

February 13, 2025

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 15-Day Comment Period**

Dear CalRecycle,

The Flexible Packaging Association (FPA) appreciates the opportunity to submit these comments to 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 January 29, 2026. We offer the following comments to share our perspective on the practical considerations, implementation challenges, and opportunities presented by the proposed regulations.

FPA represents flexible packaging manufacturers and suppliers to the industry 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. For fresh produce and meat in particular, flexible packaging is often the preferred format due to its lightweight yet highly protective properties. Flexible packaging is the fastest-growing and second largest segment of the U.S. packaging industry, representing \$51.5 billion in annual sales and approximately 98,000 workers in the U.S. Our industry has approximately 6,500 employees at flexible packaging manufacturing facilities in California, representing a total economic impact of more than \$10 billion.

We appreciate that the revised regulations maintain a pathway for exemptions aligned with U.S. Department of Agriculture (USDA) and U.S. Food and Drug Administration (FDA) requirements. These federal standards have long served as the appropriate benchmark for determining whether food contact packaging is safe and legally compliant. Packaging intended for food contact is engineered first and foremost to prevent contamination and protect public health.

However, FPA is concerned that the Department’s proposed process for determining whether no viable alternative exists to meet federal food safety standards may be overly restrictive and burdensome. Under the draft regulations, producers must not only demonstrate that no alternative exists to their specific packaging format, but also justify that each individual component and material cannot be substituted. This effectively requires testing and documentation across multiple hypothetical design concepts in addition to the actual packaging in use, significantly increasing compliance complexity and cost. Manufacturers will be forced to divert resources from future innovation toward documentation of hypothetical alternatives.

We are also concerned about the timelines outlined in the draft regulations. Rapid review periods, and requirements for frequent reapplication, even in the absence of significant design changes, substantially increases assessment, reporting, and cost burdens. Packaging redesign—from initial concept through regulatory approvals and commercialization—can often take several years. The timelines currently proposed do not allow sufficient time for responsible companies to safely test, validate, and deploy alternatives. We encourage the Department to extend the applicable timeframes and to adopt an approach that requires reapplication only when new material(s), component(s), or format(s) becomes widely available. As currently drafted, these requirements risk conflicting with Governor Newsom’s direction to minimize unnecessary costs to small businesses and working families.

While we recognize the benefits of electronically submitting and tracking exemption requests within a centralized public database, we have concerns regarding the confidentiality of proprietary information. Requiring public disclosure of materials and components that cannot be substituted could expose sensitive trade secrets related to product design and engineering, potentially enabling competitive reverse engineering. We recommend that the Department clarify how the use of a public database will

comply with applicable federal protections, including but not limited to the Defend Trade Secrets Act (DTSA), 18 U.S.C. § 1836, and the Freedom of Information Act (FOIA), Exemption 4.

To help mitigate confidentiality concerns, we recommend the Department consider allowing some “blanket” exemption requests from the PRO or manufacturers for packaging formats that may be used by multiple brands. This, instead of requiring multiple individual exemption requests for the exact same packaging application or format, would reduce the number of applications the Department would need to review, reducing costs on both the Department and those applying for exemptions and providing a certain level of competitive confidentiality. Alternatively, rather than publishing each exemption application, the Department could publish a list of packaging formats or materials they deem exempt. FPA maintains that Exemption 4 regarding the Freedom of Information Act (FIOA) provides the Department the necessary authority from sharing competitive design specifications publicly while still permitting material or component level disclosures.

Finally, we note that balancing consumer health and safety with environmental objectives necessarily involves tradeoffs. In addition to protecting public health, fresh food packaging plays a critical role in preventing food waste, reducing greenhouse gas emissions, and ensuring the delivery of safe, high-quality products to Californians. Packaging is essential to maintaining product integrity throughout harvesting, cooling, transportation, and retail handling. Packaging changes that satisfy food safety requirements but fail to deliver necessary functionality may inadvertently increase contamination risks, shorten shelf life, raise food waste levels, and increase overall emissions. An approach that prioritizes recyclability without accounting for full life-cycle environmental performance risks undermining California’s broader climate and sustainability goals. Replacing lightweight flexible packaging designed for longer product shelf-life with heavier alternatives may inadvertently increase transportation and food waste related greenhouse gas (GHG) emissions in California, outcomes that run counter to the core intent of SB 54.

Thank you for the opportunity to comment on the draft regulations implementing SB 54: Plastic Pollution Prevention and Packaging Producer Responsibility Act. We appreciate your consideration of

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our recommendations and would welcome the opportunity to provide additional information or engage further. Please do not hesitate to contact me at (602) 540-7544 or [kfisher@flexpack.org](mailto:kfisher@flexpack.org).

Respectfully,



Kyla Fisher  
Director of Regulatory Affairs and Sustainability  
Flexible Packaging Association (FPA)