaging Producer Responsibility Act**

**ARTICLE 1: Definitions**

**SECTION 18980.1. Definitions**

**Subsection (a)(8)(B)(iii)**

The purpose of this subsection is to expressly limit the scope of section 42041(e)(1)(B)(ii) of the Public Resources Code (PRC) so that certain bags subject to a narrower, preexisting statute restricting their use are not considered “bags used in the packaging of food.” More specifically, bags that are “pre-checkout bags” or bags provided to customers at the point of sale by “stores,” as described in statutes applicable to those bags, are not the bags referred to in section 42041(e)(1)(B)(ii). (See, generally, Chapter 5.3 of Part 3 of Division 30 of the PRC (Chapter 5.3), added by Senate Bill 270 (Stats. 2014, Ch. 850), governing single-use carryout bags, including section 42281.2, added by Senate Bill 1046 (Stats. 2022, Ch. 991), governing “precheckout bags”.) This interpretation is necessary because the Act must be read in a way that harmonizes it with Chapter 5.3 of Part 3 of Division 30 of the PRC (Chapter 5.3), which contains its own definitions of “reusable” and “single use” that are inconsistent with the Act’s definitions and defines “recycled paper bag” inconsistently

with how the Act defines “recycle” and “recycling.” (Section 42280 of the PRC.) It also contains its own, narrow standards for pre-checkout bags, requiring them to either be compostable or a recycled paper bag. Furthermore, Chapter 5.3 requires reusable grocery bags to be certified as “reusable” and, for plastic bags, as “recyclable” by third-party certification entities. CalRecycle, in turn, is required to publish a list of reusable grocery bags that are properly certified and therefore not prohibited. Grocery stores and convenience stores throughout the state depend on that mandatory list for identifying bags that they are permitted to distribute. However, if such bags could be considered covered material under the Act, that list would be misleading and possibly superfluous because CalRecycle lawfully must certify bags under the standards of Chapter 5.3, not the Act, so a bag’s presence on the list would not necessarily mean that distribution of the bag is lawful. Moreover, section 42287 of the PRC expressly provides that Chapter 5.3 “occupies the whole field of regulation of reusable grocery bags, single-use carryout bags, and recycled paper bags” distributed by “stores,” as those terms are used in Chapter 5.3. Given the inconsistency between the restrictions imposed by the Act and those imposed by Chapter 5.3, bags distributed by “stores” (e.g., grocery and convenience stores) in a manner subject to the latter must not be considered to be used in the packaging of food for purposes of section 42041(e)(1)(B)(ii) of the PRC.

Lastly, for purposes of harmonizing the Act and these regulations with Chapter 5.3, the exemption under the latter for small retail establishments does not apply. This is necessary because that exemption would result in bags used by smaller retail businesses being subject to the Act, even though the same bags used at large businesses would not be. That result would be inequitable and would mean this subsection would fail its essential purpose with respect to small businesses.

### **Subsection (a)(17)(F)**

This subsection establishes the meaning of “distribution” and “distribute,” specifying that they refer generally to the act of transferring products in the supply chain or to end users of products. Such a transfer need not occur at the moment of sale but must constitute the transfer of ownership to the receiving party. Interpreting these terms is necessary because statute uses them repeatedly but does not define them. Given the manner in which the Act uses the term, it would be inappropriate to interpret it more narrowly to refer to particular types of sales or the delivery of products to those who sell them. The Act’s repeated use of the phrase “sold, offered for sale, or distributed” (or similar terms) indicates that the Legislature intended that phrase as a single reference to all relevant commercial actors, thereby ensuring that there will always be a person defined as the “producer” under section 42041(w) of the PRC. In other words, the phrase encompasses persons that provide products to others, regardless of whether there is an actual sale. Interpreting “distribute” otherwise would read into the Act an obvious loophole: If there is no person in the state that sold certain covered material items to a business in the state, that business could avoid being a producer simply by providing covered material items to others without receiving payment tied specifically to the items. This could result, for example, in there being no producer under section 42041(w)(3) for plastic food service ware items that a food service establishment

provides to patrons free of charge. Moreover, when a manufacturer that manufactures goods on behalf of an in-state brand owner, that brand owner may own the goods immediately once they are manufactured, before they are transported to any party. By requiring a “transfer” of the goods, not the mere “transport” of them, this subsection resolves the ambiguity that otherwise would result in that scenario.

This subsection also provides a definition of “import.” This is necessary because statute uses that term in multiple contexts but does not define it, and it is subject to multiple interpretations (e.g., as referring only to goods moved into the state from foreign countries, as opposed to including goods moved from other states). Broadly interpreting it to refer to all goods entering the state, regardless of origin, is necessary because a narrower interpretation could not reasonably have been intended. If “import” only referred to goods transferred from foreign countries, section 42050 of the PRC would not prohibit covered material from being moved into the state from other states and immediately disposed of, without being sold or offered for sale. That would contravene the express purposes of the Act set forth in section 42050 and the policy priorities referenced in section 42050.

#### **Subsection (a)(17)(F)(i) and (ii)**

These subsections clarify and limit the definition provided in subsection (F) for “distribution,” “distribute,” and “import.” As provided in (i), those terms necessarily cannot apply with respect to products that leave the state without ever being provided to consumers or disposed of. If such products could be considered distributed or imported in or into the state, the Act would regulate goods moved in interstate commerce in ways that the Legislature could not reasonably have intended. The express intent behind the Act, as explained in section 42040, and the policy priorities referenced in section 42050 make clear that the Act concerns materials that reach their end of life in the state, not materials that merely move through it. The effect of this subsection is to narrowly interpret the Act’s inclusion of the terms “import” and “imported” alongside “distribute” and “distribution”: Those terms ensure that the Act is understood to concern the sale, offer of sale, and distribution of goods, with no requirement that the goods originated within the state. The terms do not imply that the Act applies generally to goods that merely pass through the state or discriminates between goods based on whether they originated within the state.

