

October 6, 2025

Csilia Richmond

SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Permanent Regulations
California Department of Resources Recycling and Recovery (CalRecycle)

Regulations Unit

1001 I Street, MS-24B

Sacramento, California 95814

Submitted electronically via CalRecycle's Public Comment Portal

**Re: SB 54 – Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations
45-Day Comment Period**

Dear Ms. Richmond,

The Flexible Packaging Association (FPA) is pleased to offer these comments to the CalRecycle in response to the draft SB 54 – Plastic Pollution Prevention and Packaging Producer Responsibility regulations (the “regulations”) published in the California Regulatory Notice Register on August 22, 2025. We are submitting these comments to share our thoughts regarding the practicalities, challenges and opportunities with the proposed regulations.

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, roll stock, and other flexible products.

We appreciate CalRecycle’s consideration of stakeholder concerns regarding the most recent draft SB 54 regulations and believe they reflect careful thought on the challenges stakeholders have previously identified. Balancing stakeholder expectations with the Governor’s request to minimize costs for small

businesses and working families was a formidable challenge. We believe CalRecycle has done their best to strike this balance. While FPA believes there is still merit to revisit statute and the interplay of SB 54 with SB 343 and SB 1202, we appreciate that our comments herein must focus solely on SB 54.

I. Recognizing the Role of Alternative Collection for Flexible Films and Packaging

A significant concern for FPA throughout the regulatory process for SB 54 has been the need to recognize that flexible films and packaging currently have diverse pathways for collection and that all valid approaches are valuable and necessary. We thank CalRecycle for acknowledging the value of alternative collection pathways in the current SB 54 draft regulation as well as within the covered material categories producer reporting guidance. Under the SB 54 draft regulations (§18980.3.1), CalRecycle may issue temporary “*trending toward compliance*” recyclable designations using volumes from alternative collection and jurisdictional recycling. We believe this approach is essential in the early years of SB 54 implementation, as it will allow Circular Action Alliance (CAA), the producer responsibility organization (PRO), to scale access to recycling for flexible films and packaging while improving consumer participation and ensuring material quality for valuable recycling and reuse. A dramatic shift in recycling practices and pathways can be detrimental to consumer confidence in recycling. The proposed approach in the current draft regulations will ensure consistency for consumers.

Developed for commercial use in the 1960s, flexible films and packaging are a relatively new innovation. In contrast to packaging materials that have existed much longer, systems for the collection and processing of flexible films and packaging are still evolving. In the U.S., the most effective method to date has been industry-established store drop-off programs, launched more than two decades ago, that collect flexible polyethylene (PE) films and packaging from consumers at retail and community depot locations. This approach of sorting flexible films for direct collection, in contrast to curbside collection, avoids equipment damage at municipal recycling facilities (MRFs) and produces cleaner, higher quality material for recyclers. Alternative depot collection is preferred by many jurisdictional programs. The U.S. collects roughly eleven (11) times more flexible material through these alternative collection systems—across both residential and commercial streams—than through curbside or jurisdictional programs.¹

¹ Eunomia for APR (2024) [How to Scale the Recycling of Flexible Film Packaging: Modelling Pyrolysis' Role in Collection, Quantity and Costs of a Comprehensive Solution](#)

However, behavior studies indicate consumers would prefer curbside access, as they then only need to learn one system for recycling many different packaging formats and materials.² Significant industry investment is underway in research, pilots, and equipment to expand collection options and eventually transitioning flexible packaging from drop-off programs to curbside. As industry invests towards this ideal, we believe it is critical to recognize and support both existing and emerging forms of collection to grant time to test and validate best practices. This is particularly important when California, through SB 54, has set a recycling rate much higher than the national best. If CalRecycle had maintained the language found in previous drafts of SB 54 of isolating the most effective collection format from achievement towards recyclability claims requirements under SB 343, this would have encumbered any possibility of meeting the state’s goals for increased collection and recycling of valuable material, including flexible films and packaging. FPA therefore believes the recent changes to the SB 54 regulations to issue temporary “trending toward compliance” recyclable designations using volumes from both alternative collection and jurisdictional recycling is a positive step towards recognizing the unique challenges and opportunities inherent to flexible films and packaging.

However, FPA must note that while SB 54 considers all forms of material collection additive towards “trending towards compliance,” SB 343 evaluates recyclability designations through separate metrics. As written, SB 343 only recognizes the *local jurisdiction program pathway* under PRC 42355.51(d)(2) as the basis for defining statewide recyclability, using findings from the Material Characterization Study (MCS) required in the law.

While this comment period does not allow for the reconsideration of SB 343 or the MCS, and nor do we want to delay progress made with the SB 54 regulations, we do encourage CalRecycle to consider future alignment of SB 54 with SB 343 and the MCS, so both alternative collection and jurisdictional recycling will be considered additive to count toward recyclability designations—not just the “trending towards pathway.”

