

SB 54 Public Workshop

SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act

September 27, 2023

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

Topic: Needs Assessment Studies

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Overview and Purpose of Workshop

The Department of Resources Recycling and Recovery (CalRecycle) has scheduled a non-regulatory workshop on [September 27, 2023](#), from 10:00AM to 4:00PM, in the Sierra Hearing Room, located on 2nd Floor, 1001 I Street, Sacramento, CA 95814, to consult with the public, the regulated community, third-party contractors and other interested persons to solicit feedback on some of the requirements outlined in [SB 54 \(Allen, Chapter 75, Statutes of 2022\)](#).

The topic of this discussion document will be “Needs Assessment Studies.” This topic will be split into three parts:

- **Part 1** will be an informational session, providing background information on the needs assessment requirements discussed in this document.
- **Part 2** will discuss the SB 54 Producers and Source Reduction Study
- **Part 3** will discuss the Recyclable Material End Market Study

The purpose of this document is to provide an overall outline of what is going to be discussed and the type of feedback CalRecycle plans on soliciting in advance of the workshop. All requests for feedback or informational items to share with interested parties will be specified in a gray textbox.

This document and workshop will not address any topics pertaining to regulations or draft regulatory text.

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

Part I. Background

Abbreviations and Acronym List

- CA: California
- CalRecycle: California Department of Resources Recycling and Recovery
- CMC: Covered Material Category
- Department: California Department of Resources Recycling and Recovery
- MCS: Material Characterization Study
- PRO: Producer Responsibility Organization
- PRC: Public Resources Code (California Statute)
- ISCE: Intermediate Supply Chain Entity
- EM: End Market
- MRF: Material Recovery Facilities
- RMEM: Recyclable Materials End Market
- RFP: Request for Proposal
- SOW: Scope of Work
- SR: Source Reduction

Overview of Needs Assessment

PRC § 42067 outlines the requirements of the statewide needs assessment, which will be designed to determine the actions and investments needed for covered material to meet the requirements of SB 54. PRC § 42067(e) outlines 16 mandatory evaluations that must be included in the needs assessment.

Summary of Needs Assessment in Statute – CalRecycle Responsibilities

- CalRecycle will develop the needs assessment through a collaborative process with the PRO and a broad diversity of interested parties, including local jurisdictions, recycling service providers and processors– PRC § 42067(d).
- The needs assessment must be developed through a public process including at least one public meeting at which the PRO, the advisory board, and any interested members of the public are able to provide input – PRC § 42067(g).
- CalRecycle must update the needs assessment every five years, or as necessary – PRC § 42067(a).

Summary of Needs Assessment in Statute – PRO/Producer Responsibilities

- PRO plan must describe how to implement actions and investments laid out in the needs assessment – PRC § 42051.1(b)(1).
- PRO plan and budget must include consideration of the needs assessment and any recommended investments – PRC § 42051.1(i)(1).
- The PRO shall reimburse CalRecycle for the costs of developing needs assessment – PRC § 42067(b).

Needs Assessment Development

In order to complete the required evaluations for the needs assessment, some portion of the data collection and analysis will be completed through contracted studies. More information on the needs assessment, including information on timeline, was [presented as part of the July informal rulemaking workshop](#).

Parts II and III below provide information and requests for feedback on two proposed contracts that will collect information for the needs assessment. For each contracted study, CalRecycle will publish a contract solicitation. Public feedback from this workshop will be used as a source of market research to aid in the development of contract solicitations for the upcoming studies. We encourage organizations that are interested in bidding on upcoming solicitations for the needs assessment contract to attend this portion of the workshop and provide public comments. For more information on CalRecycle's contracting process, visit calrecycle.ca.gov/contracts.

Entities interested in receiving updates on upcoming contract solicitations for the needs assessment should email packaging@calrecycle.ca.gov to be added to the Potential Bidder List. Please include [Potential Bidder List] in the email subject line and include your organization's name and contact information.