Subsection (a)(17)(F)(ii) explains that transportation on behalf of another person must be considered conducted by that person. This is necessary because, otherwise, common carriers and other entities, such as logistics providers, that merely move products might be considered relevant to determining the producer of covered material. That result would be nonsensical because such transporters would rarely, if ever, have meaningful control over the covered material used by the products they transport and may not even know what those products are to begin with. Including this subsection provides added clarity for entities endeavoring to identify the producer of covered material.

## **ARTICLE 2: Covered Material and Covered Material Categories**

### **SECTION 18980.2. Categorically Excluded Materials**

#### **Subsection (a)(2)**

The purpose of this subsection is to address the statutory mandates concerning conflicts with requirements under federal laws and regulations, including regulations issued by the United States Food and Drug Administration and the United States Department of Agriculture. This subsection does so by ensuring that, when it is not reasonably possible for food or agricultural commodity packaging to comply with both the Act and those requirements, the packaging will be considered not to be covered material, effectively exempting the packaging and the persons that would otherwise be producers of the packaging from all requirements of the Act. This is necessary because such conflict necessarily constitutes a direct conflict that PRC section 42060(b) requires the regulations to avoid. For completeness and context, this subsection also identifies certain examples, with respect to particular federal laws, of the types of direct conflict that might arise. To comport with how PRC section 42060(b)(2) uses the term “guidelines,” the word “mandatory” in this subsection qualifies the phrase “regulations, rules, or guidelines.” That word is a synonym of “required” and is used in that sense. While “regulations” and “rules” are necessarily “mandatory,” a “guideline” might be understood to set forth standards that are merely voluntary. But that term must be limited to federal requirements for two reasons. First, when describing conflicts that the regulations must avoid, PRC section 42060(b)(2) only uses the word “guidelines” as an example of “laws or regulations.” Second, a requirement under the Act cannot logically present a conflict with a provision in a “guideline” if the guideline does not set forth a requirement; if “guidelines” are merely suggestions, one cannot violate them. Accordingly, the word “mandatory” in this subsection qualifies the phrase “regulations, rules, or guidelines” to ensure that that logical relationship between the Act and federal requirements is clear.

#### **Subsection (a)(2)(A)**

The purpose of this subsection and the following subsection is to establish a procedure that entities must follow when they determine that packaging is not covered material for the reason set forth in paragraph (2). This subsection covers the very first step, explaining that a written notice must be submitted by email unless the Department has made an online submission portal available. This provision is necessary to establish clear, reasonable expectations regarding the procedure that entities must follow to avail themselves of the exclusion described in subsection (a)(2).

#### **Subsection (a)(2)(B)**

The purpose of this subsection is to explain what the notices described in subsection (a)(2)(A) must include and what they must show. The requirements are straightforward:

The notices must identify the legal basis for claiming a conflict exists, describe the packaging at issue, and explain the contention that packaging that avoids the conflict cannot be used. This is necessary to establish clear, reasonable expectations regarding the procedure that entities must follow to avail themselves of the exclusion described in subsection (a)(2). It is also necessary to clarify how the Department will assess whether to require resubmission of a notice before deeming it complete, as described in subsection (a)(2)(C), or submission of additional information to assess whether complete notices are sufficient, as described in subsection (a)(2)(E).

### **Subsections (a)(2)(B)(i) through (iii)**

These provisions provide criteria that analytically clarify the phrase “not reasonably possible to use any alternative packaging or packaging components that would avoid the conflict.” The criteria are objective, fact-based conditions that the notice must consider and, applying straightforward logic, must be true for it to be not reasonably possible to use such an alternative. The effect of the criteria is to establish three separate bases on which packaging may be disqualified from the exclusion described in subsection (a)(2). Clause (i) establishes the most basic reason that packaging might not qualify for the exclusion: that there is an alternative that can lawfully be used (including with respect to requirements regarding safety and structural integrity). By specifically explaining that such an alternative must not create “new unavoidable legal conflict with any law,” this clause prevents the proposed regulation from disqualifying packaging based on alternatives that could not lawfully be used for reasons other than the federal requirements cited in the notice. Clause (ii) and (iii) encompass circumstances where the “alternative” packaging is not a discrete packaging alternative but rather an iteration of the packaging itself. Under clause (ii), packaging is disqualified if the conflict can be avoided by no longer using the packaging components that cause it. Under clause (iii), packaging is not excluded from the definition of “covered material” if it can be redesigned or replaced to avoid the conflict. Taken together, these three clauses provide the analytical framework for assessing whether the circumstances described in the notice satisfy the reasonableness standard described in subsections (a)(2) and (a)(2)(B). This is necessary to ensure predictable, uniform application of the exclusion.

### **Subsection (a)(2)(C)**

The purpose of this subsection is to establish a procedure through which the Department will subject notices to initial scrutiny and the substantive standard governing that scrutiny. This is necessary to establish a clear, reasonable mechanism for CalRecycle to prevent bad faith or clearly erroneous notices from resulting in packaging being considered excluded from the definition of “covered material.” Without such a procedure a notice could claim that packaging is not “covered material” even if it is not packaging for food or agricultural goods or if there is no conceivable conflict with federal requirements. The scrutiny required under this paragraph considers only whether the notice contains the elements described in subsection (a)(2)(B) and whether CalRecycle is aware of packaging that would avoid the cited conflict with federal requirements but

that the notice did not address. In either case, the notice may be resubmitted to resolve such defects. This process ensures that entities submitting notices will conduct a good faith evaluation of packaging options available to them and explain why they cannot serve as the alternative described in subsection (a)(2)(B) (i.e., packaging that avoids the conflict with federal requirements). By requiring CalRecycle to notify entities within 90 days that a notice must be resubmitted, this regulation balances the certainty that businesses reasonably need while ensuring CalRecycle has adequate time to evaluate whether requiring resubmission is appropriate.

