June 3, 2025

Ms. Karen Kayfetz
Branch Chief, CalRecycle Product Stewardship Branch
1001 I St
Sacramento, CA 95814
Emailed to: packaging@calrecycle.ca.gov and submitted to CalRecycle comment portal (https://calrecycle.commentinput.com/?id=M56YE3SZQ)

Re: Plastic Pollution Prevention and Packaging Producer Responsibility Act Informal Draft Regulations published on May 16, 2025

Dear Ms. Kayfetz,

Our organizations — which helped to negotiate SB 54 and led the ballot measure efforts, agreeing to pull it upon enactment of SB 54 — are strongly opposed to significant changes made to CalRecycle's proposed regulations implementing Senate Bill 54 (SB 54), the Plastic Pollution Prevention and Packaging Producer Responsibility Act, published on May 16, 2025.

We appreciate CalRecycle's changes to and retention of important provisions in the informal draft regulations including removal of the source reduction adjustment language and ensuring the integrity of responsible end markets. But several proposed changes conflict with statutory language, exceed CalRecycle's authority, and undermine the goals of the law to reduce plastic pollution and hold producers accountable for the cost of managing their waste. We fully concur with the concerns conveyed to the Administration by Senators Allen and Blakespear, joined by 21 of their colleagues submitted on May 30, 2025 (attached).

SB 54 is an affirmative effort by the state to arrest the uncontrollable costs associated with packaging waste on consumers — the program and policy it implements are specifically designed to address affordability. California ratepayer costs for curbside collection have increased substantially. On top of these explicit costs borne by residents and small businesses, California communities are estimated to spend more than $428 million annually to clean up and control plastic pollution. And there are real health impacts associated with plastic production, use, and pollution which are borne disproportionately by vulnerable communities. SB 54's core tenet is that costs to consumers and ratepayers will decrease when industry finally takes responsibility for the full lifecycle of their products' packaging from design to end of life. Motivated as they are to maximize profit, innovate, and compete would spur transition to materials that have value beyond a single use.

Many of the changes CalRecycle made to the draft informal regulations will not reduce costs to consumers, businesses, or local governments overall, will likely increase costs

to some producers, haulers, and local governments, and would allow many producers to carry on business as usual while other Californians continue to shoulder the costs.

SB 54 is unapologetically a bold step by California to address plastic pollution and hold producers accountable for the rising costs to manage their waste. We appreciated the Newsom Administration's engagement to negotiate it, and that the Governor understood the goal, saying last March that SB 54 is: "the most significant overhaul of California's plastics and packaging recycling policy in history," noting also, "California won't tolerate plastic waste that's filling our waterways and making it harder to breathe. We're holding polluters responsible and cutting plastics at the source."

If properly implemented, SB 54 will dramatically overhaul how single-use packaging and single-use plastic foodware will be offered for sale, sold, distributed, and imported in the state, and tackle plastic pollution at the source. Even a robust recycling system cannot keep pace with the ballooning production of plastics, particularly single-use plastics, which are often difficult to recycle. SB 54 refocused California's efforts on reduction and reuse while continuing to improve recycling and mitigating harm to vulnerable communities that have long shouldered the health and environmental burdens of plastic production and pollution.

As the fourth largest economy in the world, California is again on the forefront of environmental policy. We are at a pivotal moment in the global fight against plastic pollution and the implementation of extended producer responsibility programs nationwide. The impacts of this law are likely to ripple across the country and around the globe. How the state implements these policies is critical to the law's success and California must not miss this opportunity to lead the way — and must not undercut the progress in other states or risk the tenuous trust many affected parties have in EPR approaches.

As proposed, the informal draft regulations violate the letter and intent of the law and undermine the state's objectives in five significant aspects:

(1) The draft regulations categorically exclude any packaging "necessary to comply with rules, guidance, or other standards issued by the United States Department of Agriculture (USDA) or the United States Food and Drug Administration (FDA)." SB 54 directs CalRecycle to ensure requirements under SB 54 are not in "direct conflict" with federal laws and regulations related to food safety and tamper-evident packaging. However, the currently proposed categorical exclusion would unlawfully remove an enormous number of products that were included under the scope of the law and can meet the requirements of SB 54 without any "direct conflict" with federal law. This language creates a new, significant, and broad exclusion that could theoretically exclude all packaged food -- and potentially a huge range of other non-food products subject to regulation by the FDA and USDA -- with no process to determine what packaging is "necessary," leaving each producer to decide whether their packaging is covered material. During the May 30, 2025 SB 54 Advisory Board meeting, you stated that the draft informal regulations included a "typo" by not limiting this categorical exclusion to "agricultural commodities." We want to be clear that limiting this exclusion to "agricultural commodities" would not address the legal or policy concerns.

Categorically removing these items would greatly undermine the program, increase costs on producers, haulers, and ratepayers who will shoulder the costs of managing these materials without program funding, and exclude products that may already be in compliance with SB 54's standards.

We understand from your comments at the SB 54 Advisory Body meeting on May 30, 2025, and the public workshop on May 27, 2025, that this exclusion was not intended to be a wholesale exclusion of any packaging that may be regulated by the USDA or the FDA and was meant only to apply narrowly to "commodities with irreconcilable conflicts" where a commodity has "zero options to comply with SB 54 and also comply with required federal" requirements. You also remarked that if any "innovation in the field that opens up new packaging options… the exclusion would cease to apply." However, as drafted, this exclusion would blow a giant hole in the regulated landscape without any process for those packaging materials to be phased in. This exclusion is not only inconsistent with the law but also unnecessary since SB 54 already includes a process to exempt covered material under the unique challenges or health and safety exemption provisions. If there are situations where the requirements under federal law are truly "irreconcilable" with SB 54 compliance, producers can make their case and CalRecycle can grant exemptions.

(2) The draft regulations illegally propose to categorically exclude packaging for over-the-counter (OTC) drugs as covered materials with only narrow exceptions. The statutory language and legislative history of SB 54 are clear: only drugs which require a prescription are categorically excluded from SB 54's requirements. A plain reading of California Public Resources Code (PRC) § 42041(e)(2)(A)(i) defines excluded "medical products and products" as devices and prescription drugs. There is no need to separately define "medical products" as the term is defined within the same provision to mean "devices" and "prescription drugs." If the legislature intended to include "drugs," it would have separately listed it in addition to "devices" and "prescription drugs." The reference to the federal definition of "drugs" is merely to ensure "prescription drugs" can be understood because, to define "prescription drugs,"[1] it is necessary to also define what is meant by "drug," as recognized by the draft informal regulations under §18980.2(a)(5).

