



June 3, 2025

Zoe Heller  
Executive Director  
California Department of Resources Recycling and Recovery (CalRecycle)  
P.O. Box 4025  
Sacramento, CA 95812-4025

Re: ***SB 54 Regulations Informal Rulemaking Comment Period***

Dear Director Heller:

The California Retailers Association (CRA) appreciates the opportunity to provide comments on CalRecycle's proposed revisions to the SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations.

CRA is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, on-line marketplaces, restaurants, convenience stores, supermarkets and grocery stores, chain drug and specialty retail such as auto, vision, jewelry, hardware and home stores. The California Retailers Association works on behalf of California's retail industry, a driving force of California's economy, with over 400,000 retail establishments, an annual gross domestic product of \$330 billion and one fourth of California's total employment.

The retail industry is committed to the goals of SB 54, has made investments in sustainable practices and appreciates the opportunity to participate in the rulemaking process for SB 54. The California Retailers Association's President and CEO Rachel Michelin is an appointee to the SB 54 Advisory Board and serves as an ex-officio member of the Circular Action Alliance (CAA) Producer Responsibility Organization (PRO) board furthering the retail industry's commitment to California's commitment to moving towards a circular economy. As such, retailers are deeply invested in ensuring this groundbreaking extended producer responsibility (EPR) program for creating a more circular economy for plastics and packaging is successful both for producers, local governments and, most importantly, consumers.

Below, CRA summarizes our appreciation for the work CalRecycle has done on the regulations as well as some areas of concern and questions regarding the latest revision.

We look forward to ongoing dialogue and we are happy to make our subject matter experts available to answer specific questions or provide additional information that may be useful as CalRecycle moves forward with finalizing the SB 54 regulations.

### **Regulations Headed in the Right Direction**

The California Retailers Association supports and appreciates CalRecycle's consideration of the impact on affordability that these regulations will have on everyday consumers, especially given the ongoing uncertainty with the Trump Administration's tariffs. The latest version of the SB 54 regulations reflects this affordability concern. We thank the entire CalRecycle team's ongoing collaboration with all stakeholders on this important issue. This latest draft of the regulations is a vast improvement.

Key components of the regulations that make the SB 54 statute implementable for business without greatly raising costs include the provisions for advanced recycling, which is critical for the future success of EPRs in California including SB 707, the Responsible Textile Recovery Act of 2024, which mandates that apparel and textile producers participate in a recycling and recovery program, making them responsible for managing their products throughout their lifecycle, including collection, repair and recycling. This is the nation's first Extended Producer Responsibility (EPR) law specifically for textiles and its success is dependent on the ability to utilize advanced recycling technologies.

We also support CalRecycle's decision to delete Article 15 (§18980.15) from the proposed regulations. Limiting the approval of additional Producer Responsibility Organizations (PROs) helps maintain regulatory clarity and ensures consistent oversight.

CRA members are committed to the environmental goals of SB 54 and appreciate the time taken to craft a collaborative and effective regulatory framework. This demonstrates California's leadership in addressing plastic pollution and advancing sustainable recycling practices.

### **Remaining Concerns with Draft of SB 54 Regulations**

#### **Inconsistencies with EPR fee requirements on receipts in California**

Under the proposed SB 54 regulations, retailers in California are not permitted to list an EPR fee as a separate line item on receipts or invoices for packaging. This is inconsistent with other EPR and EPR-like programs in the state and throughout the country creating a confusing patchwork of receipt requirements for consumers and business as well as compliance burdens, which will ultimately increase costs that could trickle down to consumers.

SB 54 specifically prohibits companies from passing EPR fees directly to consumers as a separate line item on receipts or invoices. This means retailers and producers must absorb the cost of EPR fees into their overall pricing, rather than itemizing it for the consumer at the point of sale. SB 54 includes a unique provision not found in other EPR laws including Colorado, Oregon and Maine.

Other EPR Programs in California such as the Covered Electronic Waste Recycling Fee or the Mattress Recycling Charge, the law does require or allow these fees to be listed separately on receipts. For example, with the e-Waste Recycling Fee retailers must collect and may list the fee separately on receipts for covered electronic devices. Under California's mattress recycling program, the recycling fee must be shown as a separate line item on invoices and receipts.

While this fee requirement under SB 54 is in statute and cannot be changed within the regulatory process, the California Retailers Association would like to highlight these inconsistencies that will create more compliance costs that both businesses and consumers will have to bear. In some programs, retailers and producers must add the fee on the receipt for "educational purposes" for the consumer while SB 54 requires the opposite.

### **Inconsistencies with Reporting Requirements**

The California Retailers Association supports movement of the reporting date to allow for adequate interpretation and scoping time, to ensure accurate and thorough reporting. We respectfully ask CalRecycle to consider pushing the reporting date to the end of the year and reconsider the reporting year for the first report. The current reporting year is set to 2023 while the rest of the packaging EPRs in other states throughout the country (Oregon, Colorado, Maine and Minnesota) are set to 2024. This leaves California's packaging EPR as an outlier on the reporting requirements causing compliance difficulty. The California Retailers Association asks CalRecycle to consider updating the SB 54 regulations requirement in first reports with reporting due dates in 2025 to 2024. The 2023-year data is difficult to access and less accurate in regard to retailers' footprint due to discontinued Stock Keeping Units or SKUs.

### **Harmonization of material class, type and covered materials across the states and Liability Concerns**

Colorado is the model for most retailers having to comply with different packaging EPRs across the country. The California Retailers Association requests an exemption of materials where it is difficult to change the material type due to the material being regulated or needing specific packaging designs. We support the exemption of any materials covered by any other EPR type program and encourage consistency on producer liability definitions. Legislation varies in language relative to "sell it into the state" or "sell it to the consumer" as well as import status. Harmonizing across in scope materials and across states relative to responsibility would ensure more accurate compliance.

The California Retailers Association also requests that producer liability for retailers not extend to national brands where retailers have limited ability to influence.

### **Exclusion of Certain Types of Packaging – De Minimis**

CalRecycle amended the language in section §18980.2.2 to clarify requirements for a component or group of components to be deemed as de minimis weight or volume. In addition, CalRecycle provided a pathway for de minimis exclusion requests to be submitted by the Producer Responsibility Organization (PRO) or Independent Producer, to be reviewed and approved by CalRecycle separate from the stewardship plan.

The following highlights key issues for retailers regarding this provision in the draft regulations:

- Cumulative compliance requirement: all criteria must be met, regardless of the component's actual impact on recyclability.
- High administrative burden: producers must submit detailed, evidence-based requests, which could require costly analysis or testing.
- Complex implementation: the process is difficult to navigate and lacks clarity, increasing compliance uncertainty.

The California Retailers Association recommends making the following changes in the regulation to improve the implementation of SB 54:

- Introduce a tiered or weighted evaluation system to allow for more practical assessments.
- Provide clearer definitions and guidance to reduce ambiguity and improve consistency in interpretation.
- Streamline the approval process for commonly used low-impact components.

We appreciate the opportunity to share our comments on the current draft regulatory framework for SB 54 as well as concerns and suggestions to improve certain sections for retailers to ensure affordability and the effective implementation of the law. We stand ready to work with CalRecycle to implement SB 54 and its priorities to lead the nation, and the world, as this landmark policy decreases plastic waste and moves California closer towards a circular economy and sustainable waste management system.

If you have any questions or need additional information on any of the issues raised in this letter, please do not hesitate to contact me directly either at 916/443-1975 or [Sarah@calretailers.com](mailto:Sarah@calretailers.com)

Sincerely,



Sarah Pollo Moo  
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California Retailers Association