### **Subsection (a)(2)(D)**

The purpose of this subsection is to establish a procedure through which the Department will give effect to the notices described in subsections (a)(2)(B) and (a)(2)(C). Unless a notice is deemed incomplete pursuant to subsection (a)(2)(C), the Department must add the notice and certain information from it to a publicly accessible database. The information in the notice must identify the packaging subject to the exclusion, the associated products, the date the notice was deemed complete, and the status of any review of the notice by the Department. These provisions result in adequate public notice without requiring disclosure of the entire notice, thereby ensuring that the Department can protect trade secret information. This subsection also explains that the exclusion will be deemed to apply to packaging identified in the database unless the Department determines that the notice and any additional supplementation does not justify the exclusion (see subsection (a)(2)(E).) These provisions are necessary for multiple reasons. First, regulated entities and the public reasonably require clarity concerning when the exclusion will be deemed to apply. Second, without a public database, entities that might be responsible for similar packaging might otherwise not be aware of compliance pathways available to them. Moreover, without such transparency, there would be no ready way for the public to determine whether certain packaging is excluded from regulation under the Act, and the continued use of single-use packaging might thwart consumers' expectations of the Act's effects. Third, by requiring the database to indicate whether a notice is under review or the results of a review, the proposed regulation ensures that the database distinguishes between notices that remain in effect, those that have been disqualified as described in subparagraph (E), and those that are in effect but are pending review pursuant to subparagraph (E). This provides the transparency necessary for the regulated community and the public to understand compliance status of particular packaging.

### **Subsection (a)(2)(E)**

The purpose of this subsection is to establish a procedure, including the means of notifications from the Department, through which the Department will evaluate claims that complying with the Act presents a direct conflict which justifies an exclusion for purposes of the preceding provisions. Providing a procedure specific to such claims is necessary because the notice procedure described above presents circumstances dissimilar to other compliance- and enforcement-related scenarios. Here, entities must

make unilateral decisions concerning their obligations under the Act based on the need to comply with laws other than the Act, and those decisions become effective based on notice to the Department after the Department conducts an initial review to identify clearly inadequate notices. While the notice procedure accommodates the need for businesses to make decisions to address the food-related risks, such as spoilage and contamination, that packaging for food and agricultural goods may present, a process for avoiding unjustified exclusions is also necessary, and such a process must avoid unreasonably burdening businesses' ability to minimize those risks. Therefore, this subsection establishes a process on timelines that avoid unreasonable disruption of business, allowing 60 days for the entity to provide information to the Department and a 180-day grace period before negative determinations by the Department take effect. This process enables entities to have clear, uniform expectations for how the Department's compliance determinations will affect them and reasonable opportunity to plan accordingly.

This subsection also explains that, when the Department deems a notice and any additional information inadequate to sustain the exclusion, notice will be provided to the relevant entity via email and the database will be updated to reflect the change in status of the notice. These provisions are necessary to ensure that the database fulfills its purpose, as described in subsection (a)(2)(D).

#### **Subsection (a)(2)(F)**

The purpose of this subsection is to address the possibility of exploitation of the process outlined in the preceding provisions to achieve a perpetual, unjustified exclusion. This subsection provides that, once the Department determines that certain packaging does not qualify for the exclusion, any notices submitted concerning similar packaging will not automatically render the packaging excluded. Instead, such packaging will only be excluded if the Department makes an affirmative determination that the notice establishes that the packaging qualifies for the exclusion. This is necessary because, without such a limitation, notices deemed insufficient pursuant to (a)(2)(E) and notices similar to them could be repeatedly submitted, each time resulting in the exclusion applying until completion of the lengthy process for deeming the notice inadequate.

#### **Subsection (a)(2)(G)**

The purpose of this section is to make clear that the same protections for trade secrets applicable under other provisions of these regulations apply to the process outlined in (a)(2) and its constituent parts. This added clarity is necessary because that process is distinct from other processes set forth in the regulations (e.g., for exemptions) and might otherwise be perceived as not incorporating the general trade secret protections set forth elsewhere in the regulations.

### **SECTION 18980.2.5. Covered Material Category List Updates**

#### **Subsection (g): Updated and corrected purpose of this subsection**

The purpose of this subsection is to clarify that, notwithstanding any other provisions, updates to the Covered Material Category (CMC) list that impose additional obligations on local jurisdictions or recycling service providers under section 42060.5(a) of the PRC will not go into effect for those entities under that section until one year after the CMC list effectively incorporates the change. This provision is responsive to public comment. Local jurisdictions and recycling service providers cannot instantaneously modify their programs and instead need a certain amount of time to adjust. Where there is no effective date later than the publication date, one year of adjustment is appropriate. A period of longer than one year would delay the positive results expected from the change and would often exceed the period local jurisdictions reasonably require for updating their recycling programs, while a shorter period might be impracticable for a local jurisdiction or recycling service provider. This subsection also explains that the publication date starts the one-year period, regardless of whether the published list states an effective date later than the publication date. This is necessary to preserve the intended effect of the regulation and the statute and to avoid ambiguity concerning the procedure to be followed.

