**SUMMARY:** [**SB 54 (Allen) Solid waste: reporting, packaging, and plastic food service ware**](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB54) **– creates the Plastic Pollution Prevention and Packaging Producer Responsibility Act (goes into effect 1/1/2023)**

**WHAT IS THE INTENT OF THIS POLICY**

Legislative intent and findings **(Sec. 42040)**:

* Emphasizes environmental justice concerns
* Highlights local jurisdictions as the backbone of solid waste management and recycling in California – this policy intends to shift costs of collection, processing, and recycling from local jurisdictions to plastic producers
  + It is the intent of the Legislature to ensure local jurisdictions will be made financially whole for any new costs incurred associated with implementing this act and its regulations.
* It is the intent of the Legislature to establish a producer responsibility program designed to ensure producers of single-use packaging and food service ware covered by this program take responsibility for the costs associated with the end-of-life management of that material and ensure the material is recyclable or compostable. This standardization will reduce consumer confusion regarding recycling and composting, reduce costs to ratepayers, and increase system efficiency.
  + It is also the intent of the Legislature that these improvements will allow California to better harmonize curbside collection programs as local jurisdictions will collect material identified as either recyclable or compostable if that material is found to be suitable for curbside collection.
* Acknowledges that some materials will not be able to be recycled, and when that is the case, producers will have to eliminate, redesign, or shift packaging or food service ware to a covered material category that can meet the requirements of this act.

**WHAT IS COVERED UNDER THIS BILL?**

“Covered material” is discussed in the definitions in **Sec. 42041**. There are two categories of covered materials under this program **(Sec. 42041(e))**:

* 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, including, but not limited to, packaging that is made of paper, plastic, glass, metal, or a mixture of those materials.
  + “Single use” is defined in **Sec. 42041(ai)** as conventionally disposed of after a single use and not sufficiently durable or washable to be, or not intended to be, reusable or refillable.
* Plastic single-use food service ware, including, but not limited to, plastic-coated paper or plastic-coated paperboard, paper or paperboard with plastic unintentionally added during the manufacturing process, and multilayer flexible material – includes trays, plates, bowls, clamshells, lids, cups, utensils, stirrers, hinged or lidded containers, and straws and wraps or wrappers and bags sold to food service establishments.
* Does NOT include beverage containers covered under the Bottle Bill Program, among other things.
* NOTE: Despite the name of the act (Plastic Pollution Prevention and Packaging Producer Responsibility Act), this program is NOT limited to only plastic products.

**Sec. 42061**

By July 2024, CalRecycle shall establish and post a list of covered material categories.

By July 2025, CalRecycle shall conduct and publish a disposal-based material characterization study to determine the approximate amount of covered material disposed in California landfills.

* CalRecycle shall update the material characterization study in 2028, 2030, 2032, and at least every four years thereafter.

For purposes of studying a representative sample of material types and forms in the state, within 90 calendar days of a CalRecycle request, a transfer, processing, or recycling facility shall allow for periodic sampling conducted by a designated CalRecycle representative on a mutually agreed upon date and time. CalRecycle shall not require a periodic sampling if that facility was sampled during the previous 24 months.

By 2024, CalRecycle shall publish a list of covered material categories that are deemed recyclable or compostable in accordance with [SB 343 (Allen, 2021)](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB343) and [AB 1201 (Ting, 2021)](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1201).

* CalRecycle shall determine a process for updating these lists, and the lists shall be updated at least annually until 2032 and then at least every two years thereafter.

**WHAT IS RECYCLING UNDER THIS BILL?**

**Sec. 42041(aa)** defines what constitutes “recycle” or “recycling.” It is the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise ultimately be disposed of onto land or into water or the atmosphere, and returning them to, or maintaining them within, the economic mainstream in the form of recovered material for new, reused, or reconstituted products, including compost, that meet the quality standards necessary to be used in the marketplace.

* Additionally, to be considered recycled, covered material shall be sent to a responsible end market
* “Recycle” or “recycling” does NOT include combustion, incineration, energy generation, fuel production (except for anaerobic digestion of source separated organic materials), and other forms of disposal.

