RURAL COUNTY REPRESENTATIVES OF CALIFORNIA

June 3, 2025

Zoe Heller
Director, Department of Resources Recycling and Recovery
1001 I Street
Sacramento, CA 95814

RE: SB 54 Informal Rulemaking Workshop Comments

Dear Director Heller:

On behalf of the Rural County Representatives of California (RCRC), we are pleased to provide comments on the proposed SB 54 regulation text.

RCRC is an association of forty rural California counties and the RCRC Board of Directors is comprised of elected supervisors from each of those member counties. RCRC represents all 19 California counties that qualify as "rural counties" under Public Resources Code (PRC) Section 42649.8(h). RCRC was extensively engaged in the SB 54 development process and strongly advocated for its passage.

RCRC appreciates the opportunity to provide comments on the proposed SB 54 regulation text in this informal comment period. RCRC welcomes several of the changes included in the latest draft regulation. At the same time, we remain deeply concerned with other aspects of the proposal. We also believe several revisions are necessary to avoid unintended consequences and align the regulations with the SB 54 Informal Rulemaking Workshop discussion document. We will address the issues in the order presented in the proposed regulation text rather than in order of priority to RCRC.

Definition of "ratepayer" is too narrow and fails to encompass residents in many jurisdictions.

The draft regulations continue to define "ratepayer" as "a person that pays user fees for recycling, composting, or solid waste collection and handling services provided by a local jurisdiction and/or their designated recycling service provider."

The regulations provide no definition of what constitutes a "user fee"; however, this was narrowed from a broader universe of excise fees parcel taxes, property taxes, and solid waste facility gate fees and tipping fees referenced in the first draft of the proposed SB 54 regulations. As such, we are concerned that the definition fails to contemplate the

number of different mechanisms through which local solid and organic waste collection and recycling services are funded.

We are concerned that the current definition of "ratepayer" is prejudicial to residents living in areas without curbside solid waste collection services and to those who reside in jurisdiction like Kern, Calaveras, and Sierra Counties. In those counties, solid waste collection is funded by annual charges placed on the local property tax bill. Kern County calls these "solid waste collection charges", Calaveras County calls them solid waste parcel fees, and Sierra County calls them a solid waste parcel charge. Given the regulatory history, it is not clear whether these annual property tax assessments would fall under the definition of "user fees."

Furthermore, some residents do not have curbside collection of trash and recyclables. In those areas, solid waste and recyclables are taken by the individual to solid waste or transfer facilities where the costs of solid waste management and recycling are recovered through gate fees or tipping fees. By deleting "gate fees and tipping fees" from the first definition contained in the original draft regulation, it is not clear whether the new definition would consider residents living in these areas "ratepayers."

To address these issues, we strongly suggest clarifying that the definition of "ratepayer" includes these scenarios.

Regulations should include an opportunity for stakeholders to provide feedback when a producer recommends changes to the covered material category list.

Proposed Section 18980.2.6 establishes a pathway through which a PRO, participant producer, or Independent Producer may recommend changes to the current Covered Material Category (CMC) list. As part of that process, the entity making the request must discuss financial implications and impact of the recommended changes on responsible end markets and intermediate supply chain entities.

If changes to the CMC list result in certain covered materials no longer being covered, this may result in stranding investments that recycling service providers and local jurisdictions made in anticipation of producer responsibility organization (PRO) reimbursement. Similarly, a PRO or independent producer may significantly underestimate the potential financial impacts of adding a new material to the CMC list so they can sell it in the state. Given the potentially significant impact that changes to the CMC list may have on the industry and local governments, it is imperative that those entities be given an opportunity to provide feedback on the change and be able to comment on the accuracy of the supporting information.

To address this concern, RCRC suggests adding a new subdivision (e) to proposed Section 18980.2.6 as follows:

18980.2.6 ***(e) The department shall provide an opportunity for public engagement and allow public comment and submission of relevant information and evidence,***

including, but not limited to, responding to the estimated financial implications and impacts of those changes on local jurisdictions and recycling service providers.

Restrictions on disposal of covered material preclude the use of compost for its intended purpose as compost.

RCRC remains concerned that the draft regulations may preclude the use of compost for its intended purpose as a soil amendment.

As drafted, Proposed Section 18980.3.5(d) deems the land application of covered materials to constitute disposal. Section 18980.1(a)(5) in turn defines "covered material" to include "materials that originated from covered material items." Compost is a recycled organic product produced from organic waste and compostable materials. The finished product is intended to be land applied to improve soil health, water retention, and carbon sequestration.