The plain reading of the statute is further supported by the conflict provision, PRC § 42060(b)(2), which ensures that no requirements imposed by SB 54 or the PRO conflict with specified requirements, including 21 C.F.R. § 211.132, titled "Tamper-evident packaging requirements for over-the-counter (OTC) human drug products." Clearly, OTC drugs were meant to be included in the scope of the law or citation to this provision would not be necessary.

The issue of OTC drugs inclusion in California's packaging EPR program was settled in the previous versions of SB 54 dating back to 2019. As we described in the Appendix to our December 2024 comment letter (attached), the language in previous bills was the same as the language enacted in 2022. Legislative policy committee analyses for both the 2019 and 2022 versions of SB 54 specifically call out the exemption for prescription

[1] 21 U.S.C. § 353(b)(1) (describing a "drug" that requires a prescription and specific labeling).

drugs. This interpretation was further buttressed by Senator Allen's letter of December 17, 2024 (attached).

By categorically excluding all OTC drugs with narrow exceptions, the regulations illegally propose to significantly narrow the scope of the law and remove covered material items that are currently recyclable or compostable or that could comply with SB 54 mandates without threatening health, safety, or federal packaging requirements.

(3) The draft regulations broaden the exclusions and exemptions to all packaging associated with the excluded or exempted item including primary, secondary, and tertiary packaging. In doing so, CalRecycle proposes to narrow the scope of SB 54 significantly in a way not contemplated by the law. Not all categorical exclusions or exemptions apply to "packaging" broadly. For example, only "beverage containers" are excluded under PRC §42041(e)(2)(E). The language does not reference "packaging" because only the beverage container itself and not other associated packaging (secondary and tertiary packaging) are excluded. This language is unique from the other exclusions in (e)(2) that reference "packaging," highlighting the clear intent for just the beverage containers to be excluded. And exemptions under PRC §§ 42060(a)(3)-(5) are specific to covered material that has unique challenges, is unsafe to recycle, comes from a small producer, or cannot comply for health and safety reasons. These exemptions are approved by covered material type or category and do not allow for all packaging associated with the exempted material to be excluded.

Excluding significantly more products and packaging material from the program will not reduce costs. Instead, the rising costs of waste management, recycling, and pollution remediation will continue to fall on everyday Californians. Severely limiting the covered material in the program does not save money — it simply shifts who is paying for it: producers that are still obligated under the system will pay extra for the "free rider" producers, as will ratepayers and taxpayers.

(4) The draft regulations illegally shift the focus on excluding alternative recycling technologies from hazardous waste production to hazardous waste management and risk-based assessments. The statutory language in PRC § 42041(aa)(5) is clear that the CalRecycle's "regulations shall include criteria to exclude plastic recycling technologies that produce significant amounts of hazardous waste." The threshold of "imminent and substantial risk of harm to public health, or to the contamination of the environment" is an unlawful conflation of risk with production and is insufficient as an exclusion criterion for the generation of "significant amounts" of hazardous waste. Further, the declaration that hazardous waste "handled and disposed of in substantial compliance with an applicable permit does not present a substantial risk of harm" conflates the statutory requirement for exclusionary criteria based on production with waste management permitting. Moreover, the term "substantial compliance" is not defined, suggesting even facilities not in full compliance with their permits would not be excluded. The goal of SB 54 is not to stifle innovation, but rather focus innovation in technologies that do not harm people or the environment while recovering plastics to displace the need for fossil fuels.

(5) The draft regulations fail to encourage recycling technologies that minimize the "generation of hazardous waste, generation of greenhouse gases, environmental impacts, environmental justice impacts, and public health impacts" as required by Section 42041(aa)(5). The ISO standard referenced in the regulations does not include an analysis of the criteria listed under the law, making it wholly insufficient for determining whether these technologies are minimizing the impacts. CalRecycle must include provisions that encourage less impactful recycling technologies as required by law. There are a variety of peer-reviewed tools, including one recently developed by the National Renewable Energy Laboratory,[2] that allows for the comparison of impacts across different technologies for recycling the same feedstock. The regulations could require this type of analysis to ensure the PRO is prioritizing technologies that minimize harm.

We further detail our comments on the draft informal regulations by Article in the table below.

In anticipation of the forthcoming SRIA, we want to highlight our suggestions from the public workshop that CalRecycle present a range of outcomes in the SRIA, including economic outcomes for households that are more likely due to the nature of an EPR program. Analysis by Columbia University found that it is "extremely unlikely" that producers could pass on 100% of the costs to consumers, as modeled in the previous SRIA.[3] They suggest a conservative 30% incidence to consumers, which is well within their modeled confidence interval. We recommend that CalRecycle either use this conservative 30% incidence in their modeling or present a range of likely household costs based on a modeled 30% and 100%. This is a far more realistic representation of the costs based on existing literature on EPR. We find nothing in the Department of Finance's regulations that would prevent CalRecycle from approaching the SRIA in these ways.

California must continue to be a global leader in combating the plastic pollution crisis. It is imperative that the state's regulations not undermine the strong mandates under the law. We look forward to continuing to engage with CalRecycle on the implementation of this monumental law. If you have any questions based on our feedback, please reach out to Jennifer Fearing (jennifer@fearlessadvocacy.com).

Sincerely,

Anja Brandon, Ph.D.
Director, Plastics Policy
Ocean Conservancy

Tara Brock
Pacific Legal Director & Senior Counsel
Oceana

Amy Wolfrum
Director, California Policy & Government Affairs
Monterey Bay Aquarium

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[2] Uekert, T., et al. (2023). *ACS Sustainable Chemistry & Engineering*
[3] Bose, S. "Economic impacts to consumers from extended producer responsibility (EPR) regulation in the consumer packaged goods sector." (2022). Columbia University.

Article 1:

Topic	Comments
§18980.1(a)(2)	Appreciate changes made to allow for alternative collection programs.
§18980.1(a)(4)(C)	Recommend removing the term "mechanically" as that implies a detachable component must be detached by means of a machine or machinery. Further recommend removing the requirement that detachability be by the consumer in subsection (i) as that section is related to "during or after collection."
§18980.1(a)(5)	We support including a definition of covered material that includes derivative material.
§18980.1(a)(6)	Support removal of the definition of "derivative material" only if it remains incorporated into the definition of "covered material."
§18980.1(a)(8)(A)	We are concerned about the addition of an exception from food service ware for a "good expressly marketed or labeled as not intended for such uses." This blanket exception creates the opportunity for an easy way to escape being subject to the program's requirements. Recommend the decision about whether an item is food service ware be left to the discretion of the Department. We also reiterate our previous comment that a blanket statement that an item is not food service ware merely because it may be used to contain, store, handle, protect, or prepare food is unnecessary and the scope of covered food service ware items should be left to the discretion of the Department.
§18980.1(a)(17)(B)	We are concerned about the additional language that states empty packaging is not covered material as all covered material used for packaging or food service ware is at one point not yet used by a good.
§18980.1(a)(17)(D)	We recommend the following change to ensure the language accurate captures covered materials: "If the product is physically provided to the consumer ***without packaging*** on the premises of a retail seller or other distributor where it is sold or distributed, only packaging associated with the product before the point of sale or distribution and before

	the initial physical display of the product to the consumer shall be considered the product's packaging."
§18980.1(a)(17)(E)(i)	We recommend including distribution: "Without limitation, a brand or trademark is directly associated with a good if it is displayed or placed directly on the good, on the good's packaging, on tags or labels affixed to the good, or on documents (electronic or otherwise) associated with the goods or their sale ***or distribution***"
§18980.1(a)(26)	Continue to have concerns with including the language "Mere disposal in a landfill does not constitute a significant effect on the environment" as the opposite can be true and mere disposal in a landfill can constitute a significant effect on the environment.
§18980.1(b)(1)-(2)	We have major concerns about the lack of public transparency with the inclusion and reference to standards here, and throughout the regulations, that are not publicly available.

