



October 7, 2025

Director Zoe Heller
Department of Resources Recycling and Recovery (CalRecycle)
P.O. Box 4025
Sacramento, CA 95812-4025

Via Public Comment Portal: SB 54 Plastic Pollution Prevention & Packaging Producer Responsibility Act Final Proposed Regulations

Dear Director Heller:

On behalf of Wine Institute, a public policy advocacy organization representing over 1,000 wineries and affiliated organizations in California, I appreciate the opportunity to provide comments on the draft final regulatory language to implement the SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act (Act), posted by CalRecycle on August 22, 2025.

The Act establishes an extended producer responsibility (EPR) program focused on reducing plastic but also impacts all product packaging in California, with certain exceptions, to meet a 100% recyclable or compostable goal for single use packaging and single use food service ware by 2032. SB 54 leaves much of the administration and guidance of the EPR program to the Professional Responsibility Organization (PRO), which is the Circular Action Alliance (CAA) selected by CalRecycle to administer the program.

Our winemakers create an agriculture-based product that has been manufactured and exported globally for generations. California is the fourth largest wine producer in the world. Our wine industry makes a significant contribution to the nation by providing quality jobs, bolstering economies through hospitality, taxes and tourism and enhancing communities through environmental stewardship and sustainable farming practices. In California, wineries employ 422,000 people, paying \$25.9 billion in wages annually, \$7.9 billion in taxes annually, and generating \$73 billion in economic activity in the state.

Last year, our wineries committed to a circular economy and began entering the California Beverage Container Recycling Program (Bottle Bill). Over 4,000 wineries registered and are moving forward to comply with recycling beverage containers in a significant step forward to further the state's recycling goals. New Bottle Bill program regulatory language per SB 1013 (Atkins, Chapter 610, Statutes of 2022), is now also moving forward this month.

California wineries are in the unique position of potentially entering two state programs focused on a circular economy, with recycling and source reduction goals, deadlines, and fees at a time when our industry is also grappling with the impacts of tariffs on wine export markets and sales, inflation and historically high production costs. This burdensome duplication raises costs, disrupts operations, and undermines the competitiveness of California wines and wine grape growers in both domestic and international markets.

Wine Institute requests that the SB 54 proposed program language revert to CalRecycle's previous interpretation to exclude secondary and tertiary packaging with CRV beverage containers in ARTICLE 2:

Exemption for Secondary and Tertiary Packaging for Wine Products

ARTICLE 2: Covered Material and Covered Material Categories Section 18980.2.

Categorically Excluded Materials

The current proposed final regulatory language considers CRV beverage containers excluded from the SB 54's EPR program. However, packaging that keeps these products safe and secure, is not. Secondary and tertiary packaging in commercial and industrial operations, according to the current language, are considered covered materials to be accounted for under the program. This was a change from the May 2025 version that excluded CRV beverage container packaging as well as the beverage containers.

SB 54 was enacted with exemptions and categorical exclusions that the Legislature placed in various parts of the statute such as food and agriculture and medical goods, along with CRV containers. Wine Institute aligns itself with CalChamber's comments with regard to excluding CRV beverage container secondary and tertiary packaging, we agree specifically that:

- When the Legislature drafted SB 54 and specified what was *not* a "covered material", it *exempted* in PRC § 42041(e)(2)(A)-(G)) all of the packaging associated with that category, which the Department correctly assessed includes secondary and tertiary packaging associated with the primary regulated good.
- Legislature's recent expansion of the Bottle Bill to include wine and distilled spirits through SB 1013 (Atkins, 2022) was the product of years of debate over how best to handle the unique packaging streams associated with these industries. **Industry stakeholders agreed to participate because the CRV program would manage their packaging without subjecting them to fragmented or overlapping requirements from multiple state programs.** This legislative compromise underscores that the Bottle Bill is not merely about bottles and cans, but rather about ensuring an integrated and streamlined regulatory framework for all beverage packaging.
- Reading SB 54's beverage container exclusion narrowly would create direct conflict by forcing producers to comply with overlapping and inconsistent mandates under both the Bottle Bill and SB 54.
- When taken with the other exemptions in Public Resources Code section 42041(e)(2), the "beverage container" exclusion **should be understood to function consistently with its statutory neighbors** where the exclusion of what is not "covered material" applies broadly across all tiers of packaging associated with "not covered material" category.