### **ARTICLE 3. Evaluations for Covered Material Categories**

#### **SECTION 18980.3.1. Recyclability of Certain Covered Material Categories Identified by the Department**

##### **Subsection (c)**

The purpose of this subsection is to establish the second step in the process for identifying materials that might qualify for the exemption at issue. Requiring solicitation of public comments and evidence relevant to that identification is necessary for the implementation of section 42061(a)(3)(B) of the PRC because that section requires CalRecycle to make a complex determination for which it might otherwise lack sufficient information and evidence. Limiting the comment period to 30 days is necessary because it is a reasonable period for comment preparation and ensures that CalRecycle can make determinations pursuant to section 42061(a)(3)(B) without more delay than justified by the benefit of public involvement.

#### **SECTION 18980.3.3. Eligibility to be Labeled Compostable**

##### **Subsection (b)(1): Updated and corrected purpose of this subsection**

The purpose of this subsection is to identify section 42357(g)(1)(B) of the PRC as setting a categorical requirement to be applied to a covered material category as a whole. That requirement is that material must be an allowable input under the United States Department of Agriculture National Organic Program to be considered compostable for labeling purposes. In the context of the Act, this can be applied on a categorical basis by identifying covered material categories that contain any such materials. This is the only logical way to interpret section 42357(g)(1)(B) for purposes of the “eligible for being labeled ‘compostable’” requirement in section 42050(b).

## **ARTICLE 4: Responsible End Markets**

### **SECTION 18980.4. Responsible End Market Criteria**

#### **Subsection (a)(4): Updated and corrected purpose of this subsection**

The purpose of this subsection is to introduce the fourth set of criteria for evaluating whether an entity is a responsible end market. This subsection provides that, to be a responsible end market, an entity must achieve the applicable outcome established in subsection (a)(4)(A), (a)(4)(B), or (a)(4)(C). These outcomes, which include average recycling yields for recyclable covered material (subsection (a)(4)(A)), full biological decomposition of compostable covered material comprised of plastic (subsection (a)(4)(B)), and biological decomposition of compostable covered material comprised of fiber or paper or wholly derived from natural resources (subsection (a)(4)(C)), are necessary to ensure that responsible end markets conduct the recycling and recovery of materials and the disposal of contaminants in a way that benefits the environment and minimizes risks to public health and worker health and safety, consistent with section 42041(ad) of the PRC. This subsection is necessary to ensure responsible end markets minimize the loss of covered materials and maximize the reintroduction of recovered materials into the supply chain, and to ensure materials are managed in a way that is consistent with the waste hierarchy established in section 40051 of the PRC, as required by the Act.

#### **Subsection (a)(4)(B): Updated and corrected purpose of this subsection**

The purpose of this subsection is to establish responsible end market requirements with respect to the generation of recycled organic products from covered materials comprising plastic. It provides that, to be a responsible end market for such covered materials, an end market must meet two primary requirements: The plastic covered material must fully biologically decompose, and the recycled organic product must meet standards necessary for sale in the marketplace.

The first requirement (full biological decomposition) is necessary because plastic substances, by themselves, cannot be “recycled organic product” (as defined in section 18980.1(a)(20)). Therefore, an end market cannot logically be said to produce recycled organic product in the first place if that product contains undecomposed plastic. Moreover, substances that otherwise would be recycled organic products but contain particles of undecomposed plastic would necessarily introduce plastic particles into the environment. Pursuant to the requirement of section 42041(aa)(5) of the PRC (requiring regulations to “encourage recycling that minimizes . . . environmental impacts . . . and public health impacts”) and the Legislature’s acknowledgment that plastic in the environment presents health and environmental impacts that must be mitigated (e.g., sections 42040(b) and 42064 of the PRC), facilities can only be responsible end markets (i.e., ones that conduct “recycling”) if their output product does not release such particles into the environment. Relatedly, considering an end market that produces plastic-containing compost to be a “responsible end market” would contravene the

definition of that term in section 42041(ad), which requires that responsible end markets recycle and recover materials “in a way that benefits the environment and minimizes risks to public health.” It also authorizes regulations, such as this one, that “establish criteria regarding benefits to the environment.”

This subsection includes an explanation of what “full biological decomposition” means. This is necessary because that phrase is technical in nature and might not otherwise be universally and consistently understood. The explanation establishes that the phrase refers to the processes and scientific principles commonly understood to underlie the conversion of materials into compost.

However, this subsection limits the biological decomposition requirement to materials intentionally included in the generation of recycled organic products. This is necessary because unintentionally included materials necessarily were not intended to biologically decompose in the first place. Because those cannot be processed by the facility, they fall within the definition of “incompatible materials” and logically must be treated as such (a requirement addressed in subsection (a)(3)). This requirement is necessary to ensure that end markets can only be considered “responsible end markets” if, as required by the definition of that term in section 42041(ad) of the PRC, its “disposal of contaminants is conducted in a way that benefits the environment and minimizes risks to public health” and satisfies the established criteria “regarding benefits to the environment.”

The second requirement (meeting the standards necessary for sale in the marketplace) ensures that composting is understood to be subject to the requirements for any process to be considered “recycling,” as section 42041(aa)(1) of the PRC defines that term. In particular, recycling must generate material “that meet[s] the quality standards necessary to be used in the marketplace.” The added clarity from expressly incorporating that part of the “recycling” definition is necessary because laypersons often understand “composting” to be distinct from “recycling,” but the Act expressly considers “compost” to be the result of “recycling,” as defined in 42041(aa)(1). Accordingly, for an end market producing compost to be considered a responsible end market (i.e., one that conducts “recycling”), its compost necessarily must be of such quality that it can be sold in the marketplace.

