



February 13, 2026

Submitted Electronically via CalRecycle's Public Comment Portal

Csilla Richmond
SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations
California Department of Resources Recycling and Recovery (CalRecycle)
Regulations Unit
1001 I Street, MS-24B
Sacramento, CA 95814

Re: Senate Bill 54: Plastic Pollution Prevention and Packaging Producer Responsibility Act

Dear Ms. Richmond:

The California Retailers Association (CRA) appreciates the opportunity to provide comments on CalRecycle's updates to the proposed regulatory text in the formal rulemaking period, and as part of the latest 15-day comment period that was initiated due to these updates, for California's SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act.

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 continue 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) California board furthering the retail industry'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 latest comments on the changes made to Article 2: Covered Material and Covered Material Categories, Section 18980.2, Categorically Excluded Materials pertaining to the exclusion for packaging or packaging components that must comply with federal food safety regulations (Food and Ag exclusion section of the draft regulations) as well as comments to changes made to the regulations that are technical in nature.

CRA appreciates the work CalRecycle has done on the regulations to date. 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 we get closer to SB 54 regulations being final.

Exclusion Process

Despite updates to the draft regulatory text, there continues to be a significant lack of clarity on the process for food safety exclusions. The three criteria laid out in the rules for the food and agriculture exemption have several problems. One such problem is that there is no feasibility standard mentioned. Another is that there is no clear meaning of the phrase “all legal conflicts”. In addition, the public posting of exclusion applications opens the process up to public review and challenge. CRA anticipates the potential for drawn out litigation over the criteria making it hard to determine if and/or what items producers should even attempt to obtain exclusion for.

When discussing the ability to switch packaging to other materials, supply availability of that alternate material needs to be a factor. If one producer is able to create a solution for their item, and another business sells a similar item, that means there can be no exclusion because alternate packaging exists, but that alternative is not available or at least widely and readily available to anybody but the one producer who created it. This means one business may be held hostage by the packaging innovation of another.

We know that SB 54 contains provisions around protecting confidential business information, but we think there should be more detail as to how this will be addressed in the exclusion process, when applications are posted publicly. The level of detail that may need to be provided to obtain an exclusion raises confidentiality concerns and CRA requests more direct language addressing this point in the rule.

Additionally, Cal Recycle, should only identify approved exemption notices on the public database rather than publicly sharing all exemption notices. And this should be done without revealing confidential business information.

Updated Regulations Will Remove Products From Shelves Taking Away Consumer Choice and Affordability in California

While the California Retailers Association appreciates CalRecycle’s willingness to consider an exemption for food packaging regulated by the Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA), the current draft regulatory text is too restrictive to allow meaningful relief and may result in products being taken out of the consumer market for lack of scalable compliant packaging, taking away California consumer choice and affordability.

Retailers manufacture several products that are strictly regulated by the FDA and/or USDA in a way that makes complying with the California EPR program requirements extremely difficult or virtually impossible.

The following includes specific examples where the updated regulations are problematic in this area.

- 19p of the FDA Pasteurized Milk Ordinance (PMO) requires tamper evident seals such as barrier films or caps for grade A dairy products. Examples include Plastic Caps for fluid milk products and foil or plastic film for yogurt and cottage cheese containers.
- The PMO requires packaging material used for Grade A milk products to be approved and listed, and to come from Interstate Milk Shippers (IMS) approved manufacturers. These requirements are referenced in Appendix J of the PMO.
- Appendix J of the PMO also requires that all paper, plastics, foil, adhesives, and other components of containers used in the packaging of milk and/or milk products that have been condensed and/or dried shall be free from deleterious substances and comply with the requirements of the FFD and California.
- Retorted products (Acid and Low Acid Canned Foods): Materials must provide hermetic seal to prevent spoilage/and or foodborne illness (C. Botulinum).
- Material Approval: Only packaging materials that have passed USDA review for safety, non-toxicity, and suitability may be used for federally inspected products.
- Packaging that displays required regulatory information (e.g., ingredients, nutritional information, net weights, cooking or handling instructions, claims, etc.)

Other Food Safety/Quality Considerations

- Barrier films to manage oxygen permeability (yogurts, deli meats).
- Low-Density Polyethylene (LDPE) Packaging for bread and other baked products that maintain structural integrity, quality, and safety.
- Barrier films to ensure protection of products from being destroyed or adulterated (e.g., potato chips, cereal bags).
- Metalized Films for functional strength and barrier properties (e.g., yogurt).
- Managing natural molds in dairy cheese through vacuum packaging and plastic films (e.g., cheese).
- Safety handling of raw proteins (etc., raw poultry, bacon, etc.), avoiding contamination of the consumer, the store and containers used in transportation.
- Packaging must have moisture barrier properties to ensure that external condensation (in transportation or at point of sale) is not contaminated from environmental contamination. Paper board – frozen and dairy cartons – milk.
- Safe handling and storage of cooked meats (e.g., deli meats; beef jerky; pepperoni, etc.).