Part II. SB 54 Producers and Source Reduction Study

Statutory Overview & Background

Relevant Definitions

Plastic component – PRC § 42041(u)

"Plastic component" means any single piece of covered material made partially or entirely of plastic. A plastic component may constitute the entirety of the covered material or a separate or separable piece of the covered material.

Producer – PRC § 42041(w)

(1) "Producer" means a person who manufactures a product that uses covered material and who owns or is the licensee of the brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in the state.

(2) If there is no person in the state who is the producer for purposes of paragraph (1), the producer of the covered material is the owner or, if the owner is not in the state, the exclusive licensee of a brand or trademark under which the covered product using the covered material is used in a commercial enterprise, sold, offered for sale, or distributed in the state. For purposes of this subdivision, a licensee is a person holding the exclusive right to use a trademark or brand in the state in connection with the manufacture, sale, or distribution of the product packaged in or made from the covered material.

(3) If there is no person in the state who is the producer for purposes of paragraph (1) or (2), the producer of the covered material is the person who sells, offers for sale, or distributes the product that uses the covered material in or into the state.

(4) “Producer” does not include a person who produces, harvests, and packages an agricultural commodity on the site where the agricultural commodity was grown or raised.

(5) For purposes of this chapter, the sale of covered materials shall be deemed to occur in the state if the covered materials are delivered to the purchaser in the state.

Source Reduction – PRC § 42041(a)

“Source reduction” means the reduction in the amount of covered material created by a producer relative to a baseline established pursuant to subdivision (b) of Section 42057. Methods of source reduction include, but are not limited to, shifting covered material to reusable or refillable packaging or a reusable product or eliminating unnecessary packaging. “Source reduction” does not include either of the following:

(1) Replacing a recyclable or compostable covered material with a nonrecyclable or noncompostable covered material or a covered material that is less likely to be recycled or composted.

(2) Switching from virgin covered material to postconsumer recycled content.

Overview of Relevant Source Reduction Background

Per PRC § 42057(b), by January 1, 2025, CalRecycle is required to establish a baseline for the 25-percent source reduction required in subdivision (a) based on the amount of plastic covered material, by weight and by number of plastic components, that was sold, offered for sale, or distributed in the state in the 2023 calendar year.

The baseline will be comprised of two numbers for baseline year 2023:

(1) Total weight (tons) of plastic covered material.

(2) Total number of plastic components of plastic covered material.

Non-Regulatory Items:

At this time, CalRecycle is seeking feedback on topics and concepts that are important to implementing SB 54 but are outside of the scope of proposed regulatory concepts.

Each of the items below relate to the proposed SB 54 Producers and Source Reduction Study to be completed as part of the needs assessment. Public feedback from this workshop will be used as a source of market research to aid in the development of upcoming contract solicitation.

SR Item 1: Study Purpose

The SB 54 Producers and Source Reduction Study will collect data needed to estimate the source reduction baseline and gather information on producers of covered material.

Pursuant to PRC § 42067(e), the needs assessment requires an evaluation of actions and investments needed to achieve the goals of SB 54, including achieving source reduction requirements. This study will collect foundational information on the baseline state of the system, including the amount and types of covered material. The

information collected as part of this study will provide important context for evaluating the needed actions and investments to meet the source reduction and other mandates.

Informational Item for Interested Parties:

CalRecycle is required to develop a statewide needs assessment pursuant to PRC 42067. CalRecycle intends to contract out the SB 54 Producers and Source Reduction Study with the purpose stated above.

SR Item 2: Study Goals

Informed by the statutory requirements listed above, the SB 54 Producers and Source Reduction Study will be comprised of two main study tasks to:

[Task 1] Estimate the amount of plastic covered material in the state for the calendar year of 2023

- By number of plastic components
- By total weight

[Task 2] Assess the regulated community (i.e., producers), including collecting the following:

- Information on producers of covered material
 - Number of producers of covered material
 - Proportion of producers that would be considered small producers, pursuant to PRC § 42060(a)(5)
- Information on covered material produced, by producer:
 - Plastic or non-plastic covered material
 - Specific types of covered material
 - Source of covered material
 - Location of where producers are assembling the finished product

Request for Feedback:

CalRecycle is seeking feedback on the above study goals, including collection of data to estimate the source reduction baseline and assess the regulated community.