**Sec. 42041(ad)** defines “responsible end market as a materials market in which the recycling and recovery of materials or the disposal of contaminants is conducted in a way that benefits the environment and minimizes risks to public health and worker health and safety. The department may adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizes risks to public health and worker health and safety.

**WHAT IS REQUIRED UNDER THIS BILL?**

**Sec. 42050** outlines the source reduction, recyclability/compostability, and recycling rates requirements and deadlines (rates and dates):

**Source Reduction:** Plastic covered material must be source reduced

* Source reduction requirements/timeline **(Sec. 42057)**:
  + 2025: PRO shall establish a baseline for 25% source reduction requirement to be met by 2032 based on 2023 data
  + 2027: PRO shall source reduce at least 10% of plastic covered material – no less than 2% source reduced by shifting to refillable/reusable
  + 2030: PRO shall source reduce at least 20% of plastic covered material – no less than 4% source reduced by shifting to refillable/reusable
  + 2032: PRO shall have developed and implemented a plan to achieve reduction of 25% by weight and 25% by plastic component for covered materials
    - 10% of plastic covered material shall be source reduced through shifting to refillable or reusable or eliminating a plastic component; the remaining shall be source reduced through concentration, right-sizing, lightweighting, shifting to bulk or large format packaging, or shifting to a non-plastic covered material
    - No more than 8% of plastic covered material shall be source reduced through an alternative compliance formula that includes using postconsumer recycled content
    - Postconsumer recycled content must be validated by a third party and must not contain intentionally added perfluoroalkyl and polyfluoroalkyl substances

**Recyclability/Compostability:** All covered material must be recyclable or compostable in accordance with [SB 343 (Allen, 2021)](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB343) and [AB 1201 (Ting, 2021)](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1201) by 2032

**Recycling Rates:** All covered material must meet the following recycling/composting rates:

* 30% by 2028
* 40% by 2030
* 65% by 2032
* NOTE: Beginning in 2026 and every two years thereafter, CalRecycle shall review, in consultation with the advisory board, relevant data to assess whether these recycling rates should be adjusted. The determination and rational will be available for public review. **(Sec. 42062)**
  + The rate shall not be adjusted by more than 10%.
  + A decreased rate shall be effect for no mor than two and will then revert back to the rates outlined above.
  + An increased rate shall be reviewed every two years and may be maintained or reduced.

**Expanded Polystyrene (EPS) Recycling Rates (Sec. 42057(i):** EPS food service ware shall meet the following recycling rates:

* 25% by 2025
* 30% by 2028
* 40% by 2030
* 65% by 2032

NOTE: By 2026, CalRecycle shall calculate and publish the current recycling rates for each covered material category **(Sec. 42061(b)(1))**.

**PRODUCER RESPONSIBILITY ORGANIZATION (PRO) – Sec. 42051**

Producers of covered material shall form and join a producer responsibility organization (PRO) by 2024.

* The intent is to form only one PRO by 2024, though the PRO may organize itself into subcommittees or some other similar structure, including delineation by covered material category.
  + CalRecycle may authorize other product/material-specific PROs as needed no sooner than 2031 **(Sec. 42061.5(b))**.
* By 2027, or upon approval of the PRO plan, whichever is sooner, a producer will not be allowed to sell covered products into California unless that producer is participating in the PRO. After 2027, new producers have six months to join the PRO.
* Producers may comply with this bill individually, outside a PRO, if they meet various requirements or can show a 65% recycling rate for three consecutive years prior to 2027 and 70% after 2027.

PRO governing board shall consist of producers that represent the diversity of covered material placed in the market by those entities. The governing board shall include nonvoting members with representation of material trade associations and companies if those material types are covered by the organization. **(Sec. 42061.5)**

CalRecycle may revoke the approval of the PRO at any time if it determines the PRO no longer meets the requirements of this act or fails to effectively implement and administer the PRO plan **(Sec. 42061.5(c))**.

**PRO PLAN – Sec. 42051.1**

PRO plan shall include – General:

* Actions and investments the PRO will implement to meet the requirements of this act and address the needs and investments identified in the needs assessment (addressed in **Sec. 42067**)
* The source reduction plan (addressed in **Sec. 42057)**
* Technologies and means that will be used to achieve the recycling requirements.
  + PRO must demonstrate that the technologies and means meet the conditions in the definition of “recycle” or “recycling” in **Sec. 42041(aa)**.