Article 2:

Topic	Comments
§18980.2(a)(1)(2)	Our concerns with this broad exclusion are outlined above. We strongly recommend this language be deleted and that CalRecycle include language in the exemptions section to cover commodities that producers claim have an irreconcilable conflict with federal law.
§18980.2(a)(3)	We recommend the following change to make it clear that the Department ultimately needs to determine whether a covered material is deemed reusable: "Packaging that is ***determined by the Department to be*** 'refillable'..."
§18980.2(a)(6)	Our strong objection to the definition of "medical products" and the exclusions of OTC drugs is detailed above. We recommend this subsection be deleted in its entirety and the exclusion for "drugs" be limited to those that require a prescription as outlined in subsection (a)(5), consistent with the plain language under PRC § 42041(e)(2)(A)(i).
§18980.2(b)	We are highly concerned with the expansion of all packaging associated with excluded and exempted materials. Not all categorical exclusions or exemptions apply to "packaging" broadly. For example, only "beverage containers" are

	excluded under PRC §42041(e)(2)(E). Further, exemptions under PRC §42060(a)(3)-(5) are specific to "covered material" and do not allow for all packaging associated with the exempted material to be excluded. We recommend this section be deleted as it is not necessary to define "packaging" again and inconsistent with the statute to expand exclusions and exemptions to all packaging.
§18980.2.1(a)	It is unclear under the proposed language who "deems" packaging or food service ware reusable or refillable. We recommend the following change: "... that meet the requirements to be deemed ***by the Department*** 'reusable; or 'refillable' pursuant…"
§18980.2.1(a)(3)(B)	We find several statutory obligations for packaging reused by a consumer pursuant to PRC §42041(af)(2) missing from the regulations. We recommend the following change to address these concerns: "...packaging or food service ware items must be ***explicitly designed and marketed to be utilized multiple times and*** must be utilized multiple times by consumers ***for the same product*** without …"
§18980.2.1(b)(1)(C)(2)	We are concerned by the removal of (b)(1)(C)(2) on record keeping for reusable product claims and recommend this language be added back in.
§18980.2.2	We recommend any requests for determinations of whether components or groups of components are de minimis be made with notice to the public and the Advisory Board before CalRecycle deems them de minimis.
§18980.2.3(b)(2)	We noticed several places where the term "materials" was used when it should be "covered materials" and recommend revisiting this language for consistency.

Article 3:

Topic	Comments
§18980.3.2(b)(3)	The language that specifically references the amount of covered material "disposed of" should include a reference to the section that details the disposal of covered materials. We recommend the following change "Weight of covered material disposed of ***pursuant to section 18980.3.5.***"
§18980.3.2(g)(2)	There should be one standardized method for recycling rate determination and do not support the development of an

	alternative methodology for particular covered material like expanded polystyrene. We recommend the deletion of (g)(2).
§18980.3.3(c)(4)(A)(ii)	We are concerned by the removal of laboratory testing requirements for determining whether plastic or polymers were incorporated. We suggest the following change to (i): "***(i) Laboratory test results demonstrating that the item does*** not incorporate…"
§18980.3.4(b)(3)	The APR PCR program referenced only validates whether the resin used is postconsumer, it does not validate that the postconsumer content is physically incorporated into the product. For that reason, we recommend additional criteria be added to ensure transparency into the recycled content used in the covered materials.
§18980.3.5(e)	We have major concerns with the striking of language in (e). To ensure the information included in the regulations is additive, not duplicative, we recommend the following change: "***(e) other forms of disposal including transformation, as defined in section 40201, and engineered municipal solid waste conversion, as defined in subdivision (a) of section 40232.2.***"

Article 4:

Topic	Comments
§18980.4(a)	We appreciate the criteria for REMs retained throughout this section, which are vital to restore faith in Californians in the recycling process.
§18980.4(a)(4)(A)	We recommend the following addition at the end of this subparagraph: "***Each plan shall also provide a description of how the PRO will calculate yield rates, including the data sources and assumptions to be used***."
§18980.4(a)(4)(C)	We appreciate the added nuance that delineated between wholly fiber based products and plastic and polymer compostable products in end markets.
§18980.4.1(a)	The obligation of the PRO or an Independent Producer in the Act pertains to "viable responsible end markets" - the term is used 11 times in PRC 42051.1 to describe the PRO's obligations within the plan.

	The regulations continue to lack details that will specify how an end market is deemed viable. The regulations must include requirements for the PRO to identify and validate the viability of the end markets.
§18980.4.1(d)	This subparagraph fails to meet the Department's obligation to outline criteria to exclude "plastic recycling technologies that produce significant amounts of hazardous waste." The law requires criteria be developed based on generation of hazardous waste, not based on risk, as outlined in these regulations. This is an unlawful change of the threshold outlined in the Act. The regulations as drafted focus on the management of hazardous waste, as opposed to the production of hazardous waste, in clear violation of the letter and the intent of the Act. It also fails to meet the other statutory obligation to "encourage recycling that minimizes generation of hazardous waste, generation of greenhouse gases, environmental impacts, environmental justice impacts, and public health impacts." Numerous peer-reviewed studies, including a recent study by the National Renewable Energy Laboratory (NREL)[4] found that "Mechanical recycling, with its lower operational and capital costs (Table S28), economically out-competes all other options on a statistically significant basis.When assessed for environmental impact, current processes outperform next-generation technologies." ● This study highlights that to fulfill the Department's obligation to "encourage recycling that minimizes generation of hazardous waste, generation of greenhouse gases, environmental impacts, environmental justice impacts, and public health impact" the Department's regulations must encourage the use of existing mechanical recycling technologies. ● Moreover, the tool developed by NREL should be part of the review of any non-mechanical recycling technology to ensure it is consistent with this obligation.

