



**DATE:** July 26, 2023

**TO:** Waste Management Authority (WMA) Board

**FROM:** Michelle Fay, Program Manager  
Timothy Burroughs, Executive Director

**SUBJECT:** Alameda County Recycling Markets Network and SB 54

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**SUMMARY**

Since 2018, StopWaste has convened a network of haulers, processors, and local government staff to collaborate around the topic of recycling. Known as the Alameda County Recycling Markets Network, the mission is to “convene private and non-profit recycling entities serving Alameda County with their public agency partners to discuss recycling markets, how to increase recovery and decrease contamination, and strengthen the economics of recycling.”

New state law, SB 54, the Plastic Pollution Prevention and Packaging Producer Responsibility Act, will have extensive implications for local governments, haulers, and processors, making the Recycling Markets Network an important forum for discussing and informing the regulatory process. At the July 26 Waste Management Authority meeting, staff will provide an overview of the Alameda County Recycling Markets Network and provide an update on the SB 54 rulemaking process.

**DISCUSSION**

Members of the Alameda County Recycling Markets Network, or RMN, include member agency staff, representatives from Alameda County recycling haulers and processors, as well as staff from CalRecycle and neighboring jurisdictions such as the City of San Ramon, Contra Costa County, and City of Palo Alto. The network is a unique model, where for-profit and non-profit recyclers, franchisees and franchisors, and competitors alike come together in a neutral and constructive space to discuss a variety of topics such as recycling commodity pricing, shifting international markets, logistical concerns (i.e., port labor disruptions), emerging technology, recycling transparency, and solid waste legislation.

In 2019, Governor Newsom signed into law AB 1583, requiring CalRecycle to convene a Statewide Commission on Recycling Markets and Curbside Recycling. This collaborative concept was modeled after StopWaste’s Alameda County Recycling Markets Network. The commission was tasked with

evaluating California's state of recycling and recommending policies to restore it. The Commission ultimately provided 19 policy recommendations, many of which resulted in new laws that are helping California get back on track with achieving recycling and diversion goals while addressing market and infrastructure issues. The most groundbreaking law introduced as a result of the Commission's work is SB 54.

SB 54 sets new, ambitious goals to reduce plastic packaging and requires that all forms of packaging sold in California be recyclable or compostable by 2032. The law is the nation's most comprehensive legislation to date that reduces dependence on single-use packaging and foodware, while shifting the cost burden of collecting, processing, and recycling materials from local jurisdictions to the producers of plastic products and packaging. The law will raise \$5 billion from the plastics industry over 10 years to help mitigate the impacts of plastic pollution and support disadvantaged communities hurt most by the impacts of plastic waste and disposal.

CalRecycle commenced the informal rulemaking process in early 2023 to gather stakeholder input. StopWaste staff formed a new SB 54 project team and staff are attending regular CalRecycle topic-specific workshops and participating in several working groups hosted by the National Stewardship Acton Council (NSAC). The Agency recently submitted a formal comment letter to CalRecycle (attached) outlining an initial set of concerns and recommendations based on the topics presented by CalRecycle for input to date. The final SB 54 regulations must be approved and in place by January 1, 2025.

The statute also requires that an Advisory Board be formed to help identify barriers and solutions to creating a circular economy and to advise CalRecycle, producers, and producer responsibility organizations on the implementation of SB 54. There are 16 seats on the board with defined positions representing a range of perspectives—from environmental justice, rural communities, ocean advocacy, haulers, and composters to packaging producers and manufacturers. We are pleased to share that Timothy Burroughs, nominated by the League of California Cities, has been appointed by CalRecycle to serve a minimum three-year term on the Advisory Board to represent and advocate for local governments in Alameda County and beyond.

## **RECOMMENDATION**

This item is for information only.

Attachment:

SB 54 Comments Letter to CalRecycle, July 17, 2023



July 17, 2023

StopWaste is the Alameda County Waste Management Authority, the Alameda County Source Reduction and Recycling Board, and the Energy Council operating as one public agency.

Submitted via email to: [packaging@calrecycle.ca.gov](mailto:packaging@calrecycle.ca.gov)

**Subject: SB Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations**

Dear CalRecycle,

StopWaste helps Alameda County residents, businesses, and schools waste less, recycle properly and use water and energy and other resources efficiently. We are a Joint Powers Authority formed by the 17 local jurisdictions within Alameda County.

StopWaste appreciates the opportunity to submit comments to inform the current SB 54 informal rulemaking process.

Member Agencies:

- Alameda County
- Alameda
- Albany
- Berkeley
- Dublin
- Emeryville
- Fremont
- Hayward
- Livermore
- Newark
- Oakland
- Piedmont
- Pleasanton
- San Leandro
- Union City
- Castro Valley Sanitary District
- Oro Loma Sanitary District

- PRC 42067 (d) – Developing the regulations and needs assessment “in collaboration with the PRO and a broad diversity of local jurisdictions, recycling service providers, and processors...”**

**Recommendation:** *In addition to holding centralized workshops moving forward, consider a series of regional meetings designed to make it easier for local jurisdictions and associated service providers and processors to participate. Also continue to coordinate closely with organizations that serve local jurisdictions directly and that can assist with gathering input and disseminating information, such as Joint Powers Authorities, the League of California Cities, and others.*

Obtaining diverse input will require a diverse set of opportunities.

- LJ Item 1: Transportation costs include staffing**  
**Recommendation:** *Include in the regulations a detailed list of administrative costs for all aspects of covered materials management such as collection, processing, procurement, outreach and education.*

StopWaste appreciates the proposed inclusion of administrative costs related to transportation of covered materials. That being said, it is important that CalRecycle address both direct and indirect administrative costs of all aspects of managing covered materials.