PRO plan shall include – Specific (9 criteria):

* How the PRO will meet the requirements of this act, including, how it will, in an economically efficient and practical manner, provide for the necessary infrastructure and viable responsible end markets to ensure the covered materials will meet the recycling rates based on the needs assessment.
* How the PRO will support, achieve, and fund the collection, processing, and recycling/composting of, and the development of viable end markets for, covered materials – this includes actions necessary to sort, segregate, break or flake, and process material to specifications for sale to a responsible end market.
  + “Specifications” means third-party purchasing specifications issued by a buyer(s) of recycled materials for reprocessing into a new product.
* How the plan is supplemental to, and not in conflict with, disruptive of, or adversely affecting, the performance of the solid waste network providing services in accordance with local solid waste handling requirements and the intent described in[**Sec. 40004**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40004&lawCode=PRC), and howthe PRO will leverage and utilize existing collection programs and recycling, composting, sorting, and processing infrastructure.
  + How the plan will be implemented in a manner utilizing solid waste collection programs and solid waste facilities as the designated system for the curbside collection and processing of covered materials.
  + NOTE: [**PRC Sec. 40004**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40004&lawCode=PRC) is the legislative findings section of AB 341 that states the existing network of solid waste processing and composting facilities provides a net environmental benefit and is a valuable asset and resource of California, one that must be sustained and expanded to provide the additional processing capacity needed to meet diversion targets and recycling requirements. It states the intent of the Legislature is to encourage the development of additional capacity. This section also reinforces local control of solid waste handling identified in [**Sec. 40059**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40059&lawCode=PRC).
* In accordance with [**Sec. 40059**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40059&lawCode=PRC), how the plan and the activities undertaken pursuant to the plan will be implemented in compliance with state and local laws, rules, and regulations applicable to solid waste handling and in a manner that does not violate existing franchise agreements.
  + NOTE: [**PRC Sec. 40059**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40059&lawCode=PRC)states that local jurisdictions may determine aspects of solid waste habdling which are of local concern and how services are to be provided (i.e. through a franchise agreement).
* How covered material will be collected, processed, and managed, and recycled, remanufactured, or composted, consistent with the goals, standards, and practices required by this act, including ensuring covered material collected for recycling will be transferred to viable responsible end markets for processing into new packaging or products, including, but not limited to, how the plan will enhance or expand viable responsible end markets in California including manufacturing.
* Arrangements with processors or recyclers to ensure covered materials that are not collected through a curbside collection program are collected and recycled at a viable responsible end market, including any investment that will be made to cover the cost of the covered material being processed or recycled by processors or recyclers.
* Arrangements to establish and fund reuse or refill infrastructure, fund facility retrofits, or other needed infrastructure to eliminate plastic covered material, shift covered material from plastic to a nonplastic covered material category, or any other actions taken/will be taken to implement the source reduction requirements.
* How postconsumer recycled content will be incorporated into covered material.
* How the plan will be implemented in a manner consistent with the established waste hierarchy.

Additional requirements of the PRO plan:

* A fee for PRO participants (including structure, schedule, etc.)
* Education and promotion to encourage proper participation in recycling and composting collection and reuse and refill systems – shall coordinate with existing efforts
* Closure or transfer plan for the PRO – shall include sufficient reserve funds to satisfy PRO obligations until a new PRO plan is approved
* A process for determining and paying costs that will be incurred by local jurisdictions, recycling service providers, alternative collection systems, and others
  + Shall include a process to resolve disputes for determining and paying reasonable costs that arise between the PRO and a local jurisdiction or a recycling service provider (process to be reviewed by the advisory board)
* Source reduction data required by the bill
* Consideration of the needs assessment and any recommended investments to meet the needs identified in the needs assessments and inform the budget
* A budget designed to fully fund the costs necessary to implement this act
* May rely on a range of means to collect and recycle/compost covered materials that are not recycled/composted through a curbside program (i.e. dropoff, retailer take-back)
* The plan shall include curbside collection and recycling/composting services for covered materials under ANY of the following circumstances:
  + The category of covered materials can be made suitable for curbside collection and can be effectively sorted by facilities receiving the curbside collected material
  + The recycling facility, in consultation with the local jurisdiction, agrees to include the category of covered materials as an accepted material and agrees to collect and sort the material in a manner that achieves the quality necessary for recycling and remanufacturing or composting
  + The service provide agrees to the cost arrangement
  + NOTE: Collection is not required for covered material if it does not meet the criteria above and it is collected and recycled/composted by means other than curbside collection in a PRO plan **(Sec. 42060.5(d))**.
* Measures to ensure producers are complying with the plan
* Shall ensure plan implementation avoids and minimizes negative environmental and public health impacts to disadvantaged or low-income communities or rural areas and vulnerable communities outside the state