[4] Uekert, T., et al. (2023). *ACS Sustainable Chemistry & Engineering*

	We find the language throughout this section to be incredibly vague - for example, (d) fails to include any specificity that this section is only applicable to plastic recycling technologies. Further, "substantial compliance" as used in (d)(1)(B) is not defined or clarified.
§18980.4.3(a)(4)(A)	We recommend the following language to ensure that the technology is eligible to be counted towards the recycling rate requirements "constitute recycling, as defined in section PRC §42041(aa) of the Public Resources Code, ***and does not constitute disposal pursuant to section 18980.3.5.***"
§18980.4.3(a)(4)(B)	The PRO's obligations as outlined in PRC §42051.1 require materials be sent to a "viable responsible end market." We recommend the following change to capture this requirement: "Evaluates the feasibility ***and viability*** of …"
§18980.4.3(a)(4)(C)	We recommend the following change to the language to capture all the requirements for responsible end market identification: "...standards specified in section 18980.4~~***(a)***~~."
§18980.4.3(a)(4)(D)	To ensure that pilot programs are consistent with the requirements outlined in the Act to protect human and environmental health, we recommend the following change: "...subparagraphs (A), (B), or (C) ***provided the technology is consistent with section 18980.4.1(d)***."
§18980.4.3(a)(5)	We believe the reference to paragraph (1) is a typo and should read: "study described in paragraph ***(4)***"
§18980.4.3(a)(5)(B)	We recommend the following change to the language to capture all the requirements for responsible end market identification: "...standards specified in section 18980.4~~***(a)***~~."
§18980.4.3(a)(6)	We believe the reference to paragraph (1) is a typo and should read: "study pursuant to paragraph ***(4)***"
§18980.4.3(a)(b) & (c)	We believe the reference to (b)(1) is a typo and should read: "study pursuant to paragraph ***(a)(4)***"

Article 5:

Topic	Comments
§18980.5(b)	We strongly support the addition of a registration deadline for producers to join and submit data to the PRO, or to apply to be an Independent Producer.

Article 6:

Topic	Comments
§18980.6.6(b)	Recommend the Department include language that financial, production, and sales data will be disclosed in summary or aggregate form as required by PRC §42051.2(b)(5) and 42063(c).
§18980.6.7(a)	While we support a simplified eco-modulation fee for the initial two years following Plan approval, we strongly recommend that there be an eco-modulation fee applied – not just a base fee. Oregon has established precedent for adopting a simplified eco-modulation fee during the first several years of plan operation. We recommend a similar approach that allows time for data collection and fee schedule determination, without penalizing those producers that have already made or are making progress towards early compliance with the eco-modulation fee. As an alternative to the current draft, we recommend that the PRO develop a simplified eco-modulation fee schedule to be included and approved in their Plan. Such a simplified fee schedule should be based on some or all of the same criteria outlined in PRC §42053(e). The simplified fee could be based, for example, on whether a producer is collecting or reporting data on one of the eco-modulation fee categories. That would allow for producers that are already making progress to benefit through their fees while encouraging other producers to start collecting the data necessary to adopt the full eco-modulation schedule. We recommend this language be modified to allow for a simplified fee schedule and not just an extension of the base fee for two additional years.

Article 8:

Topic	Comments
§18980.8(c)	We suggest the following addition: "***(12) A demonstration that the means and technologies are not considered disposal pursuant to section 18980.3.5***."
§18980.8.2(a)(3)	We have major concerns with removing the PRO's funding

	obligations regarding the Plastic Pollution Mitigation Funding from their closure fund. The PRO's funding obligation to the Mitigation Fund is just as fundamental as its other funding obligations.
~~§18980.8.3~~	We strongly support the removal of this section as there is no statutory basis to allow for adjustments to the amount of plastic covered material that needs to be source reduced pursuant to PRC §42057.

Article 9:

Topic	Comments
§18980.9(a)	We support the date change to require the source reduction baseline report earlier to ensure the most accurate data possible is used in determining the amount of source reduction necessary to achieve the requirements of PRC §42057.

Article 15:

Topic	Comments
~~§18980.15~~	We recommend the Department develop regulations in a subsequent rulemaking to implement PRC §42061.5(b) and outline conditions for additional PRO approval.

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California Legislature

May 30, 2025

The Honorable Gavin Newsom
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Also submitted electronically

RE: SB 54 (Allen, 2022) Comments on Draft Regulations

Dear Governor Newsom, Secretary Coloretti, Secretary Garcia, and Director Heller,

Enacting SB 54 demonstrated our state's leadership role in tackling the plastic pollution crisis and ensuring producers share the responsibility for the end-of-life management costs of the single-use materials they generate. We recognize that enacting SB 54 was just the first step in the long and important implementation process, and we appreciate the work that has gone into developing the regulations thus far.

As you know, SB 54 came as a result of lengthy and intense negotiations to create a comprehensive program that transitions California away from its reliance on single-use packaging and plastic food ware. Your administration worked closely with the Legislature to achieve consensus on every key policy component in the measure, including the definitions, rates and dates, exemptions, program governance, and enforcement. While not every stakeholder embraced every aspect of the bill, the stakeholder community accepted the bill as a whole and it was passed with bipartisan majorities from both houses.

We support the goal of finalizing regulations quickly to ensure that California continues to move forward and meet the timelines established in the law. In reviewing the latest draft informal regulations, we appreciate the strong commitment to responsible end markets -- so Californians can have confidence that SB 54's promise of circularity can be met and to create economic value for materials beyond a single use, thus driving down the prices for and economic viability of composting/recycling and composted and recycled materials.

While we support many changes in the current draft regulations, we have identified several provisions that are inconsistent with the governing statute established by SB 54 and where CalRecycle has exceeded

its authority under the law. The issues described below must be addressed before the regulations are finalized.

Failure to adequately minimize hazardous waste and other impacts as required by the law

SB 54's statutory language specifically prohibits the use of plastic recycling technologies that generate significant amounts of hazardous waste by directing that: "the regulations shall include criteria to *exclude* plastic recycling technologies that *produce* significant amounts of hazardous waste." (emphasis added). The draft regulations fail to comply with this requirement on multiple counts. First, the criteria enable — not exclude — technologies that produce significant amounts of hazardous waste. The regulations unlawfully shift the standard from the *production* of hazardous waste (as required by the statute) to its *management*. Therefore, the threshold of avoiding only those technologies where hazardous waste is improperly managed and "presents an imminent and substantial risk of harm to public health or to the contamination of the environment" does not achieve the statutory mandate. Further, the draft regulations state that any hazardous waste handled and disposed of in "substantial compliance with an applicable permit" does not pose an imminent and substantial risk. This, too, conflicts with statutory guidance and legislative intent to exclude technologies based on the generation, not management, of hazardous waste.