Since compost originates from compostable materials (which are considered covered materials), one could read the passage to consider land application of compost to be disposal. California has spent a great deal of time and effort to promote and mandate the procurement of compost; however, we fear the draft regulations would undermine all those efforts by deeming land application of compost to constitute disposal.

To address this issue, we suggest modifying Section 18980.3.5 as follows:
18980.3.5 ***(e) Nothing in this section shall preclude the land application of finished compost or the beneficial use of overs from compost operations consistent with existing law.***

Changes chain of custody greatly ease administration and reduce implementation costs.

RCRC appreciates that the effective scope of "intermediate supply chain entity" has been aligned with the definition contained in Section 18980.1(a)(11). In particular, RCRC is pleased that Section 18980.4 has been modified to eliminate the requirement that responsible end markets maintain chain of custody information from the person who collected the covered material to the end market. As revised, the chain of custody requirement must encompass all intermediate supply chain entities, which are those facilities that receive materials after they have been collected. This simple change will greatly reduce administrative complexity and accounting challenges for local jurisdictions, recycling service providers, and responsible end markets.

Regulations improperly restrict the scope of local costs eligible for reimbursement and create a reimbursable state mandate.

While the draft regulations attempt to provide clarity as to what types of local government and recycling service provider costs are reimbursable by the PRO, RCRC is concerned that it appears to improperly restrict the scope of local costs eligible for reimbursement beyond what is provided under SB 54. SB 54 is clear in that the Legislature intended to "ensure that local jurisdictions will be made financially whole for

any new costs incurred associated with the implementation of this chapter and its implementing regulations."[1] Furthermore, SB 54 intended for this new framework to "shift the burden of costs to collect, process, and recycle materials from the local jurisdictions to the producers of plastic products."[2]

SB 54 is quite expansive in terms of the types of local costs that are reimbursable by the PRO or independent producer. RCRC objects to language in proposed Section 18980.8(g)(2) that limits the scope of "covered costs" by the PRO or independent producer. That section includes an exhaustive list of covered costs, so the PRO could decline to reimburse any costs that it argues are outside of the scope of those three categories, potentially including legitimate claims for educational expenses or covered material collection and recycling activities.

A PRO or independent producer could reject claims to pay for local educational campaigns under the argument that educational campaigns would ordinarily exist anyway even in the absence of SB 54. Even if a local agency's educational materials are focused on SB 54 implementation, the PRO may be able to argue that the publication was similar in nature to others that had previously been published by the agency and so is no different in nature than ordinarily expected costs. This is clearly contrary to SB 54's intent that the PRO cover local implementation costs, including education.

The effort to narrow the costs of reimbursable expenses to exclude costs that are of the same nature as those that would ordinarily exist fails to recognize that SB 54 itself removed local discretion and converted all those voluntary collection efforts into mandates.

Even more concerning, a PRO or independent producer could try to avoid costs for collecting and getting covered materials to market simply because the local jurisdiction previously ***voluntarily*** collected those materials before SB 54 was signed into law. This ignores the fact that while a local agency previously had the ability to include or exclude any materials from its collection program, SB 54 removes any local discretion and ***compels*** the entity to include in its program all covered materials CalRecycle determines are recyclable or compostable. Any bale of covered materials collected under SB 54 is a ***NEW, required*** cost and is in furtherance of helping producers achieve SB 54's mandates, so any expenses incurred in collecting, processing, or transporting those materials are eligible for reimbursement under SB 54.

Because of its narrow construction, the draft regulations create a reimbursable state mandate because SB 54 and CalRecycle require local governments to provide a higher level of service and the proposed regulations preclude recovery of those costs from the PRO and independent producers. To the extent that a PRO or independent producer rejects local reimbursement claims, it is reasonable to assume local

[1] Public Resources Code Section 42040(b)(2)
[2] Id.

governments will seek to recover those SB 54 implementation costs through the Commission on State Mandates, thereby significantly increasing state costs.

Performance-based funding model has merit, but must be optional for local jurisdictions and recycling service providers.

SB 54 requires the PRO to pay for SB 54 costs incurred by a local jurisdiction or recycling service provider. The proposed regulations allow the PRO to establish a performance-based approach to pay local jurisdictions and recycling service providers for covered costs.