**PRO ANNUAL BUDGET – Sec. 42051.1(j)**

The annual budget shall be designed to fully fund the costs necessary to implement this act. Costs associated with implementing the PRO plan to be included in the budget include, but are not limited to (**Sec. 42051.1(j)(1)**:

* Actions and investments identified in the plan to fund the budget and needs and investments identified in the needs assessments.
* Costs associated with this act incurred by local jurisdictions, recycling service providers, and other collection programs, and costs related to consumer outreach and education; the transportation of covered materials to a materials recovery facility, broker, or viable responsible end market; cleaning, sorting, aggregating, and baling covered materials as necessary to bring those materials to a viable responsible end market; waste stream sampling and reporting required by this act for local governments; costs incurred to educate ratepayers to improve the preparation and sorting of covered material; and improvements to collection, sorting, decontamination, remanufacturing, and other infrastructure necessary to achieve recycling rates. These costs include costs related to both curbside and noncurbside collection programs and may be varied based on population density, distance to a viable responsible end market, and other relevant factors.
* Reimbursing costs incurred by department and the California Department of Tax and Fee Administration.
* Administering the PRO.
* Environmental mitigation activities associated with Section 42064.
* Investments to develop and sustain viable responsible end markets for each covered material category.
* Other investments necessary to implement the plan and achieve the source reduction, recyclability and compostability, recycling rate, and other requirements of this act, including, but not limited to, ensuring that plan implementation avoids and minimizes negative environmental or public health impacts on disadvantaged or low-income communities or rural areas.
* If reasonable and able to be discretely directed, funding derived from a material type may be spent on investments needed for that specific material type.

The budget shall NOT propose investing in activities in violation of[**Sec. 40004**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40004&lawCode=PRC) or any agreement entered into pursuant to [**Sec. 40059**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40059&lawCode=PRC) and shall include a mechanism to disburse funds for identified activities **(Sec. 42051.1(i)(2)**

The budget may include elements that will accomplish the following **(Sec. 42051.1(i)(3)**:

* Expanding access to or improvement of curbside collection services wherever feasible.
* Expanding access to dropoff recycling services or other mechanisms where curbside collection services are not feasible, or as necessary to supplement curbside collection services to achieve the requirements of this act.
* Expanding access to collection services in public spaces.
* Providing or facilitating deployment of innovative enhanced collection, composting, and recycling systems and innovative recycling systems within a recycling center or MRF that utilizes advanced technology, such as artificial intelligence and robotics, to improve the identification and sorting of covered materials, where feasible.
* Creation of on-premises access to recycling or composting services for multifamily residences.
* Funding, providing, or facilitating the efficient transport of materials from remote or rural areas to centralized sorting facilities, brokers, or viable responsible end markets.
* Enhancing existing materials recycling or composting infrastructure by developing a quality incentive payment, grants, and other mechanisms sufficient to cover the cost of separating, processing, baling, recycling, composting, remanufacturing, and transporting desired materials that meet viable responsible end market quality specifications, or for reducing the rate of inbound contamination to composting facilities.
* Infrastructure or other mechanisms needed to implement a source reduction plan, including, but not limited to, investments in reuse, refill, and composting infrastructure.
* Infrastructure or other activities needed to achieve recycling rates for all covered material under the plan and ensure covered material is recyclable or compostable.