## **ARTICLE 6: Requirements for the Producer Responsibility Organization**

### **SECTION 18980.6.1. Producer Responsibility Plan Submission**

#### **Subsection (a)**

The purpose of this subsection is to specify the date by which an approved PRO must prepare and submit a plan to the advisory board unless it chooses to submit its plan according to the timeline described in subsection (b). This subsection provides that a PRO must submit such a plan to the advisory board by April 1, 2026, or the date that the proposed regulations are filed with the Secretary of State, whichever is later. This

subsection is necessary because, while section 42051.2 of the PRC describes the process and timeline for the various stages of review as part of the PRO's plan submittal, it does not specify the date by which the PRO must initiate this process by submitting its plan to the advisory board. A submittal date of April 1, 2026, or the filing date (if later) is different than the timeline described in subsection (b) because, under section 42051 of the PRC, producers must be participating in an approved plan by January 1, 2027. The earlier submittal date is necessary to allow sufficient time for the advisory board and CalRecycle to review, respond, and for the PRO to make necessary revisions to the plan to be approved by CalRecycle by January 1, 2027. A submission date of April 1, 2026, to the advisory board will allow 60 calendar days for the advisory board to review and comment, 120 calendar days for the PRO to revise its plan in response to the advisory board's comments, and 90 calendar days for CalRecycle to review and respond, consistent with the timeline set forth in section 42051.2 of the PRC. The conditional alternative date (the filing date of the proposed regulations) is necessary as a practical and legal matter because no requirements can be imposed until the regulations are finalized and effective. A date later than that alternative date, while it would serve the timing concerns otherwise addressed by this subsection, also would be inappropriate because it would risk delaying implementation to a degree that would unreasonably risk undermining statutory deadlines.

#### **Subsection (b)**

The purpose of this subsection is to establish an optional, alternate timeline to the one described in subsection (a) for the submission of its producer responsibility plan to the advisory board. This subsection allows an approved PRO to submit its producer responsibility plan to the advisory board after the date established in subsection (a) but on or before June 15, 2026, subject to the conditions described in subsections (b)(1) and (b)(2). This subsection is necessary to accommodate the possibility that an approved PRO may need additional time and opportunity following the registration and application of participant producers (pursuant to sections 18980.5(a) and (b) of these regulations) to receive, organize, and analyze relevant participant producer data and to incorporate such data into its proposed plan prior to submittal. This subsection accommodates such challenges by adding limited flexibility to the plan submission timeline.

#### **Subsection (d)**

The purpose of this subsection is to specify that a PRO must make its producer responsibility plan publicly available for comment on its website upon submitting the plan to the advisory board. Section 42051.2(a) of the PRC expressly contemplates an opportunity for public comment but does not specify how the public must be made aware of the contents of the plan. The Legislature could not have reasonably intended for there to be a public comment period without any obligation by the PRO to make the plan publicly available. That obligation must reasonably apply to the PRO, not the Department, because section 42051.2(a) expressly requires completion of the comment

process before the PRO submits the plan to the Department. Requiring the publication to be available via the PRO's website is necessary because it comports with the standard means for effective, efficient disclosures by any entity and ensures widespread access. Such publication ensures that the PRO consistently and reliably provides the public with reasonable opportunity to review the contents of any proposed plan. Also, section 42051.2(c) acknowledges that publication of plans on the PRO's website is the appropriate means to give notice to the public.

Consistent with the requirement that the PRO consider public comments, this subsection also establishes that the PRO's obligation under section 42051.2(b)(1), requiring consideration of comments submitted up to 60 days after the PRO publishes its plan, applies to all comments, not just those from the advisory board. Section 42051.2(a) is silent with respect to the period for public comments, creating an ambiguity that the proposed regulation must address. Interpreting the statute to require submission of public comments within the same period afforded to the advisory board is reasonable and was the Legislature's most likely intent. Section 42051.2(b)(1) unambiguously provides that the PRO's obligation to submit the plan to the Department depends on the time the advisory board takes to submit its comments, with the plan due within 120 days after those comments are submitted. This subsection ensures that the PRO cannot proceed within that timeline in a manner that subverts the Legislature's clear intent to permit meaningful opportunity for interested members of the public to submit comments, and requiring the PRO to permit a 60-day period for the advisory board to submit comments indicates that such a period is reasonable for comments generally.

Additionally, CalRecycle received feedback from interested parties during the informal rulemaking process in March 2023 and July 2023 concerning the PRO and producer responsibility plan requirements. Interested parties sought opportunities for public input regarding plans, including plan development, updates, and amendments. This provision is responsive to that feedback.

### **SECTION 18980.6.3. Review of Updated Producer Responsibility Plan**

#### **Subsection (b)**

The purpose of this subsection is to establish the endpoint of the comment period for the PRO's proposed updated plan. This is necessary because the Act expressly establishes a timeline for the advisory board's consideration of an initial proposed plan (60 days, pursuant to sections 42051.2(a) and 42070(h) of the PRC) but does not explicitly address a timeframe for comments by the advisory board or the public for proposed plan updates.

This provision clarifies that the comment period set forth in sections 42051.2(a) and 42070(h) of the PRC applies to proposed updated plans just as it applies to initial proposed plans. Because the effect of an updated plan is identical to that of an initial plan—it generally governs the PRO's program and is effective for five-years—it is

reasonable to subject it to the same requirements for public transparency and input as applicable to initial plans.

Another purpose of this subsection is to specify that the PRO must make the proposed updated plan available for public comment by publishing it to its website when it submits the plan to the advisory board. This subsection also clarifies that the PRO must consider all comments (including those from the public, not just those from the advisory board) submitted to it within 60 days of such publication. These two requirements are the same as those established in section 18980.6.1(d) with respect to initial plans, as described above. The purpose and necessity of these requirements are the same as the purpose and necessity set forth above with respect to section 18980.6.1(d).