² Berck, P. *et al.* (2023). [Recycling Behavior and Convenience](#). In: Zilberman, D., Perloff, J.M., Spindell Berck, C. (eds) Sustainable Resource Development in the 21st Century. Natural Resource Management and Policy, vol 57. Springer, Cham.

We further recommend that CalRecycle re-engage stakeholders within a year of SB 54 program implementation to review and refine related regulations. This will help tailor California’s recycling framework to the state’s infrastructure, geography, and consumer behavior—ensuring the most effective path toward higher recycling rates and more recycled and recyclable flexible packaging. Should this additional review occur, we recommend revisions to the draft regulations that:

- Allow temporary recyclable designations based on combined progress across jurisdictional and alternative programs; and
- Explore creation of a new pathway or flexibility under §42355.51(d)(6) to recognize integrated collection systems.

Such updates would maintain rigor while making compliance feasible for film and flexible packaging systems still developing scalable curbside solutions.

Data on flexible films and packaging indicates a significant discrepancy in processing costs and resale value, as well as the quality of recyclate, depending on the different collection systems used.³ By recognizing the need to keep alternative and jurisdictional collection additive towards state recognition of recyclability, CalRecycle demonstrates consideration of the economic costs of recycling, the costs of implementing SB 54 on producers and consumers, as well as the value of providing access to all stakeholders regardless of economic, demographic or other factors.

II. Categorical Exclusion for Food and Agricultural Commodities

FPA supports the inclusion of Section 18980.2(a)(2) in the draft SB 54 regulations that categorically excludes from the “covered material” definition “packaging or packaging components used by a food or agricultural commodity” when it is “not reasonably possible” to use alternatives to comply with federal regulations, rules or guidelines issued by the U.S. Department of Agriculture (USDA) or the U.S. Food and Drug Administration (FDA). We appreciate CalRecycle recognizes the importance of innovation and the challenge in balancing innovation with health and safety. We note the amendment still requires CalRecycle to revisit and review any exemptions when innovation results in identified alternatives.

³ Center for Sustainable Materials Management (Nov 2023) [New York State Department of Environmental Conservation: A Snapshot Market Research Analysis of Polyethylene Film Plastic Recycling](#). and; RSE for Closed Loop Partners (2020) [Film Recycling Investment Report](#)

In delaying the adoption of SB 54 regulations, Governor Newsom challenged CalRecycle to address economic concerns on consumers and small businesses. Preliminary research by FPA on packaging formats used within the California Women, Infants and Children (WIC) program indicates that over 70% of items on the approved purchase lists are in flexible film packaging and many lack alternative packaging formats.⁴ We believe CalRecycle’s approach here addresses the risk of high food prices and reduced shelf safety inherent with forcing producers to change materials that are not proven to be as effective and safe. This revised approach will help those consumers most at risk.

III. New Recycling Technologies

The FPA supports the revised criteria in the Section 1980.4.1(d) outlining CalRecycle’s role in assessing which new non-mechanical recycling technologies may be deployed as part of a producer responsibility plan, while still remaining committed to ensuring these technologies complement existing mechanical recycling while minimizing hazardous waste, greenhouse gases, environmental impacts, environmental justice impacts and protecting public health. We believe these revisions in the SB 54 draft regulations encourage innovation in recycling technologies while remaining true to the protection of health and safety for our environment and communities. While mechanical recycling technologies are effective in recycling many flexible films currently on the market, a desire to use recycled content back into food contact packaging or medical products may require new recycling innovations and technologies to ensure health and safety. This flexibility grants CalRecycle and the PRO the ability to evaluate the best path to direct materials to their highest and best use, all while ensuring we are striving towards circularity across the value chain.

Conclusion and Next Steps

FPA appreciates the efforts of CalRecycle to incorporate stakeholder feedback into the SB 54 regulations. While we still have concerns around the costs of the regulations to consumers and small businesses, and the intersection of SB 54 with SB 343 and SB 1202, we believe many of the changes strike a reasonable balance within the confines of what the law permits CalRecycle to do.

⁴ Preliminary Research Insights. Confidential presentation from the Packaging School to FPA September 17, 2025

FPA supports the adoption of these regulations to ensure producers and the PRO have the regulatory certainty needed to begin implementation to meet statutory deadlines. In the meantime, as we move towards implementation over 2026, we encourage CalRecycle to re-open public comments, or request legislative support, when possible, for SB 54, SB 343 and SB 1202 so we can ensure greater clarity and alignment to create more harmonization between these intersecting laws.

Thank you for the opportunity to comment on the draft regulations for SB 54: Plastic Pollution Prevention and Packaging Producer Responsibility Act, and your consideration of our recommendations. If we can provide further information or answer any questions, please do not hesitate to contact me at (602) 540-7544 kfisher@flexpack.org.

Respectfully,



Kyla Fisher
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Cc: Karen Kayfetz, Branch Chief, Product Stewardship Branch, CalRecycle
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