**PRO PLAN REVIEW AND APPROVAL – Sec. 42051.2 and Sec. 42063**

PRO plan process:

* PRO develops a proposed plan and submits it to the advisory board for review and comment no less than 180 calendar days before the plan’s five-year expiration date (CalRecycle may allow an extension of a previously approved plan until a new plan is approved or rejected)
  + Plan amendment must also be submitted to the advisory board for comment and approved by CalRecycle (an amendment is required when the PRO annual report determines the PRO is not likely to meet its requirements)
* Advisory board shall review and may provide written comments to the PRO within 60 calendar days
* PRO shall consider the advisory board comments and any public comments and may incorporate them into the plan within 120 calendar days of receipt of the advisory board’s comments
* PRO submits the revised proposed plan to CalRecycle who shall review the plan and provide an approval, disapproval, conditional approval, request for more information, or a timeline for a decision on approval/disapproval within 90 calendar days
  + Conditional approval: CalRecycle shall explain in writing, and PRO shall ensure conditions are met and resubmit a revised plan within 12 months
  + Disapproval: CalRecycle shall explain in writing, and PRO shall resubmit a plan to CalRecycle within 30 days. If CalRecycle finds the plan still does not comply, CalRecycle shall direct changes to the plan and require resubmittal within 30 calendar days. The PRO shall not be deemed in compliance until it submits a plan CalRecycle finds complies with the requirements of this act.
    - If CalRecycle determines the PRO has not incorporated changes into the plan, CalRecycle shall determine the PRO to be out of compliance and shall take enforcement action.
* PRO has 90 calendar days to implement an approved or conditionally approved plan
* PRO plan is valid for five years

Annual report process: annual report describes in detail how the PRO is implementing the plan and how they have complied with the requirements of this act

* PRO submits annual report to CalRecycle who shall review and notify the PRO of any deficiencies within 90 calendar days
* PRO shall then provide additional information, modifications, or corrections within 60 calendar days
* CalRecycle shall review and approve, disapprove, or conditionally approve the report within 90 calendar days of receipt of an annual report deemed complete
  + Conditional approval or disapproval: PRO shall resubmit a revised annual report within 30 calendar days – CalRecycle shall then act within 60 calendar days

**PRO PRODUCER FEE – Sec. 42053**

PRO shall establish a fee for its participants that must be sufficient to ensure the requirements of this act are met, the plan is fully implemented, and the budget is fully funded. The initial fee schedule (during first two years of operation and during preparation of the PRO plan) shall be based on:

* Estimated cost of implementing the plan
* Operating costs
* Cost of completing the needs assessment
* Costs to reimburse CalRecycle
* Costs to cover the environmental mitigation requirements (**Sec. 42064**)
  + PRO shall remit $500M to the California Plastic Pollution Mitigation Fund each year beginning 2027 (PRO may collect up to $150M from plastic resin manufacturers who sell plastic covered material to producers in the PRO, but if it does not, the PRO is still responsible for the whole $500M)
    - PRO shall impose on its participants an environmental mitigation surcharge based on each producer’s market share of plastic covered material, accounting for both number of plastic components and weight
    - This money shall not be used to cover any costs in the needs assessment
    - In 2030, CalRecycle shall determine if the environmental mitigation surcharge should be increased
  + 40% ($200M) goes to the Department of Fish and Wildlife, the Wildlife Conservation Board, the State Coastal Conservancy, the California Coastal Commission, the Ocean Protection Council, the Department of Parks and Recreation, the Natural Resources Agency, and CalEPA to monitor and reduce the environmental impacts of plastics on terrestrial, aquatic, and marine life and human health, including to restore, recover, and protect the natural environment.
    - 50% of this ($100M) shall provide benefit to disadvantaged or low-income communities or rural areas
  + 60% ($300M) goes to the Strategic Growth Council, CalEPA, and the Department of Justice to monitor and reduce the historical and current environmental justice and public health impacts of plastics, including to mitigate the impact on disadvantaged or low-income communities or rural areas.
    - 75% of this ($225M) shall directly benefit disadvantaged or low-income communities
  + This money shall not replace allocation of any other funding for the purposes described above. General Fund or Greenhouse Gas Reduction Fund (GGRF) appropriations to any of the above agencies, boards, departments, commissions, councils, etc. shall not be reduced below levels provided in the 2019 budget.
  + This section is repealed as of 2037.

