



July 11, 2025

Submitted via email: packaging@calrecycle.ca.gov

RE: SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act June 23 Non-Regulatory Workshop

Dear California Department of Resources Recycling and Recovery,

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity provided by the California Department of Resources Recycling and Recovery (“Department” or “CalRecycle”) to submit written feedback regarding the draft producer reporting guidance and covered material categories, as part of the Plastic Pollution Prevention and Packaging Producer Responsibility Act (“SB 54”).

AMERIPEN represents the entire packaging value chain, advocating for responsible packaging policies that drive meaningful progress in packaging sustainability while supporting industry growth and consumer needs. As the leading voice for packaging policy in the United States, AMERIPEN works with legislators, regulators, and stakeholders to develop science-based, data-driven solutions that enhance packaging’s role in product protection and circularity. We have several member companies with a significant presence in California, and many more who import packaging materials and products into the state. The packaging industry in California supports nearly 156,000 jobs and accounts for \$49 billion in total economic output.

AMERIPEN supports policy solutions, including packaging producer responsibility, that are:

- Results Based: Designed to achieve the recycling and recovery results needed to create a circular economy.
- Effective and Efficient: Focused on best practices and solutions that spur positive behaviors, increase packaging recovery, recapture material values and limit administrative costs.
- Equitable and Fair: Focused on all material types and funded by shared cost allocations that are scaled to make the system work and perceived as fair among all contributors and stakeholders.

AMERIPEN respectfully submits the written feedback below for CalRecycle’s consideration when revising the draft producer reporting guidance and covered materials categories:

Topic 1: Covered Material Categories

Part 3. Draft Producer Reporting Guidance - Covered Material Categories

CMC Item 1. Glossary of Terms:

Both portions of the glossary definition of “component” refer to a piece, despite “piece” only being used in the provision of the proposed draft of SB 54 regulations released in July 2025 that corresponds to the second portion. Unless the Department views the terms “piece” and “subpart” as interchangeable, AMERIPEN recommends utilizing “piece” only in the second portion of the glossary definition to better align with the proposed regulatory definition. Furthermore, “subpart” is undefined in the regulations and the guidance documents, but it is not a common or readily understood term. Therefore, AMERIPEN recommends providing a definition to make the “component” definition more intelligible; such a “subpart” definition could be “a distinguishable segment.”

AMERIPEN recommends that CalRecycle guidance consult the Association of Plastic Recyclers (APR) guidance in areas such as “flexible/film” to avoid conflicts with how APR recommends categorizing material.

CMC Item 2. Key for Categorizing Covered Material:

Step 3 allows for a consideration of an item’s “size sorting potential,” as determined by the APR Design Guidance. An item that meets the “Preferred” criteria under this test would not be categorized under the respective covered material category (CMC) for small materials. AMERIPEN supports and is greatly appreciative of this approach, as it reflects the real-world operations and handling of small materials at recycling facilities.

CMC Item 3. Covered Material Categories with Description and Examples:

The comments below speak to the contents of the Description and Examples column for the respective covered material categories (CMCs) referenced.

In light of consideration of an item’s “size sorting potential,” as referenced above in CMC Item 2, AMERIPEN seeks conforming clarification throughout the CMC List in the “Small” Form CMCs. Specifically, AMERIPEN asks for language in each of them to add language stating “**Does not include items that meet the APR Design Preferred assessment for the design feature of ‘size sorting potential.’”**



For clarity, AMERIPEN recommends that the third sentence in CMC 24_PF9P be reworded as follows to avoid producers categorizing waxed materials in this category: "It can be uncoated or have a (glossy) **plastic** coating/**liner** on the inside or outside."

CMC 24_P6P (i.e., HDPE bottles, jugs, and jars [clear/natural]) describes the plastic it covers as "cloudy white." However, the companion CMC 24_P7P (i.e., HDPE bottles, jugs, and jars [pigmented/color]) states that its materials "may be translucent (of a color other than milky-white) or opaque." As the intent seems to be to distinguish between the two CMCs, AMERIPEN recommends replacing "milky-white" with "cloudy white" for consistency.

For CMC 24_P16P, AMERIPEN recommends revising the first sentence as follows to achieve clarity and consistency with the separate "Other" CMCs: "Means flexible or film items that are made of low density polyethylene and may be marked as LDPE (#4) **that do not fit into any other category.**"

The utensil-related CMCs (24_P19P and 24_P27P) include the stipulation, "Excludes utensils that are clearly designed or labeled for reuse." It is unclear why the Department is choosing to use "clearly designed or labeled for reuse" as a standard for reuse for utensils, given that the reuse and refill criteria in the proposed regulations are different. While AMERIPEN does not necessarily object to this standard, AMERIPEN seeks the Department's explanation for this approach.