3. **LJ Item 2: Reimbursement costs include purchasing and maintaining equipment, signage, and other similar costs**

**Recommendation 1:** *Similar to LJ Item 1, funds to cover local jurisdiction administrative costs related to receiving, consolidating, loading, and transporting covered materials should also be included.*

**Recommendation 2:** *Include specific detail regarding what costs are covered, payment method, and payment timing.*

The process for local governments and associated service providers to recoup costs must be clear, easy, and efficient in order to create the certainty needed to advance investments in managing covered materials.

4. **LJ Item 5: Exemption process**

**Recommendation:** *Include in the regulations the criteria that CalRecycle will use to evaluate requests for extensions or exemptions.*

The proposed regulation concept includes information that the local jurisdiction or designated service provider must provide extensions or exemptions but does not specify how CalRecycle would evaluate that information to make its determination.

5. **CD Item 1 – Definition of “Compostable”**

**Recommendation 1:** *Require more stringent standards than ASTM D6400 that address microplastic residue in soil.*

ASTM D6400 (as well as EN 13432) does not sufficiently reflect composting conditions in California. Composting operations run on a shorter time frame than the lab tests used to create the standard. ASTM D6400 requires a plastic product to demonstrate a satisfactory rate of biodegradation by achieving the conversion to 90% of organic carbon to carbon dioxide within 180 days. Commercial composting operations in California have reported composting residence times of 45-90 days. Further, the standard does not require complete disintegration of plastic. ASTM D6400 allows up to 10% of original dry weight to remain after screening on a 2-mm sieve, and does not measure microplastic remnants smaller than 2 mm. Recent research has found that compost can be a vehicle for compostable microplastic to enter soil (Steiner et al., 2022) and compostable microplastic has been found in soil organisms and agricultural crops with detrimental effects on both (Mo et al., 2023).

**Recommendation 2:** *Include a requirement in the definition that products be designed to facilitate capture of organics.*

It is unclear if the product must facilitate capture of additional organics (like food or green waste) to be “compostable.” The last bullet in the proposed definition in the overview of Compostable/Composting seems to suggest this is a requirement: “The product is designed to be associated with the recovery of desirable organic wastes, such as food scraps and yard trimmings, that are collected for composting.” However, the proposed definition in the regulatory concept

suggests that the product only need to be designed to be collected in the organics stream: “(4) The covered material is designed to be collected for recovery with organic waste, such as food scraps and yard trimmings.”

6. **CD Item 2 – Revised Responsible End Market concept for compostable covered materials**

**Recommendation 1:** *Clarify the implementation and enforcement of the Responsible End Market concept.*

StopWaste supports the concept that a product conform to the processing requirements of composters. However, clarification is necessary around implementation and enforcement of this requirement, and how much of the responsibility falls to individual composters. It is unrealistic to require composters to conduct monitoring and reporting of the 90% biodegradation standard. While, in concept, alignment with the ASTM D6400 standard of 90% biodegradation makes logical sense, it is not possible to measure this in the field with mixed materials in feedstock. ASTM D6400 relies on test method ASTM D5338, which is conducted in a laboratory on individual products. In addition, the test requires comparison against the biodegradation of cellulose, with 70% degradation of cellulose as the baseline (100%). In practice, samples would need to be taken for each compostable product before and after composting and sent to a lab for analysis.

**Clarifying questions:**

- i. If a composter does not achieve 90% biodegradation for covered materials, what processes are followed to identify themselves as no longer “responsible?”
- ii. If a composter achieves the 90% standard for some products but not others, are they no longer deemed responsible?
- iii. Are there consequences or penalties for not being a “responsible” end market?

**Recommendation 2:** *When composters do not accept compostable covered materials, require that they report only to the Department, who will then communicate to the PRO and independent producers.*

Requiring individual composters to communicate with the PRO and individual producers puts an unnecessary burden on composters, given the number of producers marketing covered materials in the state.

7. **General Comments related to compostability:**

**Recommendation 1:** *Replace “responsible end markets” with “responsible recycling markets.”*

This is a more accurate identification of the target entities, considering the true end markets for compost are the agriculture and landscaping sectors.

**Recommendation 2:** *Build into the regulations a process to further assess covered materials in anticipation that some covered materials will enter the market after the publication of the covered materials list in January 2024 and not perform as expected at composting facilities (this may be the intended purpose of Section iv).*

An example process could include a probation period starting once the list of covered materials list is published and “compostable” products begin being processed at end markets. If a product enters the market meeting the “compostability” definition but does not adequately break down at end markets, the material should undergo further scrutiny.

***Recommendation 3: Conduct collaborative and regional discussions with composters to further workshop these and future regulatory concepts.***

Thank you for your consideration of the recommendations. Please reach out if you have questions or if you would like to discuss any of the comments.

Sincerely,

A handwritten signature in black ink that reads "Timothy Burroughs". The signature is written in a cursive, slightly slanted style.

Timothy Burroughs  
Executive Director

**References:**

Steiner, Thomas, et al. “Municipal biowaste treatment plants contribute to the contamination of the environment with residues of biodegradable plastics with putative higher persistence potential.” *Scientific Reports* 12, 9021 (2022), <https://doi.org/10.1038/s41598-022-12912-z>.

Mo, Aoyun, et al. “Environmental fate and impacts of biodegradable plastics in agricultural soil ecosystems.” *Applied Soil Ecology*, Volume 181 (2023), 104667, ISSN 0929-1393, <https://doi.org/10.1016/j.apsoil.2022.104667>.