Ongoing fee schedule (adjusted at least every year) shall include:

* Individual assessments imposed on each producer
* Any adjustments (i.e. malus fees or credits based on use of recycled content, source reduction, standardization to simplify processing, presence of hazardous materials, labeling, etc.)
* The California circular economy administration fee – to cover CalRecycle and any other state agency’s full costs of implementing and enforcing this act
* Reimbursing CalRecycle for costs to administer the advisory board
* Fees associated with environmental mitigation activities discussed above

Ongoing fee schedule shall be based on:

* Costs to ensure each covered material meets the requirements of this act (sliding scale fee based on ease and expense of recyclability/compostability) – these costs may include:
  + Costs to develop and sustain viable responsible end markets
  + Costs to collect, sort, avoid or remove contamination, aggregate, and transport covered materials into defined streams to support the viable responsible end markets for remanufacturing either through curbside collection of other means
  + Costs incurred by local jurisdictions or recycling service providers to process and transport covered materials in a manner and quality sufficient for acceptance by viable responsible end markets (includes costs to reduce or mitigate inbound contamination by noncertified compostable products at composting facilities)
  + Other costs necessary to implement the plan and achieve the source reduction, recyclability and compostability, recycling rate, and other requirements of this act, including ensuring plan implementation avoids and minimizes negative environmental or public health impacts on disadvantaged or low-income communities or rural areas.
  + Costs incurred for any waste stream sampling and reporting and costs incurred to education ratepayers
* Whether recycling/composting of a covered material is made more difficult by the incorporation of specific elements (i.e. inks, labels, adhesives)
* The commodity value of the covered material based on an independent index or the reported commodity value of materials of equivalent quality of the covered material
* Costs incurred by the PRO to help producers meet the source reduction requirements

**CALRECYCLE REGULATIONS – Sec. 42060**

CalRecycle shall adopt regulations to implement and enforce this act by 2025. Regulations shall include, but not be limited to:

* Regulations to ensure the PRO fully funds plan implementation and the budget. This shall include the costs incurred by a local jurisdiction or a local jurisdiction’s recycling service providers to implement this act, including, but not limited to, the cost of consumer education and of collection, including the cost of containers where relevant, as well as the processing, storage, and transportation of covered materials. Costs may vary based on population density or other relevant factors and shall allow local jurisdictions to protect ratepayers from increased costs associated with the processing and marketing of covered material.
* A mandatory process for a PRO or independent producer to register with and report CalRecycle.
* A process to identify covered material that, while determined to be single use for purposes of this act, presents unique challenges in complying with this act. CalRecycle may exempt covered material identified here or may develop a plan to phase the covered material into the requirements of this act.
* A process to identify covered material that cannot comply with this act for health and safety reasons, or because it is unsafe to recycle. CalRecycle may exempt that covered material.
* A process to exempt small producers, small retailers, and small wholesalers based on size, revenue, number of retail locations, and market share (i.e. gross sales of less than $1M in California)
* Mechanisms to reduce the amount of covered material entering the environment
* A process to require coordination between a PRO and producer that is not a participant of the PRO’s approved plan and between multiple PROs, as necessary.
* A methodology and process to calculate, to the extent feasible, an annual recycling rate.

**COLLECTION REQUIREMENTS – Sec. 42060.5**

All local jurisdictions or recycling service providers shall include in their collection and recycling programs all covered material CalRecycle has deemed recyclable and compostable (in accordance with **Sec. 42061(c) and (d)**). This does not authorize CalRecycle to require mandatory route collection service where it does not already exist. This also does not limit a local jurisdiction from collecting additional materials for recycling or composting.

* Extension/Exemption: Written showing by the local jurisdiction or recycling service provider that compliance is not practicable for a specific material because of specific local conditions, circumstances, or challenges. An extension/exemption does not relieve the PRO from meeting it’s requirements. Rural exemption exists as well.