Moreover, the regulations do not comply with SB 54's requirement that the regulations include clear criteria that encourage minimization of the "generation of greenhouse gases, environmental impacts, environmental justice impacts, and public health impacts" as required by the law. The informal draft regulations do not include any criteria that encourage the use of technologies that minimize these additional public and environmental health impacts, as the law requires.

Extraordinary expansion of categorically excluded products is inconsistent with and contrary to the law

The new draft regulations significantly expand the scope of products that are categorically excluded from the program, which is not only contrary to the statute but also risks significantly increasing the program's costs by increasing the amount of contamination in the recycling stream and therefore increasing the need for enforcement. This new provision allows producers to unilaterally determine which products are subject to the law, without a requirement or process to back up such a claim.

This new broad exemption excludes food packaging "necessary to comply with rules, guidance, or other standards issued by the United States Department of Agriculture or the United States Food and Drug Administration" from the program. SB 54 directed CalRecycle to ensure the regulations do not conflict with federal packaging laws -- but did not give CalRecycle the authority to direct a complete exclusion of products simply because a producer claims particular packaging is "necessary" to use and could not comply with SB 54. We understand that this is intended to respond to certain food producers' concerns about packaging requirements and guidance aimed at ensuring food safety. However, this revision is drafted so broadly that it potentially exempts nearly all food packaging. Many, if not all, types of food packaging necessary to comply with federal standards can be recycled or composted. This change is misguided and conflicts with the statute. SB 54 includes a provision for products facing "unique challenges" to pursue exemptions in consultation with CalRecycle. That provision was specifically designed to address these circumstances and is the appropriate process for food and drug producers.

The new draft regulations also add many over-the-counter (OTC) medications to the list of categorically excluded materials, which is inconsistent with statute and legislative intent. SB 54 exempts prescription

drugs and medical devices from the program, but that exemption does not include OTCs. Whether OTCs should be included in the program was debated when the first version of the bill was introduced in 2019, and these products remained in the program in all versions of the bill that followed. While not all parties were pleased that, in the end, OTCs were included, the language of the law is clear and was agreed to by all parties, including the department. The first draft of regulations issued in March of 2024 proposed exempting OTCs. The final draft conformed with the law and included all OTCs in the program. This latest draft proposes a convoluted approach, suggesting that some OTCs are exempt and others are included. For example, food, cosmetics, and soaps seem to be in, but other OTCs like Tylenol and Nyquil would be out. While this might seem like a reasonable compromise, nothing in SB 54 gives CalRecycle the authority to renegotiate this component of the law.

Reuse/refill standards

The new draft regulations make important revisions to the "refill and reuse" standards. These requirements were burdensome, and we appreciate the effort to streamline them. However, to ensure that they do not create an unintended loophole, it is important that the regulations include a minimum standard. We are also concerned that the proposed regulations removed the requirement for the PRO to maintain records for the covered materials producers claimed to be reusable or refillable.

Finally, we would be remiss if we did not reiterate that a primary impetus behind the passage of SB 54 was to address not just the waste and pollution associated with single-use packaging and foodware, but the rising costs to everyday Californians associated with managing that waste, cleaning up the environment, and addressing public health impacts of plastic exposure. Residents across the state are paying significantly more in their rates today than they did a decade ago for trash collection and recycling, with only SB 54 to help stem the volume and the costs. This is why cities and county governments were our first key and early partners in this effort, as they were sick of having to pass the costs of the dysfunction of our waste system onto regular folks through cuts and rate increases and wanted to find a more comprehensive solution. We emphasize the central attention of affordability to SB 54's conceptualization and negotiation, with a particular focus on the economic benefits it will provide to ratepayers. To that end, we implore you to acknowledge the inherent and prescient attention we all paid to addressing affordability when crafting SB 54 and the economic benefits it will provide to ratepayers.

We are committed to continuing to work with your administration as this critical program is implemented. The state deserves a strong foundation on which to base future actions. We urge you to ensure that CalRecycle revises the regulations to reflect the letter and intent of the statute.

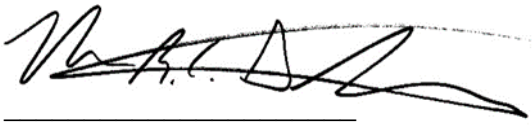
Sincerely,

BEN ALLEN
Senator, 24th District

CATHERINE BLAKESPEAR
Senator, 38th District

DAMON CONNOLLY
Assemblymember, 12th District

GREGG HART
Assemblymember, 37th District



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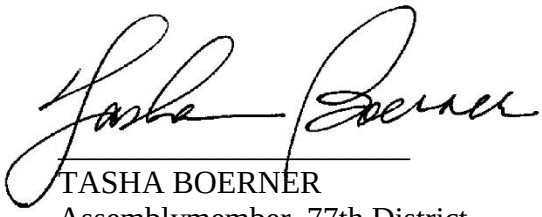

TASHA BOERNER
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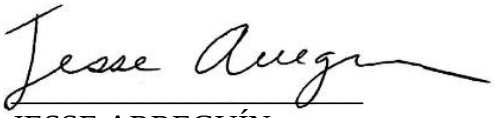

JESSE ARREGUÍN
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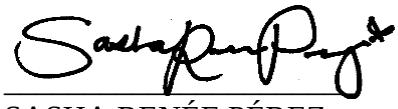

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HENRY STERN
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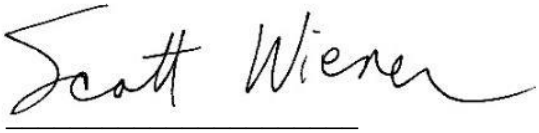

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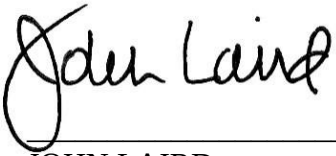

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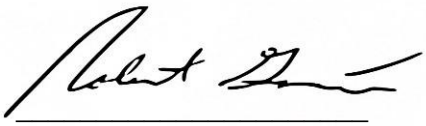

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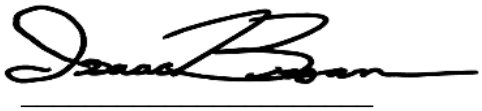

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AL MURATSUCHI
Assemblymember, 66th District

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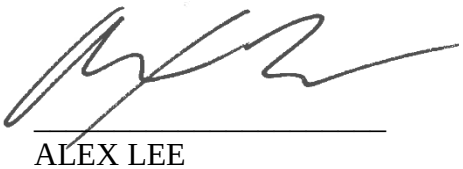
CATHERINE STEFANI
Assemblymember, 19th District



ALEX LEE
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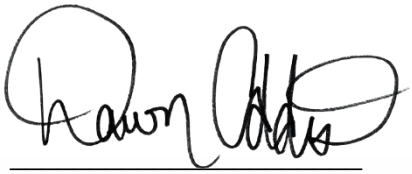

