



November 4, 2024

Submitted via calrecycle.commentinput.com

Claire Derksen
SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations
Department of Resources Recycling and Recovery, Regulations Unit
1001 "I" St., MS-24B
Sacramento, CA 95814

RE: SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations

Dear Ms. Derksen:

CalRecycle has issued a Notice of 15-Day Changes to its SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations.¹ The Alliance for Automotive Innovation (Auto Innovators)² appreciates the opportunity to provide comments on this important step of California's implementation of its extended producer responsibility (EPR) program.

Auto Innovators represents the auto manufacturing sector, including automakers that produce and sell around 95% of the new light-duty vehicles in the United States. Our mission is to work with policymakers to realize a future of cleaner, safer, and smarter personal transportation and to work together on policies that further these goals, increase U.S. competitiveness, and ensure sustainable, well-paying jobs for citizens throughout the country. Millions of packaged auto parts are transported across the country and across the globe to repair and maintain the vehicles that our members sell; therefore, EPR programs have a substantial impact for automakers.

One overarching comment that we would like to make to CalRecycle: we request that the Department keep in mind the applicability of these regulations to producers of complex durable goods. It appears that much of the text is angled toward single-use consumer goods and plastics, whereas our parts and products are designed to last for a long time and may in the meantime be in the production or storage chain for longer periods. The durable goods exemption present in the statute appears to be given little value in these draft regulations.

In addition, Auto Innovators is concerned about preventing free riders. It currently appears that the recycling fee would be split between producers based on the percentage of material reported, but it would be required to cover the full amount recycled. To avoid the unbalanced payment scheme of reporters covering the free riders that results, the reporting producers should be required to cover only their share of the total recycled. If California continues to have only the good actors (reporters) pay for the entire scheme, would the state then reimburse the companies when they find noncompliant waste generators and recover money from them? This issue should be considered.

¹ <https://calrecycle.ca.gov/Laws/Rulemaking/SB54Regulations/>.

² From the manufacturers producing most vehicles sold in the U.S. to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers – Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million American jobs and five percent of the economy. Active in Washington, D.C. and all 50 states, the association is committed to a cleaner, safer and smarter personal transportation future. www.autosinnovate.org.

We offer the following additional comments to California on discrete sections of the proposed regulations.

18980.2.1. Exclusion of Reusable and Refillable Packaging and Food Service Ware

This section does not address packaging already being used. The text in a.4.B. states that “If packaging, the item itself must permanently, clearly, and conspicuously bear the word ‘reusable,’ ‘refillable,’ ‘reuse,’ or ‘refill.’” The text should be modified to address reusable and refillable packaging that is already in use, so that producers will not have to make changes to existing packaging/containers. The labeling requirement should only be applicable to reusable and refillable packaging put into use after the effective date of these regulations.

18980.2.2. Exclusion of Certain Types of Packaging

This section should be modified to better capture the differences between long-term packaging for the storage and protection of a product during its storage and the reuse of packaging during the lifespan of the product. Section a.2 confuses these two scenarios. The text of this section should be modified to differentiate and exempt packaging designed to protect a product during a period of storage of not less than 5 years from the packaging designed to protect a product during its expected greater than 5-year lifespan.

This section should also be modified to exclude packaging for items currently in storage as of the effective date of the regulations. A sell-through period for products already packaged is required. Vehicle manufacturers maintain significant amounts of automotive components (as required by federal law) for the maintenance and repair of vehicles. In the absence of an exclusion, the vehicle components in a warehouse would have to be re-packaged.

18980.4. Responsible End Market Criteria

This section seems to assign the responsibility for identification and use of a “responsible end market” to the PRO or an Independent Producer (not to all producers). Since many vehicle manufacturers currently use a contracted recycler to collect and process covered materials from California facilities, it is not clear how producers will document (and provide to the PRO) with regard to the use of a “responsible end market.” For example, it is unclear how we determine if our contracted recycler meets the requirements of a “responsible end market.”

Auto Innovators asks CalRecycle to clarify what role a producer has for documenting and ensuring that its materials achieve end use requirements. Currently, it is unclear whether responsible end use is the responsibility of the PRO or of the producer.

18980.8. Producer Responsibility Plan

This section states that costs incurred before January 1, 2023, need not be reimbursed. Auto Innovators supports a date for limiting the requests for reimbursement as reimbursement costs are supported by the fees charged to the producers. There must be clear limitations on the scope and time of the items that may be considered for reimbursement by the PRO.

Thank you for the opportunity to provide these comments; please reach out to us if you would like to discuss further.

Sincerely,



Catherine Palin
Senior Attorney & Director of Environmental Policy
Alliance for Automotive Innovation