**NEEDS ASSESSMENT – Sec. 42067**

CalRecycle shall prepare one or more initial statewide needs assessments designed to determine the necessary steps and investment needed for covered material to achieve the requirements of this act. The initial needs assessment for a specific covered material shall be completed before the approval of a PRO plan that includes that covered material. Needs assessments shall be updated every five years or as necessary. CalRecycle may select an independent third-party contractor to complete the needs assessment. The third-party contractor shall consult with the PRO and local jurisdictions when developing the needs assessment.

* The needs assessment shall be developed through a public process and shall be submitted to the advisory board.

CalRecycle shall guide development of a needs assessment, which shall be developed in collaboration with the PRO and a broad diversity of local jurisdictions, recycling service providers, and processors that reflect the different needs and challenges faced by urban, suburban, and rural communities and a variety of different population densities and socioeconomic perspectives and that choose to participate in the development of a needs assessment.

A needs assessment shall include an evaluation of the following with respect to covered materials:

* Existing state statutory provisions and funding sources related to market development and financial incentives to help achieve the state’s goals related to recycling, composting, reuse, reduction, and recovery.
* The current recycling, composting, collection, and hauling system in the state and the expanded access and additional recycling or composting options needed for enhancements to the system.
* The existing access to on-premises recycling and composting for multifamily residences, and the need to expand that access.
* The processing capacity and infrastructure in the state and regionally and the ability for innovative and advanced technologies, such as artificial intelligence and robotics, to improve that capacity.
* Current market conditions and the need to create viable responsible end markets in the state and regionally.
* Consumer education needs for recycling, composting, reuse, and reduction.
* Funding needs and actions necessary to achieve the requirements of this act, including payments to recyclers, market incentive payments, or other payments necessary to achieve the requirements of this act.
* Actions and investments necessary to provide sufficient access to collection, recycling, composting, processing, and transportation to viable responsible end markets.
* An evaluation of the availability or lack of availability of markets for recycled covered material, the need to incentivize recycled or composted material market development, and the associated investments and actions needed to ensure that the covered materials are recycled or composted and have viable and sufficient responsible end markets to meet the required recycling rates.
* Factors contributing to contamination and actions and investments needed to avoid contamination and improve recycled and composted material in order to ensure the material meets quality requirements for remanufacturing.
* Availability of responsible end markets and mechanisms to identify and expand responsible end markets. The evaluation shall include identification of measures to avoid and minimize environmental and public health impacts on communities where recycling occurs.
* The needs associated with shifting packaging or food service ware from a covered material category that is unlikely to develop sustained viable responsible end markets to a covered material category that either has a viable responsible end market or is likely to develop a sustained viable responsible end market.
* Actions and investments necessary to improve covered material design to improve recyclability and compostability.
* Funding needed to implement the source reduction requirements, including, but not limited to, investments needed to develop reuse and refill infrastructure and to provide consumers with convenient access to that infrastructure to grow and market the use of reusable and refillable packaging and food service ware.
* An evaluation of integrating innovative and advanced technologies throughout a MRF that utilize artificial intelligence to improve data collection in order to identify, categorize, and track the disposition of covered materials throughout the recycling process.
* An evaluation of actions and investments that would be effective in achieving source reduction requirements.

NOTE: The needs assessment shall not propose investing in activities contrary to the intent described in[**Sec. 40004**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40004&lawCode=PRC) or in violation of an agreement entered into pursuant to [**Sec. 40059**](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40059&lawCode=PRC) and shall include a mechanism to disburse funds for identified activities.

The needs assessment may include, but shall not be limited to, elements that will accomplish all of the following:

* Expanding access to or improvement of curbside collection services wherever feasible.
* Expanding access to dropoff recycling services or other mechanisms where curbside collection services are not feasible, or as necessary in order to supplement curbside collection services to achieve the requirements of this act.
* Expanding access to collection services in public spaces.
* Providing or facilitating deployment of innovative enhanced collection, composting, and recycling systems and innovative recycling systems within a recycling center or MRF that utilizes advanced technology, such as artificial intelligence and robotics, to improve the identification and sorting of covered materials, where feasible.
* An evaluation of actions and investments that would be effective in achieving source reduction requirements.
* Creation of on-premises access to recycling or composting services for multifamily residences.
* Funding, providing, or facilitating the efficient transport of materials from remote or rural areas to centralized sorting facilities, brokers, or viable responsible end markets.
* Enhancing existing materials recycling or composting infrastructure by developing a quality incentive payment, grants, and other mechanisms sufficient to cover the cost of separating, processing, baling, recycling, composting, remanufacturing, and transporting desired materials that meet viable responsible end market quality specifications, or for reducing the rate of inbound contamination to composting facilities.
* Infrastructure or other mechanisms needed to implement a source reduction plan, including, but not limited to, investments in reuse, refill, and composting infrastructure.
* Infrastructure or other activities needed to achieve recycling and composting rates for all covered material under the plan and ensure covered material is recyclable or compostable.

**ADVISORY BOARD – Sec. 42070**

CalRecycle shall establish a producer responsibility advisory board to identify barriers and solutions to creating a circular economy consistent with this act and to advise CalRecycle, producers, and PROs in the implementation of this act. The advisory board shall be composed of 13 voting and 3 nonvoting members appointed by the director of CalRecycle by July 2023. Members shall be appointed for staggered three-year terms (may be reappointed). Members shall include:

* One representative nominated by a statewide city association.
* One representative nominated by a statewide rural county association.
* One representative from an environmental protection organization.
* One representative from an ocean advocacy organization.
* One representative from an environmental justice organization.
* One representative from a disadvantaged or low-income community or rural area.
* One representative of a MRF located within California.
* One representative of a recycling service provider, or a representative of an association of recycling service providers.
* One representative from the composting industry operating in California.
* A representative of each of four manufacturers of covered materials of different material types (i.e. paper, plastic, glass, metal) utilizing postconsumer recycled content, one of which produces third-party certified compostable covered material. These board members shall not be a board member of a PRO.
* One representative nominated by a statewide association representing the retail sector - nonvoting.
* One representative nominated by a statewide association representing the grocery sector – nonvoting member.
* One representative of a PRO – nonvoting member.

The advisory board shall provide the PRO and CalRecycle, and a third party conducting a needs assessment, if applicable, with initial recommendations regarding the following:

* Key barriers and possible solutions to advance the objectives of increasing recovery of covered materials and decreasing the leakage of plastic into the environment no later than one year after the advisory board’s initial meeting. This shall include key barriers and possible solutions related to available and viable responsible end markets and market development for covered materials.
* Key barriers and possible solutions to advance the objectives of reducing the production of virgin material for covered material and reducing the landfilling of covered material.
* Key barriers and possible pathways toward reusable packaging and products and refillable systems.
* Key barriers and other considerations needed for covered material to meet the requirements of this act.
* How a PRO will cover the costs incurred by local jurisdictions and local jurisdictions’ recycling service providers associated with implementing this act and managing the material covered in a plan.

The advisory board may take any of the following actions through written recommendations as the advisory board deems appropriate:

* Advise CalRecycle, producers, or PROs on technical matters in support of the goals of this act to create a circular economy and reduce covered material pollution.
* Advise CalRecycle in the adoption of the regulations required by this act.
* Advise CalRecycle, producers, or PROs on any other pertinent matters in implementing this act, as determined by the advisory board or department.
* NOTE: The advisory board shall submit written recommendations to CalRecycle only if a majority of the advisory board’s voting members endorse the recommendation. One or more advisory board members who do not endorse the recommendation may submit a separate written recommendation reflecting the minority opinion or opinions.

If an affected entity asserts that specific actions taken to meet the requirements of this act are disrupting or otherwise adversely affecting the sustained operation or commercial viability of solid waste collection programs, solid waste recycling facilities, or composting facilities providing services in accordance with local solid waste handling requirements, the affected entity may bring the concern and evidence supporting this assertion to the advisory board for discussion and ask the advisory board to conduct a preliminary evaluation of the information. If the evaluation demonstrates that specific actions are disrupting or otherwise adversely affecting existing operations, the advisory board shall submit this concern to CalRecycle for further analysis. CalRecycle shall analyze the information provided by the advisory board and may offer a recommendation for resolution.