### **SECTION 18980.7. Independent Producer Plan Submission**

#### **Subsection (b)**

The purpose and necessity of this subsection is the same as the purpose and necessity of section 18980.6.1(d), except with respect to initial submissions of Independent Producers' producer responsibility plans. When an Independent Producer opts to implement its own plan, such plan must meet the same requirements as do PRO plans, subject to section 18980.8(b) of these proposed regulations. Accordingly, the rationale explained above for section 18980.6.1(d), which concerns PRO plans, applies equally to Independent Producers.

### **SECTION 18980.7.2. Review of Updated Independent Producer Plan**

#### **Subsection (b)**

The purpose and necessity of this subsection is the same as the purpose and necessity of section 18980.6.3(b), except with respect to Independent Producers' updated producer responsibility plans. When an Independent Producer opts to implement its own plan, such plan must meet the same requirements as do PRO plans, subject to section 18980.8(b) of these proposed regulations. Accordingly, the rationale explained above for section 18980.6.3(b), which concerns PRO plans, applies equally to Independent Producers.

## **ARTICLE 8: Producer Responsibility Plan Requirements**

### **SECTION 18980.8.2. Closure and Transfer Plan Requirements**

#### **Subsection (b)(7)**

The purpose of this subsection is to specify that the PRO must submit to CalRecycle a written electronic notice of intent to dissolve or terminate its plan no fewer than 180 days prior to the proposed dissolution or plan termination date, and introduce a list of information that must be included in the notice.

In order to ensure that the PRO is proposing dissolution or termination and to ensure that all parties clearly understand the proposed date, it is necessary for a PRO to notify

CalRecycle in writing to establish a record of the date of submission of the notice. If verbal notice were permitted, CalRecycle might misunderstand the nature of the request and initiate the process where no termination was requested or fail to initiate the process where a termination was requested. Specifying submission via email is necessary because it facilitates near instantaneous transmittal to CalRecycle, thereby supporting the PRO in meeting submission timelines, enabling effective document retention by CalRecycle, allowing for the appropriate CalRecycle personnel to easily access the submission for review, and minimizing the cost and time burden associated with mailing.

Additionally, the notice must be at least 180 days prior to the PRO dissolving or terminating to allow the PRO, CalRecycle, and the trustee or agent sufficient time to prepare for the execution of the Closure and Transfer Plan, and to ensure the PRO fulfills its outstanding obligations. Allowing a PRO to submit a notice more than 180 days before dissolving or terminating its plan ensures that a PRO is not forced to satisfy all outstanding obligations in an unrealistic timeline. Requiring the notice at least 180 days prior to PRO dissolution or plan termination provides all parties sufficient time to prepare for the Closure and Transfer Plan execution maximizing the likelihood of effective implementation. Without a provision explaining how the PRO will inform CalRecycle of its intended termination or dissolution, the effective date of the Closure and Transfer Plan would not be ascertainable. Moreover, this provision fulfills, in part, section 42051.1(f) of the PRC requirement to describe a process for notifying CalRecycle of the PRO's dissolution.

## **ARTICLE 10: Registration and Data Reporting Requirements**

### **SECTION 18980.10. Registration and Maintaining Address on File**

#### **Subsection (a)**

The purpose of this subsection is to establish and clarify the registration obligations of producers. This subsection provides that each producer, including those seeking an exemption under sections 18980.2.3, 18980.2.4, or 18980.5.2 of the regulations, must register electronically through the Department's online reporting system. This is necessary to implement section 42060(a)(2) of the PRC, which requires CalRecycle to establish a mandatory process for producers to register with CalRecycle, and to ensure that CalRecycle receives information necessary to implement and enforce the Act. To effectively oversee, implement, and enforce the Act, CalRecycle must have complete and accurate information on file for all producers that are subject to the Act, including those that request an exemption. Furthermore, electronic registration via a single, uniform system is necessary for CalRecycle to efficiently receive, maintain, and organize the registration submission.

Another purpose of this subsection is to specify the registration obligation of retailers and wholesalers. This subsection provides that retailers and wholesalers are not subject to this requirement if they are not the producer pursuant to section 42041(w) of the PRC

of any covered material used by goods they sell, offer to sell, or distribute. While section 42060(a)(2) of the PRC requires CalRecycle to establish a mandatory process for retailers and wholesalers to register with the Department, the relevant statutory provisions only govern the conduct of retailers and wholesalers that are producers of covered material used by goods they sell, offer for sale, or distribute. CalRecycle does not have any use or need for registration information pertaining to retailers or wholesalers that are not producers under the Act. This subsection is therefore necessary to interpret an ambiguous statutory provision and to avoid the unnecessary expense and burden of requiring all retailers and wholesalers in the state to register with CalRecycle.

## **SECTION 18980.10.1. Data Reporting Submission**

### **Subsections (c) and (c)(1) through (c)(3)**

The purpose of these subsections is to establish the required process, timeline, and contents for the submission of reports under section 42052(a) of the PRC. The subsections provide that data reports must be submitted electronically using CalRecycle's online reporting system and are due annually on July 1, except for the PRO's initial report, which must be submitted with its producer responsibility plan as required under 18980.6.1(a) or (b). The subsections further provide that a report's data must pertain to the previous calendar year and must use the CMC list that was current as of January 1 of the previous calendar year.