DAWN ADDIS
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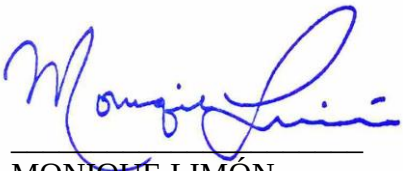

MONIQUE LIMÓN
Senator, 21st District

December 17, 2024

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

Submitted electronically through public comment form

Re: SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations - December 2, 2024 (Second 15-day Comment Period) - Notice File Number Z2024-0227-04

Dear Ms. Derksen,

On behalf of the undersigned organizations – Monterey Bay Aquarium, Ocean Conservancy, and Oceana – we appreciate the opportunity to comment on CalRecycle’s draft regulations to implement Senate Bill 54 (SB 54), the Plastic Pollution Prevention and Packaging Producer Responsibility Act. We are grateful for the substantial time and energy the Department invested in this rulemaking, as evidenced by the detailed and thorough proposed rules and extended timeline for regulation development. The regulations should proceed on schedule to be finalized by the Office of Administrative Law deadline. And we continue to extend our deep appreciation of the Advisory Board members for serving and leading thoughtful and diligent conversations during public meetings while developing their comments.

State action to curb plastic production and use is more important now than ever. After efforts to complete a global plastics treaty recently stalled, and remain on uncertain terms. Federal election results also threaten environmental progress more broadly, so the world will be looking to California as a leader in tackling the plastic pollution crisis. While California’s SB 54 is the boldest and most ambitious EPR program, four other states in the U.S. are implementing EPR programs for packaging. Circular Action Alliance (CAA) was selected as the PRO for two of those states, including Oregon where the program is anticipated to launch in July 2025. The efforts underway in these other states to register producers and develop shared systems for implementation will help CAA succeed in California. *Potential delays in implementation can threaten the success of packaging EPR programs around the country.*

The plastic crisis is a ballooning problem, responsible for growing landfills and over a garbage truck of plastic pollution entering our ocean every minute. This pollution is damaging our ecosystems and endangering public health. Plastics are also a major contributor to climate change – between manufacturing, use, and disposal, in 2020, the U.S. plastics industry was responsible for climate pollution equivalent to 116 average-sized coal-fired power plants. The scientific consensus is clear: we must stop producing and using so much plastic.

Additionally, many plastics contain toxic chemical additives such as plasticizers, stabilizers, and flame retardants, many of which have been associated with endocrine disruption, cancer, and neurotoxicity. Once in our environment, plastic contaminates our soil, air, and water with

impacts on human health that are only just now being understood. Ingestion of plastic also has major impacts on wildlife including endangered and threatened species.

Plastics simply have too high a cost to be disposable. California ratepayer costs for curbside collection have increased substantially. On top of the explicit costs borne by residents and small businesses, California communities are estimated to spend more than $428 million annually to clean up and control plastic pollution. And there are significant health impacts that are borne disproportionately by vulnerable communities (see this new UCLA Luskin Center study). ***SB 54 is an affirmative effort by the state to arrest the uncontrollable costs associated with packaging waste.***

The intent of SB 54, as with other EPR programs for packaging, is to put the financial onus of managing materials on producers rather than on local governments and ratepayers and taxpayers. Studies have found that EPR programs for packaging do not raise the cost of goods. For example, a recent study commissioned for the Oregon Department of Environmental Quality found no correlation between the existence of an EPR for packaging and product prices.[1] Further, a study by Columbia University (commissioned by The Recycling Partnership) found that there were **no discernible impacts on consumer prices from the introduction of EPR requirements.**[2]

Our organizations strongly support the timely implementation of SB 54. Our comments focus on the regulatory elements that are essential to ensure the Department successfully implements the law within the statutory timelines. While we continue to have concerns with some aspects of the regulations, the state must finalize the regulations to start realizing the full environmental and community benefits of SB 54. The proposed regulations are consistent with the negotiated terms of the statute, are implementable, and must be finalized to begin the next phase of implementing this groundbreaking law.

We understand that there are outstanding concerns by stakeholders over the intersection between SB 54 and SB 343. Given that these concerns stem from the requirements and timelines within SB 343, we strongly recommend that any outstanding concerns be addressed through the implementation process for SB 343, not SB 54. **Promulgating these regulations in a timely manner is a necessary step toward achieving SB 54's vision for a cleaner and healthier California.**

We appreciate CalRecycle incorporating a number of comments from our joint letter submitted on November 4, 2024. In particular, we note:

- the regulations specify that packaging for prescription drugs is categorically excluded material and does not include over-the-counter drugs, which is consistent with the statute and the years of negotiation that resulted in SB 54, and
- the addition of §18980.3.5(e) including other forms of disposal under §40192 of the Public Resources Code, which is consistent with PRC §42041(ab).

We attached an appendix with additional information to support these provisions.

[1] RRS, 2021. "Impact of EPR Fees for Packaging and Paper Products on Price of Consumer Packaged Goods."
[2] Bose, S., 2022. "Economic impacts to consumers from extended producer responsibility (EPR) regulation in the consumer packaged goods sector."

Below we detail the remaining concerns that were not addressed in the December 2, 2024 revised text.

1) **Source reduction adjustment factors must not affect the overall reduction of covered material (§18980.8.3)**

The requirement to source reduce plastic covered material by no less than 25 percent by January 1, 2032, was fundamental to our organizations' support of SB 54 and was carefully negotiated as part of withdrawing a ballot initiative. As we noted previously, neither the Department nor the PRO have statutory authority to adjust the amount of plastic covered material required to be reduced relative to the baseline. This provision is ***only*** lawful under SB 54 if implemented so as not to affect the overall amount of covered material reduced relative to the baseline under the source reduction mandate.

2) **More Holistic Review of Recycling Technologies Needed (§18980.3.6)**

We are disappointed by the lack of changes incorporated in this section. We remain concerned that this section does not capture the broader statutory requirements to encourage recycling that minimizes generation of hazardous waste, generation of greenhouse gasses, environmental impacts, environmental justice impacts, and public health impacts under PRC §42041(aa)(5)[3] and avoid disproportionate impacts to disadvantaged or low income communities. Therefore, we have been strongly recommending this section be changed to include a holistic review of recycling technologies proposed in a PRO plan or plan amendment.

Currently, the regulations do not outline how the Department will fulfill their other statutory requirements to encourage recycling that "minimizes generation of hazardous waste, generation of greenhouse gases, environmental impacts, environmental justice impacts, and public health impacts" under PRC §42041(aa)(5). Because the Department has not broadened this provision to cover requirements beyond hazardous waste generation, the Department must review these additional statutory requirements in the PRO plan and plan amendments.