Topic 1: Draft Producer Reporting Guidance - Source Reduction Baseline

Part 2. Source Reduction Baseline Guidance

SRB Item 1. Important Definitions and Concepts

The "de minimis" concept states that, "An item is not likely to be considered de minimis if:

- Its presence on an item makes it more difficult to recycle or prevents recyclability.
- Its presence on an item makes it more difficult to compost or prevents compostability.
- Its management creates health or safety risks."

These criteria are not specifically linked to consideration of what qualifies as "de minimis" under SB 54 or the draft regulations. AMERIPEN accordingly requests the Department provide rationale for their listing or else remove this language, as it can unnecessarily influence an objective review of whether a material is de minimis in nature.

The "plastic component" provision states that a "piece or subpart of covered material gets counted as a plastic component if the piece or subpart is made partially or entirely of plastic."

The term "made partially" derives from the SB 54 definition of "plastic component" and is used in the draft regulations. However, it remains undefined and its precise meaning is uncertain; "partially" could apply only when a certain threshold amount is reached or could mean when a single molecule is present. Consistent with comments made in the regulatory process and in the statute's spirit of disregarding de minimis amounts of material (including plastics), AMERIPEN recommends the Department set a defined threshold (such as at least 20% by weight) for determining if something is "made partially" of plastic. Such an approach would be consistent with the Department's exercise in authority for using the APR Design Guide to categorize small materials, as referenced above.

SRB Item 3. Examples

AMERIPEN recommends adding a visual depiction for each example, even if it is a mocked-up one. That will improve the public's understanding of each item being discussed.

AMERIPEN also notes several misapplications or misinterpretations of various terms that lead to mischaracterizations of what can be considered components in various examples provided in the guidance. Specifically:

- Example 1 (an aseptic carton with a plastic cap) counts inner, middle, and outer polyethylene coatings each as a plastic component, thus comprising three plastic components in total for the coatings. Based on section 18980.1 of the draft SB 54 regulations, this is not the appropriate way to consider a plastic component in this example or similar ones involving coatings. When consulting the definition of "component," "detachable component," and (particularly) "item," a coating cannot feasibly be considered a plastic component. It is not a "detachable component," which the "item" definition states is a distinct item. The "component" definition is developed specifically "covered material items," with "item" tied to the definition in paragraph (12). Thus, a specific coating cannot be treated as an individual item and therefore cannot be an individual "plastic component." Instead, AMERIPEN asks the Department to revise its guidance and interpretation such that a coating would be considered intrinsic to the material to which it is bound.
- For Example 3, it should be noted that zippers may be connected/continuous in nature, even when unzipped, and therefore comprise a single piece of material of the same plastic resin. This nuance is not captured in the example and AMERIPEN therefore recommends clarifying that the zipper in the example constitutes two unconnected components.
- Example 4 treats each piece of plastic tape as a single plastic component. However, the July 2025 draft of the SB 54 regulations state that a packaging component is not an "independent plastic component" if it is a coating, film, *tape*, sticker, label, or other



sheet-like material adhered to the surface of another component or group of components" (emphasis added). As such, tape is likely to qualify as "de minimis" and therefore not be treated as "packaging" or a "plastic component." AMERIPEN therefore urges CalRecycle keep the "de minimis" test in mind when considered tape and similar material. AMERIPEN also recommends that CalRecycle not use plastic tape in its examples or, if it does, that it adds a caveat that the tape in the specific example was determined to not be "de minimis."

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AMERIPEN strives to offer a good-faith and proactive approach that integrates elements from other established packaging producer responsibility programs with hopes of developing a plan that will incentivize recycling growth and the beneficial impacts that come along with that in California. AMERIPEN continues to focus on strategies that develop and/or strengthen policies to progress the "reduce, reuse, recycle" strategies, while at the same time, enhancing the value of packaging. Our members are driving innovation, designing better environmental performance to evolve the recycling infrastructure and to create a more circular economy for all packaging. In our efforts to reduce environmental impact by increasing the circularity of packaging, our members continue to recognize the value of collaboration and the importance of working across the packaging value chain.

AMERIPEN looks forward to the continued open dialogue with the Department and interested parties while collectively balancing between the myriad of needs for packaging, composting, recycling, and sound solutions to grow a more sustainable future, an effective circular economy, and systems that achieve positive environmental outcomes for everyone that ultimately assist in the success of this program. We remain committed to supporting progressive, proactive, and evidence-based strategies for sustainable packaging policies and programs.

As always, AMERIPEN thanks the Department for this opportunity to provide written feedback and appreciates the Department staff's time and assistance during the SB 54 implementation process. Please feel free to contact me by email (GMelkonian@serlinhaley.com) with any questions on AMERIPEN's positions.



Sincerely,

A black ink handwritten signature of the name "Gregory Melkonian".

Gregory Melkonian
Regulatory and Government Affairs Associate
Serlin Haley, on behalf of AMERIPEN