

June 3, 2025

Claire Derksen, Regulations Unit  
California Department of Resources Recycling and Recovery (CalRecycle)  
1001 "I" Street, MS-24B  
Sacramento, CA 95814

*Submitted electronically via: <https://calrecycle.commentinput.com/?id=M56YE3SZQ>*

**Re: CalRecycle Proposed Changes to Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54) Draft Regulations**

Dear Ms. Derksen,

The Flexible Packaging Association (FPA) is pleased to offer these comments to CalRecycle in response to the most recent draft proposed changes to the Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54) draft regulations published by the Agency on May 16, 2025.

FPA represents flexible packaging manufacturers and suppliers to the industry in the United States. Flexible packaging represents \$42.9 billion in annual sales; is the second largest, and fastest-growing segment of the packaging industry; and employs approximately 85,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. We are submitting these comments to share our appreciation for the effort and creative solutions CalRecycle has put forward to identify ways.

FPA recognizes that CalRecycle has put careful consideration into the current draft regulations for SB 54 to help ensure that plans can be submitted and data can be reported in a timely manner; that insights can be drawn based on necessary data; and that CalRecycle can retain its ability to exercise appropriate statutory authority on the producer responsibility organization (PRO) while retaining the law's ambitious mandate for achieving a circular packaging system. We believe the current draft regulations generally propose viable pathways to ensure SB 54 remains true to its intent, while ensuring a program

that is implementable and effective. Most importantly, we believe the current approaches in the draft regulations offer the flexibility needed to support innovation and the iterative outcomes that result from consistent advancement.

Following are a few things we wish to specifically note that are of value in the current proposed draft regulations.

## **I. Please Consider the Value of On Ramp Flexibility (Section 18980.3.1)**

As film and flexible materials begin to benefit from the end market development and recycling investment that SB 54 will provide, CalRecycle will need to provide an on-ramp for those materials to be considered “recyclable.” We appreciate that CalRecycle has struck the language in section 18980.3.1. that “*the Department may identify covered material categories exempted from section 42355.51(d)(2) of the Public Resources Code for the purposes of this Act, provided they comply with all other restrictions on being considered recyclable set forth in section 42355.51 of the Public Resources Code.*” But we maintain our earlier request that the arbitrary time window for a material to qualify for the “trending on-ramp” to be “*before the next mandatory update to the material characterization study*” be replaced with a requirement that allows CalRecycle to determine if a material is trending towards eventual compliance without a procedural delay. We do not believe there is anything in statute that requires determinations to be based on the next material characterization study. Emerging materials that require new recycling infrastructure will require flexibility to create a practical and workable solution for all involved.

## **II. Changes to Timelines (Articles 5-8 & 10)**

We appreciate many of the proposed changes in the current draft regulations regarding reporting times and believe they will grant the PRO, and its members, sufficient time to assess their data, develop strategies and implement plans that will drive change across California.

This includes:

- a. Changing monthly reporting requirements of producers, and the PRO, to an annual reporting framework, reflecting that packaging design and recovery does not change rapidly. This

change will reduce significant costs and burdens associated with frequent reporting and aligns with practices in other states with packaging EPR laws to reduce costs without reducing data needs.

- b. Expanding the exemption deadline for small producers from one year to two, reflecting the labor challenges this type of program can impose on smaller businesses.
- c. Amending timelines to require producers to submit baseline source reduction data to the PRO earlier, permitting the PRO to set data driven goals within their program plan that can help drive success.
- d. Clarifying the de minimis criteria prior to the submission of the PRO plan, helps producers understand where opportunities for packaging optimization are best directed.

These changes create a more cost-effective and workable solution to the challenges identified in the previous version of the draft regulations.

### III. **Changes to Recycled End Markets (Article 4: Section 18980.4-4.3)**

We appreciate the ongoing support for recycled end markets (REMs). Considering other states with packaging extended producer responsibility (EPR) laws also have REM standards, this alignment continues to help producers and the PRO, align efforts across the country by working towards the highest and most demanding expectations.

The most recent changes to the draft regulations help provide much needed clarity for defining end markets for compostable materials in addition to recycled materials. While the removal of the section for randomized material tracking will help reduce labor and costs, at the same time the PRO is still granted the flexibility to assess end markets for compliance.

As investment and research and development advances related to recycling, we believe there may be solutions that will shift some impact and opportunities towards advanced recycling technologies. Providing CalRecycle with the flexibility to evaluate advanced recycling on a case-by-case basis, an approach taken in some of the other states implementing packaging EPR laws, offers a potential on-ramp should this solution be needed, and/or as new technologies and

innovations occur in this space. CalRecycle still maintains authority to approve and deny end markets based on compliance with the guidelines set forth, providing necessary flexibility required for an industry embracing continuous innovation.

#### **IV. Changes to De Minimis Criteria (Section 18980.2.2)**

FPA believes changes to the de minimis criteria to provide for components or a group of components to be considered de minimis, if their small size or weight is not deemed detrimental to recycling or composting, is a valued change to the draft regulations that will help ensure we do not have to restrict recycling or composting when these components have been proven to be insignificant to the recycling or composting stream. This approach aligns with the Association of Plastic Recyclers (APR) design guides for plastics and how the How2Recycle label considers recyclability claims. Furthermore, having producers or the PRO applying for de minimis exclusion, and having CalRecycle maintain a list of components eligible for a de minimis, provides flexibility for innovation, and greater transparency to consumers. This will help ensure we collectively recycle or compost more packaging formats and materials as the industry continues to innovate for better alignment with recovery systems through design for the environmental (DfE) strategies.

#### **V. Conclusion and Next Steps**

FPA is pleased to provide these comments on the most recently proposed changes to the SB 54 draft regulations and thanks CalRecycle for its efforts to create a workable and cost-effective solution that will help producers, and the PRO, drive a more effective and impactful circular packaging system in California. We believe the draft changes address many of the complex considerations that were previously identified as concerns within the December 2, 2024, version of the draft regulations.

While we recognize that these comments are in response to SB 54, we would be remiss if we did not encourage CalRecycle to take a wholistic view of California's recycling system and the modifications being made to it. In the effort to ensure these regulations are cost effective and workable, we believe SB 54 and SB 343, the "truth in labeling" law, must be considered and

implemented practically and cohesively to ensure California's recycling systems are appropriate for modern materials. Evaluating how we can further streamline the costs of implementation and create workable solutions between both laws is necessary to ensure success.

Please do not hesitate to contact me at (602) 540-7544 or [kfisher@flexpack.org](mailto:kfisher@flexpack.org) with any questions or for more information.

Respectfully,



Kyla Fisher  
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Flexible Packaging Association