We also recommend including language that details which technologies may not be considered recycling (under PRC §40192(b)) and cannot be included in a PRO plan or amendment and are not subject to this review process as follows:

> Pursuant to paragraph (5) of subdivision (aa) of section 42041 of the Public Resources Code, a technology that ***employs*** ~~employes~~ chemical, rather than mechanical or physical, processes to alter the chemical structure of plastic, ***excluding disposal technologies as defined in subdivision (b) of section 40192 of the Public Resources Code,*** to create new raw material for use in manufacturing is not…

We support the regulations requiring a study on hazardous waste generation to be reviewed by an independent peer-review panel to ensure accurate and trustworthy information with strong requirements to prevent conflicts of interests as is best practice. We also support the Department adding a requirement that, in order for the PRO to include any of these technologies in a PRO plan or plan amendment, the Department must review and make a

[3] A new UCLA Luskin Center study presents an equity framework to identify and invest in plastic-burdened communities in California, documenting the many ways that the plastic pollution exposure crisis is an environmental justice issue.

determination that the use of the recycling technology is consistent with the other statutory requirements in SB 54. We, therefore, recommend this section be renamed ***Review of Significant Hazardous Waste Generation for Recycling Technologies***.

We also recommend the Department include language stating that if the peer-review panel or Department determines that the technology cannot be considered recycling because it generates a significant amount of hazardous waste, no producer fees may be used to subsidize, incentivize, or support that technology pursuant to PRC §42051.1(j)(2)(D).

As science-based organizations with deep expertise in these types of technologies, we appreciate the need for rigorous evidence to support claims and protect California communities and the environment. *Reviewing technologies, as outlined in this section, does not stifle innovation.* Rather, the added transparency in the review process should give the PRO, producers, other users of these technologies, as well as all Californians additional trust in the technologies being deployed.

3) **High standards for reuse and refill may hinder a growing industry's progress (§18980.1, §18980.2.1)**

We remain concerned that the proposed regulatory standards for reuse and refill (e.g., "maintains its shape, structure, and function after 780 cycles in a cleaning and sanitizing process" (§18980.1(27)(D)(ii)) are unsupported by evidence or industry standards supported by reuse experts. We acknowledge that this standard was developed for the implementation of SB 1335, however, SB 54 does not reference this standard in the definition of reuse and refill. We strongly recommend the Department follow the advice of reuse experts who say the inclusion of this standard may inadvertently hinder the ability to achieve the reuse targets laid out in the Act and compromise successful implementation of the source reduction requirements. Given the rapidly developing reuse and refill market, we further encourage the Department to include language that implements an adaptive management approach whereby reuse and refill standards are updated to meet industry standards.

4) **Simplifying producer reporting to annual increments (§18980.10.2)**

Given SB 54's mandates are based on annual metrics, the requirement for producers to report in monthly increments is unnecessary and could create a disproportionate burden on small producers. We recommend the following change to §18980.10.2 (b): "(b) All data reported pursuant to this chapter shall be reported in ***annual*** increments."

5) **Definition of alternative collection (§18980.1)**

To achieve the high recycling rates required under the law, the PRO may need to utilize multiple pathways to recover materials, including offering multiple pathways for recovery of the same types of materials. The inclusion of "is not curbside collection" in the current definition of "alternative collection program" (§18980.1(a)(2)) is prohibitive of an approach that would allow for the PRO to offer alternative collection programs for covered materials in parallel with offering curbside collection. This is critical to ensuring that the PRO has all available tools in the implementation of this law to successfully achieve the recycling mandates. We recommend the following change: "(2) "Alternative collection" means a program that collects covered materials, regardless of whether the covered material is discarded or considered solid waste~~***, and is not "curbside collection" as defined in subdivision (g) of section 42041 of the Public Resources Code***~~."

6) Additional clarity needed for food service ware producer (§18980.1.1)

We support the addition of §18980.1.1 to help clarify aspects of producer identification. We remain concerned about the identification of the producer for food service ware, which has important ramifications when it comes to deploying reuse and refill systems in food service establishments. As food service establishments are the entity making purchasing decisions regarding the use of reuse and refill, it is imperative that the regulations identify them as the obligated producer. We recommend additional clarifying language §18980.1.1(b) that states that the food service establishment is the obligated producer for food service ware used in the operations of that food service establishment.

7) Including citations for disposal of covered materials in §18980.3.2

In §18980.3.2(b)(3)(B) we recommend including a citation to §18980.3.5, which outlines what materials are considered disposed of to ensure consistency throughout the regulations. We recommend the following change to §18980.3.2(b)(3)(B): "(B) Weight of covered and derivative materials disposed ***of pursuant to section 18980.3.5.***"

8) Include a deadline for producer registration with the PRO (§18980.5)

We reiterate our prior recommendation to add a July 1, 2025 deadline to require producers to register with the PRO or apply to become an Independent Producer in §18980.5. As we have stated previously, producers joining the PRO early is critical for accurate data and sufficient funding for the program to launch and be successful. The intent of the law is to have producers join the PRO as soon as possible, with a cutoff date of no later than 2027. Given the included deadline for producers to register with CalRecycle, we recommend CalRecycle actively engage producers and strongly encourage them to join the PRO well before the 2027 program start date.

We look forward to continued engagement with the Department, the PRO, and other parties on this groundbreaking law to ensure its most important elements, including the source reduction mandates, environmental mitigation fund, and extended producer responsibility (EPR) program, are successful.

If you have any questions, please reach out to Jennifer Fearing at jennifer@fearlessadvocacy.com. Thank you again for your work updating the draft regulations and for your consideration of our comments.

Sincerely,

Anja Brandon, Ph.D.
Director, Plastics Policy
Ocean Conservancy

Tara Brock
Pacific Legal Director & Senior Counsel
Oceana

Amy Wolfrum
Director, California Policy & Government Affairs
Monterey Bay Aquarium

Appendix

1. Packaging for over-the-counter drugs is not exempted under the Act and must be included in the covered materials.

The Act excludes packaging for "prescription drugs" and "drugs that are used for animal medicines" (PRC §40141(e)(2)(A)(i)). These exemptions were carefully negotiated and over the counter drugs were specifically included in the scope of covered materials under the Act.

The plain language of the Act is clear, but some legislative history may be helpful as well. The language in the Act is the same as the prior version of SB 54 (2019). The negotiations in 2022 that developed the Act did not adjust the language from the 2019 version. What's more the policy committee analyses for both the 2019 and 2022 version similarly call out "prescription drugs" as explicit exemptions.