RCRC supports efforts to provide flexibility in how the PRO pays covered costs; however, it is imperative that local jurisdictions and recycling service providers be given the option as to whether they will be compensated based on actual implementation costs or through a performance-based approach. SB 54 recognizes that implementation costs may vary jurisdiction by jurisdiction, with some experiencing higher costs related to transportation, distance to market, etc. While a "performance-based" payment program may simplify administration and accounting, it may not fully reimburse a jurisdiction for costs incurred. As such, it is vital that the local government or recycling service provider be given the option as to whether it will be reimbursed for actual costs incurred or will accept the "performance-based" funding model.

To address this concern, we suggest amending Section 18980.8(g)(6) as follows:
18980.8(g)(6) In addition to allowing identification of covered costs based on claims for certain amounts, the process may establish a performance-based approach (e.g., based on tons of covered material) for identifying covered costs. ***Local jurisdictions and recycling service providers shall decide whether they wish to receive payments through either the claims-based or performance-based process, or both.***

Dispute resolution process must be revised to protect local governments and preserve existing rights to pursue civil litigation.

Local governments and ratepayers have long shouldered all the costs of managing and recycling waste, which is why SB 54's transformative approach is so appealing. Last year, RCRC and other stakeholders raised two important and interrelated questions – how will the reimbursement process work and how will disputes regarding reimbursement be resolved? Since that time, we and other stakeholders have engaged in informal discussions with the Circular Action Alliance about those topics. Those questions largely remain unanswered as the PRO works to figure out how to structure the program.

We recognize that CalRecycle has made may improvements to the dispute resolution framework, but important gaps remain that must be addressed. The proposed dispute resolution framework provides a pathway for the local jurisdiction or recycling service provider to request mediation, which would proceed to binding arbitration to resolve any remaining differences. Unfortunately, the regulation is silent on whether CalRecycle intends for this process to replace the parties' existing recourse to civil litigation. At a minimum, CalRecycle must make clear that the dispute resolution process

outlined in the regulations does not interfere with the parties' right to enforce through civil litigation the PRO's obligations to determine and pay costs incurred.

Mediation and arbitration should not be the sole remedies available and must not infringe upon existing rights to civil litigation to enforce the PRO's obligation to determine and reimburse local jurisdictions and recycling service providers. Local jurisdictions and recycling service providers must retain the ability to resolve disputes with the PRO through civil litigation, including any disputes that may remain after mediation.

Additionally, RCRC strongly opposes any requirement for local jurisdictions to be compelled to use ***binding*** arbitration to resolve disputes with the PRO. While we believe mediation can be a useful dispute resolution tool, binding arbitration must not be compelled to resolve any remaining differences. Arbitration is often criticized as being expensive, unwieldly, and prejudicial to less-resourced parties. Compelled arbitration is often exploited by large businesses to chill litigation from aggrieved parties who lack the resources or technical expertise to engage in that process. Simply speaking, the costs and complexity of binding arbitration will strongly disincentivize local jurisdictions and recycling service providers from seeking to resolve legitimate disputes with the PRO. We are also concerned that binding arbitration is not reviewable in civil courts.

To ensure these rights are protected, we suggest the following changes to Section 18980.8(h):

18980.8(h)(4) ***The obligations of a PRO or independent producer to determine and pay the costs incurred by local jurisdictions, recycling service providers, alternative collection systems, and others under Section 42051.1 are enforceable in a civil action between the affected entity and the PRO or independent producer. As an alternative to civil litigation, the dispute resolution*** ~~The~~ process must provide the option for the local jurisdiction or recycling service provider to require the dispute to be submitted to mediation and, if no agreement is reached through mediation, binding ***or non-binding*** arbitration. The PRO or Independent Producer plan shall include the express terms of an agreement that, upon the local jurisdiction or recycling service provider's exercise of its option, will govern mediations and arbitrations. The agreement's express terms must comply with the following restrictions:

…

(D) ***For binding arbitration, the*** ~~The~~ decision of the arbitrator or arbitration panel shall be binding.

…

(7) Nothing in this subdivision shall be construed to limit the ability of a local jurisdiction or recycling service provider to enforce the obligations of a PRO or independent producer under Section 42051.1 through a civil action in a court of competent jurisdiction, or to otherwise seek judicial review of any determination made by a PRO or independent producer, unless the local jurisdiction or recycling service provider has voluntarily elected to submit the dispute to binding arbitration.

Annual reports should contain more information on program costs, local reimbursement, and dispute resolution.

