



KAHN, SOARES & CONWAY, LLP
ATTORNEYS AT LAW

ISSUE BRIEF

Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54)

Updated May 4, 2026

California's SB 54 (2022) established the state's largest extended producer responsibility program, shifting the costs to collect, process and recycle materials from local jurisdictions to producers. The law requires an estimated 13,615 producers of single-use packaging and plastic food service ware to cover end-of-life disposal costs and ensure their products are recyclable or compostable.

The regulation applies to producers that manufacture a product that uses Covered Material (CM) and who owns or is the licensee of the brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in California.

Producer Definition

Producer, as defined in Public Resources Code section 42041(w)¹, and further detailed in the regulation, means:

- (1) A person who manufactures a product using covered material and owns or is the exclusive licensee of the brand/trademark under which it is used in a commercial enterprise, sold, offered for sale, or distributed in the state.
- (2) If no such person exists in-state, the producer is the brand or trademark owner (if in the state).
- (3) Third, a licensee of the designated brand/trademark (under certain conditions)
- (4) Fourth, the first person who sells, offers for sale, or distributed the product using the CM in or into the state.

Simply put, the producer is responsible for meeting the requirements of this regulation if its product remains in California.

¹ Producer does not include a person who produces, harvests, and packages an agricultural commodity on the site where the agricultural commodity was grown or raised (PRC 42041(w)(4)).

A producer under this definition could include:

- A mill, dryer, shipper/handler/processor packing an ag commodity into a CM
- A shipper/handler/processor that applies pallet wrap or a modified atmosphere packaging system
- A shipper/handler/processor that utilizes cardboard containers for shipping
- A retailer or distributor of a CM, depending on relationship to the CM when it is imported, sold, distributed or used in California.
- A producer or retailer of agricultural inputs including seed, plant containers, or feed sold in CM.²

Producer Requirements

- Must report total weight of CM and plastic components sold, distributed or imported in or into the state; total weight of material that is recycled and total weight of that disposed of.
- Must register within 30 days of regulation effective date (registration deadline is June 1, 2026).
- May label a product “compostable” or “recyclable” if it meets certain standards set in Title 14 of the California Code of Regulations § 17989.2 and the Material Characterization Study (SB 343) referenced in PRC § 42355.51.
- Will be required to pay fees to the program administrator, or Producer Responsibility Organization (PRO).
- Will be subject to CalRecycle’s enforcement for failure to report, register or meet other obligations, which could include a fine of up to \$50,000/day, as well as PRO penalties for non-compliance.

Covered Material Definition

Please see Cal Recycle’s current CM category list [here](#). Material classes include glass; ceramic; metal; paper and fiber; plastic; and wood and other organics.

Recyclability determinations rely on findings described in the [SB 343 Material Characterization Study](#). SB 343 directs CalRecycle to publish data about the types of materials actually recycled in California. The law prohibits manufacturers and other parties from selling products or packaging as recyclable if those items are not routinely collected and recycled throughout the state.

² Pesticide containers are exempt due to a FIFRA exemption in the statute (Section 42041 (2)(B)). SB 54 did not specifically exempt fertilizer containers; however, Section 42041 (2)(C) exempts plastic packaging containers that are used to contain and ship products that are classified for transportation as dangerous goods or hazardous materials under Part 178 of Subchapter C of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations.

This definition includes:

- Single-use packaging that is routinely recycled, disposed of, or discarded after its contents have been used or unpackaged, and typically not refilled or otherwise reused by the producer.
- Plastic single-use food service ware.³

Packaging Definition

Packaging is defined as “any separable and distinct material component used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods.”

This could include:

- Sales packaging or primary packaging intended to provide the user or consumer with an individual serving or unit of the product and most closely containing the product, food, or beverage.
- Grouped packaging or secondary packaging intended to bundle, sell in bulk, brand, or display the product.
- Transport packaging or tertiary packaging intended to protect the product during transport.
- Packaging components and ancillary elements integrated into packaging, including ancillary elements directly hung onto or attached to a product and that perform a packaging function, except for that with a de minimis weight or volume, or a component that is an integral part of the product.

Exclusions & Exemptions that May Be Requested

Based on the current regulation draft there are opportunities to request exemptions and exclusions:

Categorical Exclusion:

The current regulation draft includes a framework for entities to notify CalRecycle of categorical exclusions for packaging or packaging components used with food or agricultural commodities, if it is not reasonably possible for other packaging material to comply with regulations, rules, or guidelines issued by the United States Department of Agriculture (USDA) or the United States Food and Drug Administration (FDA) or other applicable food or agricultural regulations, rules, or guidelines. CalRecycle proposes maintaining a publicly available electronic database of each request and determination status, and a process for determining qualifications and associated timelines.

