



February 13, 2026

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

Cc: Mindy McIntyre, Chief Deputy Director,
Karen Kayfetz, Product Stewardship Branch Chief

Re: Comments on 29 January 2026 SB 54 Regulations

Submitted electronically on February 13, 2025, via CalRecycle Public Comment form.

Director Heller,

We welcome the opportunity to submit comments on this iteration of the SB 54 regulations with regard to changes made during OAL review. This letter focuses on Section 18980.2, Categorically Excluded Materials.

Our concerns on matters not raised by OAL, including on responsible end markets and the regulations' failure to effectively exclude technologies that harm health, the environment and environmental justice, still stand, as detailed in our 10 October 2025 correspondence titled "Re: Comments on 19 August 2025 Draft SB 54 Regulations, focus on pyrolysis incineration and related technologies" ([attached](#)).

We welcome the narrowing of categorically excluded materials to covered materials where compliance with SB 54 triggers a breach of "mandatory" USDA or FDA regulations, rules or guidelines in Section 18980.2(a)(2).

At the same time, **GAIA recommends that the regulation clarify that the following language only refers to USDA or FDA mandatory standards:**

- "all applicable mandatory standards"(Section 18980.2(a)(2)(B)(i));
- "creates no new unavoidable legal conflict with any law"(Section 18980.2(a)(2)(B)(i));
- "all legal conflicts"(Section 18980.2(a)(2)(B)(ii) and (iii)).

The regulations also currently propose that notices of exclusion apply by default (Section 18980.2(a)(2)(D)), with CalRecycle's optional ability to request additional information (Section 18980.2(a)(2)(E)). The regulations open a loophole with automatic exclusions of 8 months or more for all notices, even those that ultimately fail. Indeed, covered material status suspension begins with the uploading of complete exclusion notices to the database (subparagraph (D)), continues during CalRecycle's request for additional information (no time limit), during its notification of insufficient information for a determination (with a 60-day response window from the producer), and 180 days after CalRecycle's determination that the notice fails to demonstrate qualification after additional information (subparagraph (E)). This timeline is excessively long and could encourage the submission of exclusion notices to delay compliance, undermining the effectiveness of SB 54 as a whole.

GAIA therefore recommends an authorization process rather than a notification process for the granting of exclusions. This would keep materials targeted by categorical exclusion applications as covered material unless and until a positive exclusion determination is issued by CalRecycle.

Furthermore, exclusions need a **2-year sunset clause**, in recognition of market developments providing alternatives that satisfy both SB 54 and mandatory USDA and FDA standards. Cabinet Health reusable medication packaging, already available throughout the United States, is a notable example of market innovations that reduce the need for SB 54 exclusions (see <https://cabinethealth.com>). The sunset clause will also ensure that CalRecycle does not exceed its authority by establishing permanent exclusions that exceed those defined in the statute.

Finally, the regulation allows a producer to apply for successive exclusions for the same packaging, turning the 8-month automatic exclusion window into a perpetual loophole (subparagraph (F)).

GAIA recommends that the regulations strike out subparagraph (F) and include instead language specifying that a producer may only re-apply for a packaging or packaging component exclusion after a 5-year window following a failed determination.

Thank you for your attention to this matter, and we remain at your disposal should CalRecycle wish to discuss any of these issues at further length.

Sincerely,



Sirine Rached, Senior policy advisor, GAIA

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The Global Alliance for Incinerator Alternatives (GAIA) is a global network of grassroots groups working to catalyze a global shift towards environmental justice by strengthening grassroots social

movements that advance solutions to waste and pollution. We envision a just, zero waste world built on respect for ecological limits and community rights, where people are free from the burden of toxic pollution, and resources are sustainably conserved, not burned or dumped.