RCRC remains concerned that the regulations lack the processes and mechanisms through which CalRecycle will ensure that the PRO will fully fund implementation and cover the costs incurred by local jurisdictions and recycling service providers in implementing SB 54. These are core components of SB 54, as PRC 42040(b)(2)(B) notes that one of the Legislature's primary intents was to "ensure that local jurisdictions will be made financially whole for any new costs incurred associated with the implementation of this chapter and its implementing regulations."

At a minimum, the annual report and budget must include detailed information on the total costs of covered costs paid to local jurisdictions, recycling service providers, alternative collection systems, take-back, and drop off programs. The annual report should also include information on the number and magnitude of covered cost-related disputes and how they were resolved.

To address this issue, we suggest adding language to Section 18980.9.1 as follows:

> 18980.9.1(d)(1)***(A)*** In the second phase of the annual report, as described in subdivision (c) of section 18980.6.5, fee schedule amendments pursuant to subdivision (e) of section 42053 of the Public Resources Code as a result of adjustments, including calculations for malus fees or credits.
>
> ***(B) Information on the total amount paid to local jurisdictions, recycling service providers, alternative collection systems, take-back, and drop off programs for covered costs and on the number, magnitude, and resolution of disputes with local jurisdictions and recycling service providers related to covered costs.***

RCRC appreciates the clarification that locals are exempt from collecting products for which there is no responsible end market, but the exemption should be automatic and not require review by CalRecycle.

RCRC appreciates additions to Section 18980.11 that state "the absence of responsible end markets shall be deemed a local condition, circumstance, or challenge rendering inclusion of the covered material in the program impracticable for purposes of subdivision (b) of section 42060.5 of the Public Resources Code and paragraph (4) of subdivision (c) of section 18980.11.1 of this chapter."

Local governments have long been concerned about having to collect and transport covered materials for which there is no responsible end market. These additions clarify that local governments and recycling service providers can obtain an exemption from SB 54's collection requirements for those materials for which there is no responsible end market.

While RCRC strongly supports inclusion of this language, we are concerned that each jurisdiction may have to submit an standard exemption request, which will be cumbersome and lengthy, as the application must first be provided to the PRO and independent producers at least 90 days before submission to CalRecycle. Rather than

having to submit a formal exemption request, RCRC suggests that local jurisdictions and recycling service providers be allowed to provide a notification and documentation to CalRecycle that there is no responsible end market for the covered material. To this end, we suggest the following modifications to Section 18980.11:

> 18980.11(b) Covered material is considered included in a local jurisdiction or recycling service provider's collection and recycling program if the local jurisdiction or recycling service provider collects the covered material and transfers it to responsible end markets directly or to intermediate supply chain entities. The local jurisdiction or recycling service provider shall not be required to establish the availability of a responsible end market to ultimately recycle the covered material. However, the absence of responsible end markets shall be deemed a local condition, circumstance, or challenge rendering inclusion of the covered material in the program impracticable for purposes of subdivision (b) of section 42060.5 of the Public Resources Code and paragraph (4) of subdivision (c) of section 18980.11.1 of this chapter ***for which the local jurisdiction or recycling service provider may provide a notification and documentation of that fact to CalRecycle and need not comply with subdivision (d) of section 18980.11.1 of this chapter***.

Local government exemption process is unnecessarily lengthy and producer review should be compressed.

RCRC remains concerned that the process outlined to review an local jurisdiction or recycling service provider exemption request is far too lengthy and will inhibit effective implementation of SB 54.

PRC 42065.5(b) allows local jurisdictions or recycling service providers to seek an exemption from the requirement to collect specific covered materials because local conditions, circumstances, or challenges make collection impracticable. As part of this process, the local jurisdiction or recycling service provider must notify the PRO and independent producers, who can object and arrange for alternative means for collection, processing, storage, and transportation of those covered materials.

The proposed regulations allow the PRO and independent producer 90 days to review an exemption application before a local jurisdiction or recycling service provider can submit it to CalRecycle for consideration. It should be noted that the PRO and Independent Producers are under no obligation to respond to an exemption request under PRC 42060.5. As such, the proposed regulation puts the applicant in purgatory for three full months while waiting to see if the PRO or independent producer even cares enough about the request to respond. This timeframe is unnecessarily lengthy and could easily be exploited by a PRO or independent producer to drag out the process, which becomes an even greater risk if the applicant is subject to penalties for failure to collect a specific covered material during the period in which it is seeking an exemption (*note that CalRecycle's proposed fix for this only applies to recycling service providers and does NOT apply to local jurisdictions*). Rather than provide 90 days for the PRO or independent producer to review an application, the regulations should reduce that period to 30 days. Similarly, the regulations should reduce the review period for renewal notices from 30 days to 14 days.