We strongly agree with CalChamber's analysis that "it would be inconsistent with the statutory structure for one exclusion in the same series to be treated as vessel-only, while the rest sweep in the full packaging system." It is more likely that the Legislature intended the beverage container exclusion to cover the full packaging chain associated with CRV products and that a contrary reading would make the CRV provision the sole outlier in the section.

*The term “beverage container” should be properly understood as the whole packaging system associated with CRV-regulated products, **thereby preserving consistency in the exclusions section of SB 54.** It is contrary to the statute to now force wineries who voluntarily integrated into the Bottle Bill under SB 1013 with SB 54 compliance on secondary and tertiary packaging associated with the beverage containers.*

Recommendation: Cal Recycle’s May 2025 draft regulation was correct in treating all tertiary and secondary packaging associated with CRV beverages as “not covered material.” The current proposed final regulation should **revert to this interpretation and exclude secondary and tertiary packaging associated with the Bottle Bill in ARTICLE 2: Covered Material and Covered Material Categories Section 18980.2. Categorically Excluded Materials.**

Other areas of significant concern by Wine Institute:

Uniqueness of Wine Product Packaging

SB 54 requires producers to meet certain source reduction deadlines for packaging, but the **primary packaging for wine is often purchased and used to contain products a year or two or more in advance of sale.** That may make it difficult to determine source reduction or use of recyclable materials over time.

Recommendation: Wine Institute would appreciate language that takes into account the unique packaging processes that occur with wine products.

Producer Compliance - ARTICLE 5: Requirements for Producers Section 18980.5.

“(b) Pursuant to subdivision (b) of section 42051 of the Public Resources Code, each producer shall, within 30 days after the effective date of this chapter, apply to become a participant of an approved PRO or apply to be an Independent Producer subject to the requirements of section 18980.5.1.”

“(d) Each producer that applies to become a participant of an approved PRO pursuant to subdivision (b) of this section shall, at the time of its application, submit to the PRO that producer’s supply data for calendar year 2023. For purposes of this subdivision, “supply data” means the information described in section 18980.10.2.”

We agree with the comments of the Agricultural Coalition that CalRecycle and the PRO should allow for a good faith phase-in plan for the submission of 2023 data upon initial registration to the PRO. Requiring complete data for 2023 could be problematic as the types of data may or may not have existed during this timeframe. Allowing producers to provide available data with a gradual phase-in process over subsequent years will incentivize more participation into the registration process and would be a more realistic, workable solution for producers.

Recommendation: Given the delay in promulgating the proposed final SB 54 EPR language, Wine Institute is concerned that the timing requirements in 18980.5 (d) are unrealistic for producers/participants pursuant to subdivision (b) of that section. Producers should be given an appropriate amount of time to gather and submit their supply data for calendar year 2023 rather than needing to supply that data at the time of application.

“Exemptions” require EPR program registration and fees

Exemptions for Materials with Documented High Recycling Rates, Unique Challenges, and Small Producers from the EPR packaging program must still register and pay fees.

-Materials with Documented High Recycling Rates: Exemptions for Specific Material with Demonstrated Recycling Rates - Section 18980.2.3. Specific packaging or food service ware collected through established alternative programs (outside of standard curbside collection) and consistently achieving high recycling rates (e.g., 65% for 2024-2026, 70% thereafter) may be eligible for an exemption.

“(2) The person shall also be considered a producer for purposes of the registration requirements provided in section 18980.10, regardless of whether the Department approves the exemption.”

-Unique Challenges: Exemptions for Certain Covered Materials – Section 18980.2.4. **Only a PRO may present and justify these cases that allow for an exemption** and must clearly and convincingly establish that compliance with the Act is impractical due to challenges unique to the covered material or related circumstances.

-Small Producers: Section 18980.5.2.: Producers with gross sales within California under \$1 million in the most recent calendar year may apply for an exemption. The application is subject to approval and “applicants” **must register as producers** before they are considered exempt.

These fees and accounting obligations will surely add to the costs of our products to consumers.

Recommendation: Entities exempted under the program should not be required to register as a producer, pay fees, or be subject to enforcement penalties. They are exempt. These entities could be allowed to simply self-certify and then be exempted entirely from the program.

Scarcity of Materials with High Recycling Rates

Wineries are seeking these high recycling rate materials but often they are scarce or simply not available.

- Will there be an investment in developing these materials from EPR funds?
- What will be the recourse if entities cannot meet the goals due to scarcity of product?