SR Item 3: Study Approaches

CalRecycle is not aware of existing accessible data that could provide information to establish the required source reduction baseline. During the May 2023 informal rulemaking workshop, CalRecycle solicited feedback on data sources and three potential approaches to estimate the source reduction baseline ([see discussion document on Source Reduction from May informal rulemaking workshop](#)). Feedback from interested parties generally favored the approach to collect new information

directly from producers on the amounts of covered material sold or distributed into the state in 2023 to estimate the baseline.

The assessment of the regulated community proposed in Task 2 above may also require the collection of new data, including collecting information voluntarily from producers. Information on covered material produced, by producer, may be provided as aggregate quantities and may exclude producer-specific information.

Data collected needs to be representative of covered material in the state to ensure an accurate estimation of the source reduction baseline and an accurate picture of the regulated community.

Potential approaches or methods that could be used to meet the study goals for both tasks, include:

- Using data voluntarily provided by producers
- Using novel data from a source such as market data, information from trade organizations, or other third-party data sets

Due to the difficulty in collecting this sort of data, flexibility and creativity may be required in terms of allowing the contractor to obtain sensitive data that is only shared with CalRecycle in aggregate or by engaging with the PRO to gather data.

Request for Feedback:

CalRecycle is seeking feedback on the above approaches to collect representative information to estimate the source reduction baseline and assess the regulated community.

CalRecycle is also soliciting information on alternative approaches, not proposed above, for achieving the goals of the study.

Additionally, CalRecycle is seeking information on data sources that could be used to meet the goals of the study, including the name and availability of existing data sources, and any other supporting documentation about the data sources.

SR Item 4: Proposed Contract Logistics

Timeline:

- Early 2024: Release Request for Proposal (RFP)
- March 2024: Award contract
- April – September 2024: Execute contract
- January 1, 2025: Publish Source Reduction Baseline

Contract Structure:

The contract is anticipated to be a Request for Proposal (RFP) with a Pay-per-Deliverable structure.

The Scope of Work (SOW) will include the following:

- Initial Meeting with CalRecycle
- Monthly and Ad Hoc Meetings with CalRecycle
- Source Reduction Baseline Estimation
- Assessment of Regulated Community

Other Considerations

A major consideration in the contract development and execution is the feasibility of the proposed approach and scope of work, including being robust, achievable, and able to meet statutory requirements. This includes, but is not limited to, the following:

- Budget and timeline/schedule constraints
- Potential confidentiality concerns
- Availability of critical data
- Encouraging study participation
- Ensuring collected data is representative of covered material in California

Request for Feedback:

CalRecycle is seeking feedback on the proposed timeline and contract structure, including feedback to maximize the success of the contract solicitation and contract execution.

CalRecycle is also seeking feedback on the feasibility of the proposed study goals and approaches in terms of budget, data availability, data sensitivity, and other constraints that would impact contract success.

Part III. Recyclable Material End Market (RMEM) Study

Statutory Overview & Background:

Relevant Definitions

Processing – PRC § 42041(v)

“Processing” means to sort, segregate, break or flake, and clean material to prepare it to meet the specification for sale to a responsible end market.

Responsible End Market – PRC § 42041(ad)

“Responsible end market” means a materials market in which the recycling and recovery of materials or the disposal of contaminants is conducted in a way that benefits the environment and minimizes risks to public health and worker health and safety. The department may adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizes risks to public health and worker health and safety.

Non-Regulatory Item:

At this time, CalRecycle is informally seeking feedback on topics and concepts that are important to implementing SB 54 but are outside of the scope of proposed regulatory concepts.

Each of the items below relates to the proposed Recyclable Material End Market (RMEM) Study to be completed as part of the needs assessment. Public feedback from this workshop will be used as a source of market research to aid in the development of upcoming contract solicitation.