SB 54 (2019):

> Bill/statutory language: "(1) Medical products and products defined as prescription drugs and medical devices, as specified in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(g), 321(h), and 353(b)(1))."
>
> From Assembly Natural Resources committee analysis (Sep 2019): "Exempts medical devices, medical products, *prescription drugs*, infant formula, medical food, fortified oral nutritional supplements, and the packaging used for these products, as specified, from the provisions of the bill.
>
> From Assembly Natural Resources committee analysis (Jul 2019): "Specifies that medical devices, products, *prescription drugs*, and the packaging used for these products, are excluded from the bill."

SB 54 (2022):

> Bill/statutory language: "(i) Medical products and products defined as devices or prescription drugs, as specified in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(g), 321(h), and 353(b)(1))."
>
> From Assembly Natural Resources committee analysis (Sep 2022): "Excludes packaging used for medical products, devices, and *prescription drugs*, animal medicines and drugs, infant formula, medical food, fortified nutritional supplements, insecticides, rodenticides, fungicides, hazardous materials, hazardous or flammable products, beverage containers subject to the Bottle Bill, long-term protection or storage, paint covered by the paint recovery program, as specified."

2. Harmful chemical recycling technologies are prohibited from counting towards the recycling rate under the Act and must be included in the review of technologies used in the Plan.

The definition of "recycling rate" under PRC §42041(ab) does not include other forms of disposal "as defined in subdivision (b) of Section 40192 of the Public Resources Code." The statutory definitions were intentionally crafted and negotiated to prevent producers from

counting the use of certain harmful technologies such as pyrolysis and gasification as recycling.

- PRC §40192(b) lists: “landfill disposal, transformation, EMSW conversion” as disposal.
- PRC §40201 defines transformation as “incineration, pyrolysis, distillation, or biological conversation other than composting.”
- PRC §40231.2 defines engineered municipal solid waste conversion (or EMSW conversion) as a process that meets certain criteria including the displacement of fossil fuels, has a relatively low moisture content, and where the waste has a high energy content, which would include gasification technologies.

This intention was made clear in a letter by Senator Allen to the Senate Journal which stated that “technologies using pyrolysis, gasification, solvolysis, and similar technologies that involve combustion and incineration, as well as the generation of hazardous waste, are therefore prohibited from being considered recycling under SB 54.”

By law, the Department must “encourage recycling that minimizes the generation of greenhouse gasses, environmental impacts, environmental justice impacts, public health impacts” pursuant to PRC §42041(aa)(5). The Department must also ensure that the regulations “avoid or minimize disproportionate impacts to disadvantaged or low-income communities or rural areas” pursuant to PRC §42060(d). And the Department must ensure that no fees are used to “subsidize, incentivize, or otherwise support incineration, engineered municipal solid waste conversion, the production of energy or fuels, except for fuels produced using anaerobic digestion of source separated organic materials, or other disposal activities” pursuant to PRC §42051.1(j)(2)(D).

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JUDICIARY
NATURAL RESOURCES & WATER
TRANSPORTATION
JOINT COMMITTEE ON THE ARTS, VICE-CHAIR
ENVIRONMENTAL CAUCUS, CO-CHAIR

December 17, 2024

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SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations
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Zoe Heller
Director
Department of Resources Recycling and Recovery
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Also submitted electronically

RE: SB 54 (Allen, 2022) Draft Regulations – Public comment on legislative Intent

Dear Ms. Derksen and Director Heller:

Passage of SB 54 was a remarkable achievement for California and cemented our state's leadership role in reducing plastic pollution and ensuring producers of consumer products take responsibility for the end-of-life management of their food service ware and packaging. At the time, we knew that while passing the measure was a major milestone, much work lay ahead as California began implementing the law. As the author of the measure, I am submitting these comments for consideration during the second 15-day written comment period.

For several years prior to the passage of SB 54, my staff and I led intense stakeholder negotiations with the goal of creating an ambitious program policy that both transformed markets globally while including flexibility for industry and extended implementation timelines to ensure the program could be implemented successfully. We painstakingly gained consensus on every key policy delineated in the measure, including the definitions, rates and dates, exemptions, program governance, and enforcement. While not every stakeholder embraced every aspect, we worked to ensure each entity could accept the final policy. We also included as much detail as reasonable within the statute, which meant that some more complex policy considerations had to be deferred to the regulatory process.

We understood at the time that the policy questions which were deferred to the regulatory process would be difficult, and stakeholders would likely not remain united on every aspect. As CalRecycle finalizes the regulations, I want to express my gratitude for the thoughtfulness and hard work that clearly went into this most recent draft and go on record to memorialize the intentions on a couple of key components.

First, let me say that the most recent draft regulations, taken holistically, are consistent with state law and reflect our legislative intent. Significantly, the correction made in this latest draft, including over the counter (OTC) drugs as covered products under SB 54, is consistent with the statute. While some stakeholders advocated for OTCs to be exempted, the final agreement embodied in SB 54 (the 2019 version and the enacted 2022 bill) clearly included OTCs in the program. I was pleased to see the language in this draft clarifying that OTCs are covered by the program.

Similarly, I appreciate that this new draft provided clarity on which investments made by local governments could be eligible for reimbursement by the Producer Responsibility Organization (PRO). As I stated in my previous letter, the bill as passed requires the PRO to fully fund the costs incurred by local jurisdictions to implement SB 54 and necessarily excludes those investments made before the bill's passage. Like the discussion around OTCs, this too, was controversial, but the legislative intent is clear.

I also understand that some stakeholders have raised concerns regarding how this latest draft interprets the definition of "producer." Some have questioned whether retail brands, for example a grocery store that sells products under its own brand label, should be included as a producer. The tiered definition in the statute clearly intentionally includes all brands, including retail brands. Like many other legal requirements for product safety and other obligations, in which the brands are the responsible entity, they can and must work within their supply chains to ensure compliance with the mandates of the program. The definition was discussed at length during the months and years the bill was negotiated, and this point is clear. This is foundational to the success of this program as it is pivotal that the entity making the design decisions be responsible for the upstream redesign requirements laid out in this program.

I want to close by mentioning how important it is that California continues to move forward and meet the timelines established in the law. When we passed SB 54 in 2022, the world took notice. Other states and jurisdictions throughout the world are watching us to determine whether we can meet the ambitious goals established in this groundbreaking law. This is especially true as the UN Plastics Treaty is reaching a critical point in time when it will either follow California's lead and act aggressively to curb plastic pollution, or scale back its ambition, allowing the unchecked growth of plastic to contaminate our communities, choke our oceans and waterways, and negatively affect public health. With the eyes of the world watching us, it is imperative we get this right and not delay. We knew that as hard as it was to pass a bill as far-reaching and transformative as SB 54, implementation would be harder. I support the Department's proposed regulations and urge their timely adoption. As tough decisions are being made, we should stay the course.

Thank you for considering our intent in carefully crafting SB 54. If you have questions, please contact my Chief of Staff, Tina Andolina, at (916) 651-4024.

Sincerely,

BEN ALLEN
Senator, 24th District