List of De Minimis Material Exclusion - Section 18980.2.2.(b)(ii) and (2)(C) Exclusion of Certain Types of Packaging

This section may exclude labels, adhesives, and other small components of wine bottles or boxes that wineries will need to have more clarity on such as corks and capsules.

PRO may designate components as de minimis:

“(3) The PRO or an Independent Producer may request that the Department deem certain components or groups of components to be of de minimis weight or volume.”

CalRecycle must publish a list of such de minimis components:

“(4) The Department shall publish on its website a list of its components and groups of

components, whether proposed in requests submitted pursuant to paragraph (3), alleged to be of de minimis weight or volume in response to a notice of violation, or otherwise identified by the Department, **that it has determined to be of de minimis weight or volume.**”

Wine corks, capsules or other small components may be considered de minimus.

Recommendation: We request that CalRecycle and CAA allow postponement of this data collection until final decisions on de minimis exclusions are made to avoid collection of data that will not be needed for future reporting.

Registration Deadlines in Statute vs. those set by the PRO - ARTICLE 5: Requirements for Producers - Section 18980.5. Producer Compliance

SB 54 statute states that producers must register within 30 days of the official enactment of the regulations or upon becoming a producer (for entities established before January 1, 2027), or within six months for those becoming producers on or after that date.

“(a) Within 30 days of the effective date of this chapter each producer shall register with the Department pursuant to subdivision (a) of section 18980.10. Entities that become producers after 30 days after the effective date of this chapter but prior to January 1, 2027, shall register within 30 days of becoming a producer.”

SB 54 requires that the PRO deliver a detailed report outlining plastic covered material data from the 2023 calendar year to CalRecycle by July 1, 2026. The program must be fully operational by January 1, 2027.

CAA set a deadline of September 5, 2025, for producer registration and posted this on their website. This is not in statute, however, and proposed regulatory language is not final.

Recommendation: Both of these deadlines, given the delay and Governor’s request for the re-review of these proposed regulations, appear unrealistic and more time should be provided in order for participants to gather and submit accurate information.

Penalties for Non-Compliance by PRO - Section 18980.13.2

Participants may be penalized if actions taken by PRO on their behalf causes their non-compliance.

“Any entity, such as a PRO, producer, local jurisdiction, recycling service provider, retailer, or wholesaler, not in compliance with the Act or this chapter is subject to penalties pursuant to subdivision (a) of section 42081 of the Public Resources Code. If a PRO acting on behalf of its participants causes participants to be in violation of the Act or this chapter, such participants shall not be exempt from penalties on the grounds that their noncompliance was caused by the PRO’s conduct .”

- What is the legal basis for this language that may cause a participant (who must rely on a PRO’s submissions and program compliance) to be penalized by CalRecycle for a PRO’s actions/non-compliance?

Recommendation: This section should be reconsidered.

Early Fees - Section 18980.6.7.(a)

Relevant Language: Prior to approval of an initial plan and for the two years following that

approval, a PRO shall charge all participant producers a fee based on specific items set forth in subdivision (b) of section 42053 of the Public Resources Code including estimated costs of implementing the plan, the needs assessment, and reimbursement to CalRecycle for administration, implementation, and enforcement.

The PRO/CAA requested and collected input only from those that had already registered as producers regarding their proposed calculation for early fees. For those who do not yet know their status as producers - input on early fees was not considered.

Recommendation: Regulations should be approved and promulgated so that all potential participants may provide input on early fees.

Governance by PRO

Wine Institute highlights our general concern about the unique governance structure and authority CalRecycle grants to the PRO under this packaging EPR program and potential for anti-competitive behavior. We strongly believe that CalRecycle must exercise extraordinary and consistent oversight and transparency in this matter and provide a process for stakeholders to provide timely and direct input to the Department on PRO actions/decisions.

Food Safety

We appreciate that the new draft recognizes the statutory language in SB 54 requiring that the implementation of the program that does not create conflicts with food safety and other requirements under Federal law and guidelines. Will ensure that California's food supply chain is adequately protected, minimizes organic waste and remains affordable.

We agree with the comments of the Agriculture Coalition that enhancing recycling and achieving circularity cannot and should not expose Californians to increased risks jeopardizing food safety or adding to food waste and higher prices.

Please contact me with any questions regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Anna Ferrera", with a stylized, cursive script.

Anna Ferrera
Director, Legislative and Regulatory Affairs Wine Institute