These subsections are necessary to establish a clear and uniform process that all reporting entities will be able to understand and follow. An electronic application process is necessary for CalRecycle to efficiently receive, evaluate, organize, and maintain the reported data, ensuring it receives reports in a manner that will best enable it to implement and enforce the Act. Requiring reporting via a single, uniform system is necessary for CalRecycle to efficiently receive, maintain, and utilize the information submitted to it. July 1 was chosen as the due date in response to public comments submitted to CalRecycle during the rulemaking process because it provides reporting entities with sufficient time to compile data from the previous calendar year and to prepare a report in compliance with this section, while still ensuring that CalRecycle will receive the data reports regarding the previous calendar year without unreasonable delay. It is necessary to specify that reports shall use data pertaining to the previous calendar year because that is the most recent, complete, and accurate data that will be available. Finally, it is necessary to rely on the CMC list that was current as of January 1 of the previous calendar year because the reporting entity is required to report data for the entire year, and the list that was current as of January 1 is the list on which a reporting entity will have based its decisions at the outset of the calendar year.

However, because the PRO must submit its plan either by April 1, 2026, pursuant to 18980.6.1(a) or by some later date (but no later than June 15, 2026) pursuant to 18980.6.1(b), this subsection ties the due date for the PRO's initial report to the date of

the plan submission. This is necessary to ensure that the initial plan is accompanied by the critical information identified in section 42051.3(a) of the PRC. That information logically must relate to the plan itself, so it is reasonable and logical to require that the initial report be submitted with the plan.

The purpose of this section is to address how reporting entities submit data reports to the Department. The revisions prescribe that reports be submitted to the Department through its online reporting system. Requiring reporting via a single, uniform system is necessary for CalRecycle to efficiently receive, maintain, and utilize the information submitted to it.

**VARIOUS PROVISIONS: 18980.2.3(b) and (g)(1); 18980.2.4(c) and (h)(1); 18980.2.5(f)(2); 18980.2.6(b); 18980.5.1(a); 18980.5.2(a); 18980.6.6(a)(1); 18980.7.5(a)(1); 18980.9(a); 18980.11.1(c) and (h)(2)(C); 18981(c)**

For each of the provisions identified above, the purpose and necessity are the same as stated in the Initial Statement of Reasons, except the identified provisions also explain that documents or information must be submitted to the Department by email unless there is an online submission portal available. This limitation is necessary to set reasonable expectations regarding how interested parties must communicate with the Department and ensure the Department can efficiently, reliably receive and review submissions.

## **NONSUBSTANTIAL CHANGES MADE TO THE REGULATION TEXT**

CalRecycle made nonsubstantial changes to the regulation text for spelling, grammar, formatting, punctuation, cross-citations, and dates.

## **LOCAL MANDATE DETERMINATION**

CalRecycle has made the following determinations:

**Mandate Imposed on Local Agencies:** Yes

**Costs to any local agency which requires reimbursement in accordance with Part 7 of Division 4 of Title 2 of the Government Code:** None

The statute mandates that local jurisdictions and recycling service providers (local agencies) include certain materials in their collection and recycling programs. Fulfilling that mandate involves collaboration with the producer responsibility organization (PRO) and certain producers to undertake various activities, such as education and outreach, material collection and processing, infrastructure improvement, and related investments. Local agencies' costs for fulfilling their mandate are influenced by local circumstances, including population density and market proximity. While certain costs may be initially borne by local agencies, they are not reimbursable by the State because, under the Act and the proposed regulations, the PRO and certain producers must pay local agencies to cover the expenses they incur to meet their statutory obligations.

**Mandate Imposed on School Districts:** None

## **REASONABLE ALTERNATIVES TO THE REGULATIONS AND CALRECYCLE'S REASON FOR REJECTING THOSE ALTERNATIVES**

CalRecycle has evaluated two alternative scenarios: a lower cost scenario that results in fewer benefits than the proposed regulations, and a higher cost scenario that results in similar benefits to the proposed regulations. Set forth below are the reasonable alternatives considered and the reasons the alternatives were rejected. For a more detailed discussion of the alternatives, refer to the Alternatives section of the SRIA.

### **ALTERNATIVE 1**

**Alternative:** Less stringent classification of plastic covered materials. Covered materials that are made of paper and plastic would be allowed to contain up to 20 percent plastic while still being classified as a paper covered material, thus not subjecting them to the source reduction and recycling rate requirements. Alternative 1 would result in direct costs of \$20.5 billion, approximately \$516 million lower than the proposed regulations.

Alternative 1 would result in 1,138 tons fewer material being categorized as plastic covered material and 62,000 fewer metric tons of CO<sub>2</sub> equivalent greenhouse gas reductions than the proposed regulations would.

Some businesses that are not producers will be impacted by the Act through an increase in the cost of goods and materials. Alternative 1 would lessen the average annual cost for businesses that are not producers from \$4,806 to \$4,688.

Regardless, implementation costs associated with the Act are expected to be absorbed by large producers of covered material, with a projected pass-through of costs to other businesses not classified as large or small producers of covered material.

**Reason for Rejecting:** Alternative 1 was rejected because it would not reduce the amount of covered material with small amounts of plastic, which contribute to the environmental and human health impacts that the Act was intended to address.

### **ALTERNATIVE 2**

**Alternative:** Higher frequency of required producer reporting. Producers would be required to report their activities to the PRO quarterly as opposed to the annual reporting requirement per the proposed regulations. Alternative 2 would result in direct costs of \$21.2 billion, approximately \$218 million more than the proposed regulations.

Alternative 2 would not result in increased benefits over the proposed regulations, as the only change to direct cost would be for producer reporting rather than infrastructure or meeting the program requirements.

**Reason for Rejecting:** Alternative 2 was rejected because it is more costly and would not result in an increase in benefits compared to the proposed regulations.

