

KEY INFORMATION ABOUT CALIFORNIA'S PLASTIC POLLUTION PREVENTION AND PACKAGING PRODUCER RESPONSIBILITY ACT (SB 54)

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California's Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54) imposes requirements and restrictions regarding single-use packaging and plasticware. As CalRecycle [explains](#), "SB 54 establishes a new extended producer responsibility (EPR) program to manage packaging and single-use plastic food service ware products across every sector of the economy." This includes not only consumer packaging and plasticware, but also single-use packaging used in commercial and industrial settings. Learn more from a California environmental compliance lawyer at Bick Law LLP:

California's EPR Program is Designed to Achieve Recycling and Waste Reduction Targets By 2032

The purpose of the EPR program established by [SB 54](#) is to meet targets for increasing recycling rates and reducing waste disposal by 2032. Specifically, under SB 54, companies that are subject to the law will be required to assist with the state's efforts to meet the following goals:

- Reducing the sale and distribution of single-use plastic packaging and food service ware by 25 percent;
- Ensuring that 100 percent of single-use packaging sold in California is either recyclable or compostable; and
- Achieving a 65-percent recycling rate for single-use plastic packaging.

SB 54 also sets intermediate recycling rate goals of 30 percent for 2028 and 40 percent for 2030. According to CalRecycle, packaging accounts for more than 50 percent of the content of California landfills. The aggressive goals established by SB 54 are designed to reduce this percentage significantly while also "[s]upport[ing] disadvantaged, low-income, and rural communities hurt most by the impacts of plastic waste."

Key Definitions Under SB 54: "Covered Material," "Packaging," and "Producer"

To understand SB 54's requirements and their applicability, we first need to look at a few key definitions under the law. While SB 54 includes numerous defined terms, the following are among the most important:

"Covered Material"

SB 54 applies to items that qualify as "covered material." This encompasses two broad categories of items:

- "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;" and,

- “Plastic single-use food service ware, 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.”

The definition of covered material lists trays, plates, bowls, lids, cups, utensils, straws, wrappers, and bags (among other items) as non-exclusive examples of plastic single-use food service ware. Along with these examples of what *is* included, SB 54 also states that the following (among other items) are *not* classified as covered material under the statute:

- Packaging used for qualifying medical products, medical food, infant formula, fortified oral nutritional supplements, and animal medicines;
- Packaging containing products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act;
- Packaging containing hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communications Standard;
- Beverage containers subject to the California Beverage Container Recycling and Litter Reduction Act; and
- Packaging used for long-term protection or storage with a lifespan of at least five years, “as determined by the [Department of Resources Recycling and Recovery].”

The law also provides an exception for items that would otherwise qualify as covered material if a producer demonstrates that the items meet a list of statutory requirements—including a requirement that the items have a “demonstrated a recycling rate of 65 percent for three consecutive years prior to January 1, 2027.”

“Packaging”

The definition of covered material relies heavily on the use of the word “packaging,” and this is also a defined term under SB 54. This definition is notable for its breadth, as it includes:

- Sales packaging or primary packaging (consumer-level packaging)
- Grouped packaging or secondary packaging (for bundling, selling in bulk, or display)
- Transport packaging or tertiary packaging (to protect products during transport)

This, too, is a non-exclusive list. The law does not define packaging, but rather notes that it “includes, but is not limited to,” the items listed above.

“Producer”

SB 54 applies principally to “producers” of covered material. In most cases, a producer is the company that “manufactures a product that uses covered material and [that] owns or is the licensee of the brand or trademark under which the product is used . . . sold, offered for sale, or distributed in the state.”

If no company meets this definition of a producer under SB 54, the law uses a two-tiered approach to identify the producer of the covered material in question. First, **compliance** falls to a company that is, “the owner or, if the owner is not in the state, the exclusive licensee of a brand or trademark under which the covered product using the covered material is used . . . sold, offered for sale, or distributed in the state.” Second, if there are no companies that meet either of these definitions, then the producer of covered material is, “the person who sells, offers for sale, or distributes the product that uses the covered material in or into the state.”

There are exemptions, including one for small-volume producers with less than \$1,000,000 in gross sales in California. But producers must apply for this exemption, and it is only valid for two years.-

Producers' Obligations Regarding Covered Material

Producers are required to comply with SB 54's requirements pertaining to single-use packaging (including primary, secondary, and tertiary packaging) and plastic single-use food service ware. Those that fail to comply can face civil monetary penalties of up to \$50,000 per day, as imposed by CalRecycle. Noncompliant producers can also face restrictions (and potential bans) on selling covered material in California.

Some of producers' key obligations under SB 54 include:

Joining a Producer Responsibility Organization (PRO)

All producers (as defined under SB 54) must join a Producer Responsibility Organization (PRO). Currently, the only approved PRO is [Circular Action Alliance \(CAA\)](#). Producers were expected to register with CAA by September 5, 2025 and submit 2023 supply data by November 15, 2025. However, as CalRecycle has not yet finalized its regulations under SB 54, the enforceability of these deadlines is questionable. At present, it appears that these regulations are [nearing finalization](#), and we could see CalRecycle issue final regulations imminently.

Assuming CalRecycle has issued final regulations, effective January 1, 2027, producers will not be able to sell, offer for sale, import, or distribute covered materials in California unless they are a participant in an approved PRO's plan or have a CalRecycle-approved independent compliance plan. CAA is also scheduled to begin assessing fees (on behalf of the State of California) in January 2027.

As noted above, registration is required to avoid fines and a potential ban on selling covered material in California. Producers who missed the original registration deadline can (and must) still register, and CAA continues to accept registration applications.

Developing and Implementing a Producer Responsibility Plan

Under SB 54, producers must "[d]evelop and implement a plan that meets all of the applicable requirements of a producer responsibility plan, including, but not limited to, the review, update, and approval process." Among other things, producers' plans must include a "producer source reduction plan" that meets all applicable statutory requirements regarding the use of plastics in single-use packaging and food service ware.

Reporting to the PRO (CAA)

After registering with the PRO (CAA) and developing and implementing their plans, producers have continuing reporting obligations to CAA. Specifically, producers must report the following on an annual basis:

- The total weight of covered material sold, distributed, or imported into California;
- The total number of plastic components sold, distributed, or imported into California;
- The total weight of covered material that is disposed of; and,
- The total weight of covered material that is recycled.

Of course, to meet these reporting requirements, producers must be able to track all pertinent data effectively. Developing the necessary tracking protocols is another key aspect of developing a plan to comply with SB 54.

Labeling Compliance

Some producers will need to address their labeling practices to comply with SB 54 as well. For example, under SB 54, a product may be labeled as “compostable” only if it meets ASTM Standard D6400 or D6868, or if it has an “OK compost HOME certification.”- A third-party certification entity approved by CalRecycle must certify that the product meets one of the applicable standards. Similarly, a product may only be labeled as “recyclable” if its covered material is collected for recycling by recycling programs that collectively encompass at least 60 percent of the population of the state of California and sorted into defined recycling streams by large volume processing facilities that collectively serve at least 60 percent of the state’s recycling programs.

Speak with a California Environmental Compliance Lawyer at Bick Law LLP

If you need to know more about the applicability of California's Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54) or producers’ obligations under SB 54, we invite you to get in touch. Call 949-432-3500 to speak with a California environmental compliance lawyer at Bick Law LLP.