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SB 54: Shifting the burden to producers to address California's plastic pollution

By Elizabeth Dorsi

California is a leader in plastics reduction and has passed several bills aimed at reducing plastics pollution and increasing plastics recycling. Yet in 2021, only 5% of post-consumer plastic waste in the United States was recycled—down from a high of 9.5% in 2014, when the United States exported millions of tons of plastic waste to China.

On June 30, 2022, California passed SB 54: “Plastics Pollution Prevention and Packaging Producer Responsibility Act” (Public Resources Code § 41821.5). The act adopts the “extended producer responsibility model” (or “circular economy framework”), which makes manufacturers of single-use plastic products and packaging responsible for that product’s ultimate end-of-life disposal. The Legislature acknowledged that some plastic material types cannot effectively meet California’s aggressive recycling targets and producers will need to eliminate, redesign, or shift packaging or food service ware to material categories that can more efficiently meet SB 54’s recycling requirements.

This law has a wide range of consequences

for manufacturers of single-use plastic packaging and food service ware (including plastic-coated paper or paperboard for to-go cups and containers, paper or paperboard with plastic intentionally added during manufacturing, and other single-use plastic service ware). These manufacturers are required to reduce plastic waste in two ways. First, they must reduce the weight of the plastic-component source for covered materials by 25%. This reduction will likely be accomplished by shrinking the size of plastic packaging or by moving to alternative recyclable and refillable materials. Second, single-use plastic packaging must be at least 30% recycled, reused, or composted by 2028, 40% by 2030, and 65% by 2032. This increased recycling rate will be accomplished, at least in part, by “producer responsibility organizations” (PROs).

By Jan. 1, 2024, all producers of covered materials will be required to create or join PROs, which will set recyclability and compostability standards for certain types of plastic products and packaging. The PROs must also develop a plan and budget for expanding public and private recycling infrastructure to achieve the required source reductions of the PRO’s members. Once these plans are approved by CalRecycle, the PROs must register each plastic

producer member by Jan. 1, 2027 in order for the producer to be eligible to sell covered materials in the state.

SB 54 further requires disposal facility operators, solid waste handlers, and transfer station operators to submit periodic information to CalRecycle regarding the types and quantities of materials that are disposed of, sold, or transferred to other recycling or composting facilities. The PROs are required to create a \$5 billion California Plastic Pollution Mitigation Fund between 2037 and 2047 to help low-income communities impacted by the effects of plastic pollution and to reimburse local governments for any new implementation or reporting costs. This key requirement shifts the cost of recycling away from ratepayers and toward the products’ manufacturers.

Through SB 54, the anticipated reduction of non-recyclable plastics and expansion of recycling capabilities may further the scope of materials that are “considered recyclable” throughout California and mitigate the state’s growing plastics problem.

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