## **CONSIDERATION OF ALTERNATIVES**

For the reasons set forth in the ISOR, NOPA (including the statement of benefits prepared pursuant to Government Code section 11346.5(a)(3)(C)), SRIA, in CalRecycle's summary and response to public comments, and in this FSOR, CalRecycle has determined that no alternative considered by CalRecycle would be more effective in carrying out the purpose for which the regulatory action was proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the action taken by CalRecycle.

## **STATEMENT REGARDING SMALL BUSINESS ALTERNATIVES**

CalRecycle has determined that the proposed regulations will affect small businesses. CalRecycle has estimated that 58% of businesses impacted by the proposed regulations are considered small businesses. Small businesses that meet the definition of producer pursuant to section 42041(w) of the PRC, may be considered small producers, wholesalers, or retailers by the Act if in the most recent calendar year they had gross sales of less than one million dollars (\$1,000,000) in the state. The Act authorizes CalRecycle to develop a process to exempt these entities from most requirements of the Act. Producers of covered material granted an exemption will be considered "small producers," will be exempt from the requirements of the Act other than the restrictions in section 42050(b) of the PRC, and will incur an annual cost of approximately \$155 for record keeping and preparation of exemption applications.<sup>1</sup> Small businesses that meet the definition of producer per section 42041(w) of the PRC but are denied an exemption based on a determination by CalRecycle will need to join an approved PRO or satisfy their legal obligations independently.

CalRecycle expects small businesses to benefit from increased revenue from the sale of products made from recycled material. Additionally, less effort will be needed to review recyclability claims of packaging, and there will be an increased ease of providing product packaging to fit consumer demand. There will also be a reduction in the cost of disposal services as more recyclable material is generated. However, the reduction in disposal costs may shift to recycling services as materials shift to recycling and composting collection streams.

---

<sup>1</sup> The updated forecasts incorporated into the Direct Impacts Model (see response to DOF Comment #3) do not change this number.

No alternatives were considered by CalRecycle nor otherwise identified and brought to CalRecycle's attention that would lessen any adverse economic impact on small business, pursuant to Government Code section 11346.9(a)(5).

## **INCORPORATION BY REFERENCE**

The Notice of Proposed Action listed the below documents as incorporated by reference, and they remain incorporated by reference.

- ISO/IEC 17025:2017(E), "General requirements for the competence of testing and calibration laboratories," International Organization for Standardization/ International Electrotechnical Commission, November 2017
- ISO/IEC 17065:2012(E), "Conformity assessment—Requirements for bodies certifying products, processes and services," International Organization for standardization/International Electrotechnical Commission, September 2012.
- State Administrative Manual, section 9213.1, Allocation of Costs—Indirect Cost Rate Determination Methodology, California Department of General Services (as published on 01/2022).
- ISO 59014: 2024(en), "Environmental management and circular economy — Sustainability and traceability of the recovery of secondary materials — Principles, requirements and guidance," International Organization for Standardization, October 2024.

The publication of these incorporated documents in full in the California Code of Regulations would be cumbersome, unduly expensive, or otherwise impractical because they are available online or for purchase, as specified in the Notice of Proposed Action, dated August 22, 2025, and in print would be approximately 112 pages of text in total.

## **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY AND 15-DAY COMMENT PERIODS**

### **Summary of Comments Received**

Written comments were received by CalRecycle during the 45-day comment period which began on August 22, 2025, and ended on October 7, 2025, 2025. Written and oral comments were additionally received at a public hearing on October 7, 2025. Written comments were also received by CalRecycle during a subsequent 15-day comment period, which began on January 29, 2026, and ended on February 13, 2026.

The comments received during the 45-day comment period and public hearing are displayed on the attached SB 54 Rulemaking 45-day Comment Matrix, which shows the corresponding comment code, the commenter's name, and CalRecycle's response to the comment. Please refer to the SB 54 Rulemaking Comment Matrix for the list of 1,224 total comments received during the 45-day comment period and public hearing. The SB 54 Rulemaking 45-Day Comment Matrix is included in the final rulemaking file and is incorporated by reference.

Please note that comment submission codes I-55, I-56, and I-57 were deleted from the SB 54 Rulemaking Comment Matrix as those comments were submitted to CalRecycle's comment portal to verify technical functionality, and thus were not comments on the proposed regulations. Additionally, comment submission code O-69 was withdrawn by the submitter. With the exception of these removed comment submission codes, all of the codes designating comments in the SB 54 Rulemaking Comment Matrix are in sequential order, and all comments on the proposed regulations have been considered and responded to by CalRecycle.

The comments received during the 15-day comment period are displayed on the attached SB 54 Rulemaking 15-day Comment Matrix, which shows the corresponding comment code, the commenter's name, and CalRecycle's response to the comment. Please refer to the SB 54 Rulemaking 15-Day Comment Matrix for the list of 382 total comments received during the 15-day comment period. The SB 54 Rulemaking 15-Day Comment Matrix is included in the final rulemaking file and is incorporated by reference.

Because comments are designated using sequential codes for comments submitted within each comment period, certain codes for comments submitted during one period are reused for comments submitted during other periods. Unless otherwise indicated, when a comment response cross-references other comments, the cross reference is to comments submitted during the same comment period as the comment being responded to.

### **CalRecycle's Response to Comments Received**

CalRecycle would like to express its appreciation to the numerous organizations, agencies, and individuals that participated in the 45-day comment period and public hearing, as well as the subsequent 15-day comment period. Following the 15-day comment period, CalRecycle concluded that no additional substantial amendments to the regulatory language were necessary in response to comments received. All comments are responded to in both the SB 54 45-Day Rulemaking Comment Matrix and the SB 54 15-Day Rulemaking Comment Matrix.