RMEM Item 1: Study Purpose

The RMEM Study will collect and analyze data on the current processing and recycling of materials, excluding materials sent to organics recycling. This information will address multiple required components of the SB 54 Need Assessment, including:

- The current processing capacity [for recycling] and infrastructure in the state and regionally – PRC § 42067(e)(2)(D)
- The current state of end markets in the state and regionally – PRC § 42067(e)(2)(E)
- An evaluation of whether available end markets exist (and mechanisms to identify them) to recycle covered materials – PRC § 42067(e)(2)(I) & PRC § 42067(e)(2)(K)
- Examination of contamination as related to quality requirements for remanufacturing and the contributing factors to contamination – PRC § 42067(e)(2)(J)

Additionally, the study will provide additional information relevant to SB 343 (Allen, Chapter 507, Statutes of 2021) regarding whether materials routinely become feedstocks used in the production of new products or packaging (PRC § 42355.51(d)). Pursuant to PRC § 42355.51(d)(1)(B)(iii), the department may publish additional information not available during the most recent periodic material characterization study.

Informational Item for Interested Parties:

CalRecycle is required to develop a statewide needs assessment pursuant to PRC 42067. CalRecycle intends to contract out the Recyclable Material End Market Study with the purpose stated above.

RMEM Item 2: Study Goals

Informed by the statutory requirements listed above, the RMEM Study will be comprised of four main study tasks to gather representative information regarding intermediate supply chain entities (ISCES) and end markets (EMs) that procure and utilize as feedstock traditional recyclable materials that are aggregated by material recovery facilities (MRFs) or other entities in California for the manufacturing of recycled content products.

Specific tasks include:

[Task 1] Identify Intermediate Supply Chain Entities (ISCEs) and End Markets (EMs) procuring recycled feedstock generated and sorted in CA.

This will include gathering information on entities who perform intermediate processing of recyclable feedstocks (derived from covered materials) following aggregation and sale from California material recovery facilities (MRFs) and other entities. Information should include, but may not be limited to, the estimated current and projected (if applicable) processing capacity of ISCEs and EMs by material type and geographic region.

[Task 2] Collect information on recyclable material sold as feedstock.

This will include:

- Material type, grades, and quantities of feedstock generated in CA and transferred to ISCEs or EMs. In addition to gathering representative information on the characteristics of feedstock sold to ISCEs and EMs, information will also be collected on factors influencing the markets for these recyclable materials, including temporal volatility.
- Geographic flow and distribution of recyclable material feedstocks generated in California and the associated market share across large global regions by material type.

[Task 3] Collect information on contamination and incompatible materials in recyclable material aggregate, by material type.

This may include analyses by material aggregate type, averaged across existing end markets:

- Identification of contaminants or materials or residues that are commonly aggregated with recyclable materials and cannot be recycled, are hazards in the recycling stream, or lower product quality, including information on whether they can be (i) easily removed or (ii) have major impacts (time, cost) on the recycling stream.
- Identification of incompatible materials (material types not recyclable in its current market), including information on whether they can be (i) easily removed or (ii) have major impacts (time, cost) on the recycling stream.
- The acceptable and average proportions of contaminants and incompatible materials within a given aggregate load.
- Typical or common fate(s) of contaminants and incompatible materials after they are removed from aggregated material (such as secondary processing and disposal).
- Market, public health, and environmental impacts imposed by contamination.

[Task 4] Collect information on manufacturing of recycled content products by EMEs.

This will include analyses by feedstock material type, averaged across existing end markets:

- Common type(s) of product(s) manufactured using recycled content in their production.
- Average ratio of recycled content used relative to virgin materials.
- Estimated market size and geographic concentration for products containing recycled content.

Data collected to achieve the above tasks may be provided to CalRecycle in an aggregated form or be estimated based on reliable assumptions.

Request for Feedback:

CalRecycle is seeking feedback on the above study goals, including collection of data to gather representative information regarding intermediate supply chain entities (ISCEs) and end markets (EMs).

RMEM Item 3: Study Approaches

CalRecycle is considering multiple viable approaches to collect the information outlined above. This may include, but is not limited to:

1. Collect new data from potential data sources, such as large-volume MRF operators, trade groups, brokers, or manufacturers (data collection would be voluntary). This could include surveys, interviews, or other data collection methods.
2. Use existing data sets or other verifiable information.