To address these concerns, RCRC suggests the following changes to Section 18980.11.1(d):

> 18980.11 (d) No exemption application or renewal request shall be submitted to the Department until after the local jurisdiction or recycling service provider has provided all PROs and Independent Producers the application or advance notice of the renewal request. All PROs and Independent Producers shall have ~~90~~ ***30*** days to review an application, and ~~30~~ 14 days to review a notice of a renewal request. During the review period

Enforcement scheme for local jurisdictions is unsupported by SB 54's statutory construction and can be better accomplished through other enforcement pathways.

CalRecycle's proposed regulations impermissibly seek to impose SB 54's enforcement regime on local jurisdictions and recycling service providers. This approach is unsupported by SB 54's statutory construction and local compliance can be better accomplished through other existing enforcement pathways.

SB 54's enforcement authority is clearly limited to imposing penalties on producers and the PRO. CalRecycle's proposed regulations are predicated on the assumption that the term "any entity" in PRC 42081(a)(1) broadens the scope of its enforcement authority; however, that term should be defined in context of the other provisions included in Article 5 of SB 54. PRC 42081 seeks to interpret and implement PRC 42080 and does not vest CalRecycle with additional authority to determine what constitutes a violation of SB 54 beyond the scope of PRC 42080.

PRC 42080 establishes what constitutes a violation of SB 54 and provides that failure to comply with the requirements of SB 54 will subject a PRO, producer, wholesaler, or retailer to penalties for those violations or revocation of an approved plan. PRC 42081 in turn:

- Sets the amount of penalties;
- Provides that they shall not accrue against a producer or PRO until 30 days after notification of the violation;
- Allows a producer or PRO to submit a corrective action plan to CalRecycle for approval detailing how and when it will come into compliance with SB 54; and,
- Sets forth various factors CalRecycle shall consider when determining the penalty amount, including whether the violation was beyond the reasonable control of the producer or PRO, the size and economic condition of the producer or PRO, etc.

PRC 42083 and 42084 also allow CalRecycle to impose additional requirements on a producer or PRO for failure to meet various requirements of SB 54.

Neither PRC 42080 nor PRC 42081 contemplate penalties against local governments or recycling service providers. Furthermore, the proposed regulations inappropriately subject local jurisdictions and recycling service providers to even more severe consequences for violations of SB 54 than apply to the PRO and producers since

local governments and recycling service providers cannot avail themselves of a corrective action plan, as is available for the PRO and producers. It is difficult to imagine the Legislature providing a more lenient compliance pathway for a producer or PRO than that which would be available to a local jurisdiction or recycling service provider, given that the law is intended to shift the burden of solid waste recycling AWAY from local jurisdictions and onto producers who introduce packaging into the marketplace.

Local jurisdictions are subject to AB 939's diversion requirements and must develop source reduction and recycling elements outlining how they will achieve the state's solid waste and recycling requirements. Under AB 939, CalRecycle is required to regularly review jurisdictions and determine whether they have made a good faith effort to implement their source reduction and recycling element, with penalties of up to $10,000/day for noncompliance. Therefore, a local jurisdiction's failure to comply with SB 54 should be considered a violation of their existing requirements to implement diversion programs through AB 939 and subject them to these penalties exclusively. *At worst, penalties for local jurisdictions should be capped at the maximum $10,000/day AB 939 limit*.

Should CalRecycle ultimately decide to subject local jurisdictions to SB 54's enforcement process, the regulations should at least provide an opportunity to cure violations before penalties accrue.

While we dispute the notion that SB 54 enables CalRecycle to impose penalties on local jurisdictions, if CalRecycle ultimately decides to proceed with the proposed enforcement process, it should be clarified to ensure that local jurisdictions and recycling service providers have an opportunity to cure any violations before penalties accrue.

Section 18980.13(d)(1) appears to provide that penalties shall accrue on each day a violation is committed following the 30th day after CalRecycle issues a notice of violation for the initial violation. Unfortunately, the structure of the regulation creates confusion by later stating in subdivision (i)(2) that penalties shall accrue against a local jurisdiction for each day any covered material category is not included in their collection and recycling program. As such, it is unclear whether local jurisdictions will be afforded the 30-day opportunity to cure that is outlined in subdivision (d) before penalties begin accruing against a local jurisdiction.

