



May 30, 2025

The Honorable Gavin Newsom
Governor, State of California
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Sacramento, CA 95814

Nani Coloretti
Cabinet Secretary, Office of the Governor
1021 O Street, Suite 9000
Sacramento, CA 95814

Yana Garcia
Secretary, CalEPA
1001 "I" Street
Sacramento, CA 95814

Zoe Heller
Director, CalRecycle
1001 "I" Street
Sacramento, CA 95814

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.

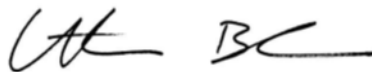
Finally, we would be remiss if we did not reiterate that a primary impetus behind the passage of SB 54 was to address not just the waste and pollution associated with single-use packaging and foodware, but the rising costs to everyday Californians associated with managing that waste, cleaning up the 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



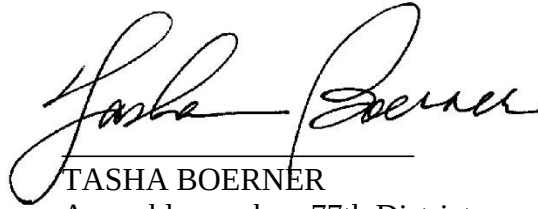
DAMON CONNOLLY
Assemblymember, 12th District



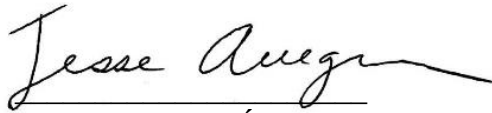
GREGG HART
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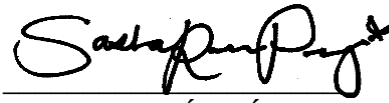
NICK SCHULTZ
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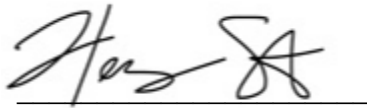
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JESSE ARREGUÍN
Senator, 7th District



SASHA RENÉE PÉREZ
Senator, 25th District



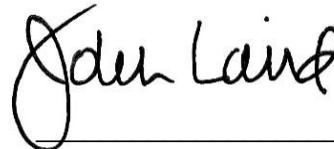
HENRY STERN
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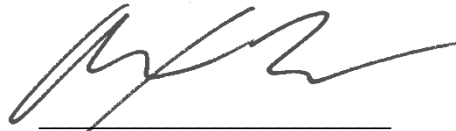
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