Data collected needs to be representative of material generated in the state to ensure an accurate estimation and flow of materials to processing and recycling. Some data of interest could be collected at multiple points in the recycling supply chain, especially as related to contamination and incompatible material content. Some aggregates may warrant multiple points of data collection such as:

1. When aggregates are first transferred from processing facilities (e.g., MRFs) and other entities
2. When aggregates reach the ISCE or EM which produces the final feedstock

Due to the difficulty in collecting this sort of data, flexibility and creativity will be required of the contractor to obtain sensitive data that is only shared with CalRecycle in

aggregate, thus not revealing the identity of a specific entity or by engaging with the PRO to gather data.

Request for Feedback:

CalRecycle is seeking feedback on the above approaches to collect representative information regarding intermediate supply chain entities and end markets.

CalRecycle is also soliciting information on alternative approaches, not proposed above, for achieving the goals of the study.

Additionally, CalRecycle is seeking information on data sources that could be used to meet the goals of the study, including the name and availability of existing data sources, and any other supporting documentation about the data sources.

RMEM Item 4: Proposed Contract Logistics

Timeline:

- Late 2023: Release RFP
- Early 2024: Award contract
- February–September 2024: Execute contract

Contract Structure:

The contract is anticipated to be a Request for Proposal (RFP).

The Scope of Work (SOW) includes the following:

- Initial Meeting with CalRecycle
- Monthly and Ad Hoc Meetings with CalRecycle
- Tasks to gather representative information regarding intermediate supply chain entities (ISCEs) and end markets (EMs)

Other Considerations

A major consideration in the contract development and execution is the feasibility of the proposed approach and scope of work, including being achievable, and able to meet statutory requirements. This includes, but is not limited to the following:

- Budget and timeline/schedule constraints
- Potential confidentiality concerns
- Availability of critical data
- Encouraging study participation
- Ensuring collected data is representative of materials in California

Request for Feedback:

CalRecycle is seeking feedback on the proposed timeline and contract structure, including feedback to maximize the success of the contract solicitation and contract execution.

CalRecycle is also seeking feedback on the feasibility of the proposed study goals and approaches in terms of budget, data availability, data sensitivity, and other constraints that would impact contract success.

Process for Submitting Written Feedback

CalRecycle has developed a process for requesting written feedback or questions from interested parties. While this process is not a specific requirement, CalRecycle requests all written feedback and questions to be submitted using the specified format below, for the purposes of maintaining consistency in the way in which the information is received, and to aid with expedited review and processing. All written feedback can be submitted to packaging@calrecycle.ca.gov with the subject line: *SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act*. Written feedback can be provided prior to the workshop and after. CalRecycle requests all feedback specific to the September 27, 2023 Workshop to be submitted no later than **October 11, 2023**. Preferred formats include e-mail, Word document, or PDF.

Requested Feedback on Specific Concepts:

When providing feedback or asking questions on a specific concept, please include (1) the Item Number [e.g., SR Item 1, SR Item 2], including the specific title, (2) feedback or questions related to that concept. For example, when providing feedback on *SR Item 2*, the preferred format would be:

SR Item 2 – Clarification of the term “nonplastic” and “nonplastic components”
Specific feedback related to this item...

This process can be repeated for each concept an interested party wants to address. All feedback and questions can be included in the same email or document.

Questions or Feedback on Specific Public Resources Code (PRC) Sections:

When providing feedback or asking questions on a specific section in the statute, please include (1) the full section number, including any subsections associated with it, (2) feedback or questions related to that section. For example:

PRC 42051.1(b)(3)
Specific feedback or question related to this section...

This process can be repeated for each section an interested party wants to address. All feedback and questions can be included in the same email or document.

General Questions or Comments:

When asking general questions or providing general comments on topics related to this workshop that do not focus on a specific concept or specific PRC section, please list each question and comment in numerical order:

Question 1: *General question on this discussion document*

Question 2: *General question on this discussion document*

Comment 1: *General comment on this discussion document*