- Rights of consumers to see certain products to purchase (bagged produce and other items needed to maintain product safety) – barrier properties included.

Specific Language Revision

Minor adjustments to the updated draft regulatory language will provide a better balance between incentivizing innovation of sustainable packaging while allowing producers to continue serving California consumers in a safe manner:

Section 18980.2(a)(2)(B)(i) should be revised as follows:

*“There is no such **market available and scalable** alternative that satisfies all applicable mandatory standards for safety and structural integrity of packaging, creates no new unavoidable legal conflict with any law, and otherwise is lawful to use in California”*

Third Party Support Needed

Page 21 - Article 2(a)(2): California must allow third parties to support retailers whose vendors will need to guide retailers in this section of the regulations for SB 54. Retail brand owners should not be making exemption justifications on behalf of producer products. CalRecycle needs to provide more efficiency here to positively recognize different food regulations that preempt state packaging goals.

Page 23 – (D): This section of the regulations needs to be broad enough that it covers all like-formats with similar design features.

Page 24 – (F): If substantially similar packaging is considered similarly not covered material, CalRecycle needs to allow industry-level applications of carve-outs. If packaging for certain, clearly identifiable types of products is categorically excluded by 18980.2.(a)(2), each producer should not be required to individually submit for exclusions.

Page 35 – (b): Exemptions or carve outs should not be tied to a specific producer. There should be an opportunity for industry to collaborate so the review and approval process is more streamlined for both CalRecycle and industry.

We, again, appreciate the opportunity to share our comments and remain ready to work with CalRecycle to implement SB 54 and lead the nation and world, as this monumental 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

Sincerely,



Sarah Pollo Moo
Director, Public Affairs
California Retailers Association

Attachments: Previous Correspondence Sent to CalRecycle for This Rulemaking



October 7, 2025

Submitted Electronically via CalRecycle's Public Comment Portal

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SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations California
Department of Resources Recycling and Recovery (CalRecycle)
Regulations Unit
1001 I Street, MS-24B
Sacramento, CA 95814

Re: Senate Bill 54: Plastic Pollution Prevention and Packaging Producer Responsibility Act

Dear Director Heller:

The California Retailers Association (CRA) appreciates the opportunity to provide comments on CalRecycle's proposed regulatory text in the formal rulemaking period for California's SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act.

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 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 continued appreciation for the work CalRecycle has done on the regulations to date as well as some areas of concern and questions remaining as the regulations get close to their final form.

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 Continue to Move 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 and myriad of extended producer responsibility and product stewardship programs that exist in California, nationwide and globally. The most recent version of the SB 54 regulations reflects these concerns. We thank the entire CalRecycle team’s ongoing collaboration with all stakeholders on this important issue. Similar to the last version, this latest draft of the regulations continues to show vast improvement in streamlining and ensuring affordability is a top priority.

As was included in our June 2025 comments letter to CalRecycle, 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 EPR law specifically for textiles and its success depends on the ability to utilize advanced recycling technologies.

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

I. Definition of Producer – The definition of Producer remains overly complex and could lead to a lack of clarity by the regulated community as to which party should be considered the Producer. Most importantly, to simplify reporting obligations, **all single-use food service ware, regardless of whether it is unfilled / empty, should be the responsibility of the food service ware manufacturer.**

Otherwise, it adds significant complexity because food service ware suppliers do not know how their items will eventually be used. That may already be the intent of the regulations, but it’s not clear based on the organization of the Producer definition. A proposed redline of Subsection 17(B) of 18980.1 that would make the distinction clearer is proposed below.

Proposed redline:

(17)(B)

(i) For Packaging, the terms “product that uses covered material” and “product using the covered material” refer to a good that uses covered material. Empty packaging materials not yet used by a good are not “single-use packaging” or otherwise “covered material” under the Act, such that a person is not a producer merely because they manufacture, sell, offer for sale, or distribute such materials.

(ii) For Plastic Food Service Ware, A a product good uses covered material if its packaging is covered material or if the good itself is plastic single-use food service ware and thus constitutes covered material. Empty packaging materials not yet used by a good are not “single-use packaging” or otherwise “covered material” under the Act, such that a person is not a producer merely because they manufacture, sell, offer for sale, or distribute such materials.

II. Compostability Definition – SB 54 looks to [AB 1201 \(Ting – 2021\)](#) for the definition of compostability. While we appreciate your decision to delay the implementation deadline by 18 months for compostable material to meet the National Organic Standards (NOP) under AB 1201, the California Retailers Association needs confirmation that SB 54’s definition of compostable will track AB 1201, as extended by CalRecycle.