In any case, given the complexities of franchise agreements and the public contracting and Brown Act processes that local governments must follow, we strongly suggest a longer opportunity to cure before penalties begin to accrue against local jurisdictions. We suggest at least 90 days.

To address these concerns, we suggest the following modifications to Section 18980.13(i):

18980.13(i): For violations of section 42060.5 of the Public Resources Code by a local jurisdiction:

(1) The number of violations shall be the number of covered material categories contained on the lists identified in subdivision (a) of section 42060.5 of the Public Resources Code that are not included in their collection and recycling programs.
(2) Penalties ***shall accrue on each subsequent day on which the actions are committed following the 90th day after the Department issues a notice of violation for the initial violation for*** ~~and for each violation shall accrue on each day~~ any covered material category ~~is~~ not included in their collection and recycling programs, except as described in sections 18980.11.1 and 18980.11.2, or unless the local jurisdiction is otherwise not required to include the covered material category in its collection and recycling programs under section 42060.5 of the Public Resources Code.

Relief from penalty accrual during pendency of exemption process is helpful, but fails to extend to local jurisdictions despite assertions to the contrary in the SB 54 Informal Rulemaking Workshop discussion document.

RCRC has previously advocated that penalties should not accrue while a local jurisdiction is in the process of applying for an exemption or extension.

The proposed regulations provide that penalties do not accrue where CalRecycle has granted an exemption or extension to a local jurisdiction (Section 18980.13(i)(2)); however, we expressed concern that a similar provision in earlier draft regulations did not provide relief to jurisdictions while they are seeking an exemption or extension. That process envisions at least 90-days for the PRO or independent producer to review an application before it may even be considered by CalRecycle. It would be inequitable to subject a local jurisdiction to penalties while they are making a good faith effort to seek an exemption from CalRecycle.

For these reasons, RCRC was pleased when the Informal Rulemaking Workshop discussion document stated that "CalRecycle revised this section to provide relief to local jurisdictions and recycling service providers from penalty accrual during the pendency of a request for an extension or an exemption from requirements under subdivision (a) of PRC section 42060.5." Unfortunately, the revision to the proposed regulation text only provides that relief to recycling service providers under Section 18980.13(j), not to local jurisdictions under Section 18980.13(i). *While we have no qualms with providing such relief to recycling service providers, it must also be provided to local jurisdictions*. We suggest merely moving the provision from the second sentence of subdivision (j) to a new subdivision (k) *and adding local jurisdictions*. To address this issue, and align the draft regulations with the discussion document, we suggest amending Section 18980.13 as follows:

> 18980.13(i) For violations of section 42060.5 of the Public Resources Code by a local jurisdiction: (1) The number of violations shall be the number of covered material categories contained on the lists identified in subdivision (a) of section 42060.5 of the Public Resources Code that are not included in their collection and recycling programs. (2) Penalties for each violation shall accrue on each day any covered material category is not included in their collection and recycling programs, except as described in sections 18980.11.1 and 18980.11.2, or unless the local jurisdiction is otherwise not required to

include the covered material category in its collection and recycling programs under section 42060.5 of the Public Resources Code. 173

(j) The number of violations of section 42060.5 of the Public Resources Code by a recycling service provider and the accrual of penalties shall be calculated in the same manner as would apply under subdivision (i) for local jurisdictions committing the same violations. ~~No penalty may be imposed against a recycling service provider during the pendency of a request for an extension for, or exemption from, a requirement of subdivision (a) of section 42060.5 asserting that compliance with the requirement is not practicable for a specific identified covered material.~~

(k) ***No penalty may be imposed against a local jurisdiction or a recycling service provider pursuant to subdivisions (i) or (j) during the pendency of a request for an extension for, or exemption from, a requirement of subdivision (a) of section 42060.5 asserting that compliance with the requirement is not practicable for a specific identified covered material.***

(l) Except as otherwise provided, all factual determinations pursuant to this chapter, including whether any conditions have been met or factual circumstances have been established or demonstrated, shall be made based on the preponderance of evidence, meaning that, in consideration of all relevant facts and circumstances, the facts to be determined must be shown more likely than not to be true.

Conclusion

RCRC appreciates your consideration of these comments. We look forward to continuing to work with you on the development and implementation of SB 54. If you should have any questions, please do not hesitate to contact me at jkennedy@rcrcnet.org.

Sincerely,

JOHN KENNEDY
Senior Policy Advocate