³ Including, but not limited to, plastic-coated paper or plastic-coated paperboard, paper or paperboard with plastic intentionally added during the manufacturing process, and multilayer flexible material. “Single-use food service ware” includes trays, plates, bowls, clamshells, lids, cups, utensils, stirrers, hinged or lidded containers; and straws and wraps or wrappers and bags sold to food service establishments.

Additional Exclusions May Include:

- Packaging used for “devices”, “drugs”, or “medical products”⁴.

Exemptions May Include:

- Small producers, retailers, or wholesalers that, in the most recent calendar year, had gross sales in California of less than \$1 million⁵
- Covered material that cannot comply for health and safety reasons, or because it is unsafe to recycle.⁶
- Reusable or refillable packaging designed for multiple uses of the same product that is durable enough to withstand repeated use and backed by the necessary infrastructure to ensure convenient and safe reuse or refilling.
- Packaging designed to protect or store products that have a lifespan of five years or longer.⁷
- De minimis exclusions may be considered if it a plastic component is not independent and does not affect recyclability.⁸
- Producers of specific materials with demonstrated recycling rates⁹

Producer Responsibility Organization (PRO)

A PRO is a non-profit organization formed for the purpose of implementing a plan to meet these regulatory requirements. While multiple PROs may be determined under SB 54, Circular Action Alliance (CAA) is the only currently approved PRO. Independent producer responsibility is also an option and is based on a high recycling rate requirement. Independent producers must register with CalRecycle by June 1, 2026.

The CAA is currently focused on three primary goals:

1. Creating a system-wide recycling systems database that includes participants, programs and material flows.
2. Performing a baseline cost assessment
3. Designing a streamlined reimbursement process

⁴ “Devices” and “Drugs” as defined in subsection (h) of section 321 of Title 21 of the United States Code

⁵ For a two-year timeline, with extensions of up to five years.

⁶ For a two-year timeline, with extensions of up to five years.

⁷ With reevaluations no more frequently than every five years.

⁸ With reevaluations no more frequently than every five years.

⁹ Valid for one-two years depending on when submitted, includes strict criteria.

Registration Portal

On May 1 the SB 54 regulation became effective and therefore producers have until June 1, 2026, to register with Circular Action Alliance (CAA) and submit supply data for 2023 and 2025¹⁰. The CAA registration portal can be found [here](#).

Fee Schedule

Currently, the PRO is asking to use a simplified eco-modulation fee schedule¹¹ until December 31, 2028, at which point a full model will take effect. On May 1, CAA published an [illustrative fee schedule](#) to help producers and other stakeholders understand how program costs are translated into fee rates across covered material categories (CMCs) using CAA's fee-setting methodology.

Producers must pay \$5 billion over 10 years into a Plastic Pollution Mitigation Fund beginning in 2027, to address the environmental impacts of plastic pollution and aid affected communities most impacted by the effects of single-use plastic waste. Additional producer fees will include membership in the PRO, and further fees based on the findings in the Needs Assessment and incorporated into the PRO's plan (e.g., investment in recycling infrastructure). Fees are also assessed to support the Circular Economy Fund, which covers CalRecycle's costs to administer the program.

Compostable/Recyclable Schedule:

The law requires producers of covered material sold, offered for sale, imported or distributed to ensure that all covered material that is plastic and offered for sale, imported, or distributed in the state to meet the specific expectations in the timeframes identified, through the PRO or individually if certain criteria are met.

This Statute Requires the Following to be Achieved by 2032:

- 100% of single use packaging and single use food service ware sold in the state is recyclable or compostable
- 65% of single-use plastic covered material (packaging and single-use food service ware) offered for sale, distributed, or imported in or into the state is recycled (this requirement is met by producers through participation in the PRO); and
- A 25% weight and component source reduction plan (based on 2023 data) in the sale or distribution of single-use packaging and single-use food service ware is developed and implemented by the PRO.

As of January 1, 2027, SB 54 prohibits a producer from selling, offering for sale, importing, or distributing covered materials in the state unless the producer is approved to participate in the producer responsibility plan of a producer responsibility organization (PRO) for the source

¹⁰ Those complying individually and not through CAA must register with CalRecycle and apply to be an independent producer by June 1, 2026. Those qualifying for a small producer exemption must register with CalRecycle and apply for the exemption by June 1, 2026.

¹¹ Eco-modulation bases fees on design elements such as percentage of recycled content, weight of material, shift from low to easily recyclable materials, etc.

reduction, collection, processing, and recycling of covered material. Alternatively, the bill would require a producer to comply with the act as an Individual Producer.

Further Compliance Guidance

For guidance on how this regulation may affect your business and to explore strategies for compliance, please reach out to our team.

Louie Brown, Jr., Managing Partner - lbrown@ksclawyers.com

Ann Grottveit, Partner - agrottveit@ksclawyers.com

Abby Taylor-Silva, Managing Director of Regulatory Affairs – ataylorsilva@ksclawyers.com

Taylor Triffo, Managing Director of Legislative Affairs – ttriffo@ksclawyers.com