III. USDA/FDA exclusion – The California Retailers Association supports an outright exclusion for **raw protein packaging**. Rather than requiring a separate exemption application to be submitted, packaging for raw protein should be explicitly excluded under the proposed SB 54 regulations due to the food safety considerations.

Additionally, in Section 18980.2.1. Exclusion of Reusable and Refillable Packaging and Food Service Ware (a) (4) (A-B): Convenience Standard puts unnecessary financial and administrative burden on retailers to manage statewide reuse collection and distribution for all producers. The California Retailers Association requests CalRecycle provide clarity on the basis for the distance requirements and a cost/benefit consideration for determining the distance. CRA recommends CalRecycle consider alternatives based upon population density/return volumes. Retailers delivering other producers covered reusable materials by delivering directly to consumers should not be responsible (logistically or financially) to recover other producers reusable packaging.

IV. Baseline – The baseline concept in CalRecycle’s proposed SB 54 regulations is confusing. There seems to be an inherent conflict between setting a static baseline using 2023 data and the statutory provision that acknowledges that businesses will continue to grow and that further reductions may be needed (Section 42057(b) and (h)). The California Retailers Associations requests clarity from CalRecycle on this issue.

V. Malus Fees – Section 42053(e)(6) allows malus credit if producers include on-pack recycling / disposal instructions. The California Retailers Associations requests clarification from CalRecycle that a QR code is sufficient to qualify as “clear and accurate disposal, recycling ... instruction.”

VI. State Audit – The California Retailers Association requests clarity on the rights for the State of California to conduct an audit. Is it typical for regulations not to specify a timeframe with constraints on how far back CalRecycle can audit. Specifically, in Article 13 of the proposed SB 54 regulations: Enforcement Oversight by the Department and Administrative Civil Penalties, Section 18980.13.

Compliance Evaluation and Determination

- *Can clarification on the audit timeline be added? Ex: CalRecycle has authority to audit anything from the past XX years? This way, the regulated community can ensure there is access to all data going back to a certain date and make sure a third party is keeping producers’ data aligned as well.*

VII. Categorically Excluded Materials – The California Retailers Association recommends amending Section 18980.2 to reduce unnecessary administrative burdens to individual producers when packaging formats/applications run into federal preemption or requirements that would make the packaging out of scope. Class wide exemptions should not need individual producer submissions, which would only emphasize duplication and add excess cost to producers with no added benefit, which will also only increase the costs on consumers.

VIII. Exclusion of Certain Types of Packaging – The California Retailers Association requests CalRecycle ensure in section 18980.2.2 that intended use is considered for the durability and reuse exemptions. Commercial users and consumer users are two different use standards. Five years of use for consumers may not translate to five years of industrial use. Warranties for consumer use do not need to stand up to industrial/commercial use.

IX. Evaluations of Covered Material and Covered Material Categories; Section 18980.3.4. Independent Third-Party Validation for Postconsumer Recycled (PCR) Content – The California Retailers Association recommends CalRecycle ensure that if and when testing or certification bodies are required that the most possible options for the global supply chain are allowed. CRA recommends CalRecycle start broad and only narrow if entities prove they are not satisfactory. The speed at which this process is moving does not allow for perfection. CalRecycle should consider defining the industry standard testing methodology and lab certifications requirements as opposed to specifying a single entity and their partners as the only option.

X. Remaining General Concerns

The California Retailers Association requests that CalRecycle allow producers to rely on certifications or letters of guarantee from raw material suppliers, packaging manufacturers and vendors for a near-to mid-term compliance and evidence of Chemical, Design for Recyclability and PCR content compliance. Testing and Certification schemes need time to develop within the global packaging industry to moderate duplicative testing and certification costs to California consumer products.

CRA also continues to be concerned about California’s inconsistencies with EPR and product stewardship program fee requirements on receipts.

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 Main.

With 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. Education is important and we should be educating consumers in a myriad of ways on SB 54 and the other EPR and stewardship programs that are currently operating for various products being sold in the state, but we need to find harmonization and consistency in California so businesses and ultimately consumers do not pay the price for a burdensome and ultimately costly patchwork of laws governing California's product recycling goals.

Finally, the California Retailers Association continues to be concerned about the need for harmonization of material class, type and covered materials across the states and the corresponding liability concerns without that harmonization. Colorado is the model for most retailers having to comply with different packaging EPRs across the country. CRA 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. We also ask for producer liability for retailers not extend to national brands where retailers have limited ability to influence.

We appreciate the opportunity to share our comments on the proposed regulatory framework for SB 54 in the formal rulemaking stage of California's landmark packaging EPR Program as well as concerns and suggestions to improve certain sections for retailers to ensure affordability and the effective implementation of the law. We remain ready to work with CalRecycle to implement SB 54 and lead the nation and world, as this monumental 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

Sincerely,



Sarah Pollo Moo Director, Public Affairs
California Retailers Association