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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

NATURAL RESOURCES DEFENSE
COUNCIL, INC.; CALIFORNIANS
AGAINST WASTE FOUNDATION; and
OCEANA, INC., nonprofit organizations,

Petitioners/Plaintiffs,

v.

DEPARTMENT OF RESOURCES
RECYCLING AND RECOVERY, a
department of the California Environmental
Protection Agency, an agency of the
California state government; and ZOE
HELLER, in her official capacity as the
Director of Resources Recycling and
Recovery,

Respondents/Defendants.

Case No. _____

**[VERIFIED] PETITION FOR A WRIT
OF MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

**(CODE CIV. PROC., § 1085; GOV.
CODE, § 11350)**

Petitioners/Plaintiffs Natural Resources Defense Council, Inc., Californians Against Waste Foundation, and Oceana, Inc., nonprofit organizations, bring this suit on their own behalf, on behalf of their members, on behalf of the public, and in the public interest to enforce and effectuate the Plastic Pollution Prevention and Packaging Producer Responsibility Act, Pub. Resources Code, §§ 42040-084. We allege as follows:

Introduction

1. Plastic waste and pollution are among “the most devastating global environmental crises of our time,” as the Attorney General of California correctly observes in the California Department of Justice’s ongoing suit in this Court alleging that Exxon Mobil Corporation has deceived the public with respect to the recyclability of plastic products. (Compl. ¶ 1, *California v. Exxon Mobil Corp.*, No. CGC24618323 (Sup. Ct. S.F., Sept. 23, 2024), link to complaint available at <https://oag.ca.gov/news/press-releases/attorney-general-bonta-sues-exxonmobil-deceiving-public-recyclability-plastic> (“*California v. Exxon Mobil*”).)

2. In 2022, the California State Legislature addressed significant aspects of the plastic waste and pollution crisis in California when it enacted, and the Governor of California signed into law, the Plastic Pollution Prevention and Packaging Producer Responsibility Act (“Act”), also referred to as Senate Bill 54 (“S.B. 54”). (Pub. Resources Code, §§ 42040-084.)

3. The Act, through a comprehensive scheme, requires producers, typically through a producer responsibility organization (“PRO”), “to source reduce plastic covered material, to ensure that covered material offered for sale, distributed, or imported in or into the state on or after January 1, 2032, is recyclable or compostable, and to ensure that plastic covered material offered for sale, distributed, or imported in or into the state meets specified recycling rates.” (Legis. Counsel’s Dig., Sen. Bill No. 54 (2021-2022 Reg. Sess.), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB54.)

4. The Act instructs the Department of Resources Recycling and Recovery (“Department” or “CalRecycle”) to promulgate regulations “necessary to implement and enforce” the Act and “to ensure that [the Act’s] requirements . . . and the policy goal established in [Public Resources Code,] Section 41780.01 as it relates to covered material are met.” (Pub. Resources

Code, § 42060, subd. (a).) That policy goal is that “not less than 75 percent” of covered material be “source reduced, recycled, or composted by the year 2020, and annually thereafter.” (Pub. Resources Code, § 41780.01.)

5. This suit concerns Respondents/Defendants’ final regulations to implement and enforce the Act, i.e., permanent regulations which the Department through its Director adopted and transmitted to the Office of Administrative Law on March 19, 2026; which the Office of Administrative Law approved on May 1, 2026; which went into effect on May 1, 2026; and which are codified at title 14, division seven of the California Code of Regulations. (Cal. Code Regs., tit. 14, §§ 18980.1-.14; [Archives] SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Permanent Regulations, CalRecycle, <https://calrecycle.ca.gov/Laws/Rulemaking/SB54Regulations/> (“Rulemaking Archive”).)

6. Key provisions of Respondents/Defendants’ final regulations are inconsistent with the Act. (See *infra* **First Cause of Action**.)

7. Key provisions of Respondents/Defendants’ final regulations are arbitrary, capricious, or without reasonable or rational basis. (See *infra* **Second Cause of Action**.)

8. Plaintiffs/Petitioners seek a writ of mandate directing Respondents/Defendants to correct their invalid regulatory provisions and align them with the Act. (See *infra* **Prayer for Relief**.)

Parties

9. Petitioners/Plaintiffs are Natural Resources Defense Council, Inc., Californians Against Waste Foundation, and Oceana, Inc.

10. Natural Resources Defense Council, Inc (“NRDC”) is a nonprofit organization with millions of members—including over 32,000 located in California—and its mission is to safeguard the earth’s people, its plants and animals, and the natural systems on which all life depends. Established in 1970, NRDC uses science, policy, law, and human power to pursue its mission. NRDC or its affiliates have offices not only in San Francisco and Santa Monica, California, but also New York City, Washington, D.C., Chicago, Beijing, and Delhi.

1 11. Californians Against Waste Foundation (“CAWF”) is a nonprofit organization
2 with members throughout California. CAWF was founded in 1984, and its mission is to protect
3 communities by eliminating the pollution inherent in the extraction and disposal of natural
4 resources. CAWF identifies, develops, promotes, and monitors policy solutions to pollution and
5 conservation problems that pose threats to public health and the environment. CAWF is
6 headquartered in Sacramento, California.

7 12. Oceana, Inc. (“Oceana”) is a nonprofit organization dedicated to protecting and
8 restoring the world’s oceans through policy, advocacy, science, law, and public education.
9 Oceana’s campaign to stop plastic pollution aims to reduce the production and use of unnecessary
10 single-use plastic. Oceana has over a million members and supporters in the United States,
11 including over 130,000 in California. Oceana is headquartered in Washington, D.C. and has an
12 office in Monterey, California.

13 13. Respondents/Defendants are the Department of Resources Recycling and
14 Recovery and the Director of Resources Recycling and Recovery, Zoe Heller, in her official
15 capacity.

16 14. The Department of Resources Recycling and Recovery is a department of the
17 California Environmental Protection Agency. (Pub. Resources Code, § 40400.) The California
18 Environmental Protection Agency is an agency of the California state government. (Gov. Code,
19 § 12800, subd. (a).)

20 15. The Department is administered under the control of an executive officer known as
21 the Director of Resources Recycling and Recovery. (Pub. Resources Code, § 40400.)

22 16. Zoe Heller is a Respondent/Defendant only in her official capacity as the Director
23 of Resources Recycling and Recovery; if she leaves office during this suit’s pendency, then her
24 successor is automatically substituted as a Respondent/Defendant in the same official capacity.

25 **Jurisdiction, Venue, and Miscellaneous**

26 17. This Court has jurisdiction over this suit. (See Code Civ. Proc., § 1085; Gov.
27 Code, § 11350.)
28

18. Venue is proper in this Court because the headquarters of the Department is in Sacramento County, California, where the causes of action alleged herein arose, and the Attorney General of California maintains an office in the City and County of San Francisco, California. (See Code Civ. Proc., §§ 393, 395; see also *id.* at § 401, subd. 1 (“Whenever it is provided by any law of this State that an action or proceeding against the State or a department [or] officer thereof . . . shall or may be commenced in, tried in, or removed to the County of Sacramento, the same may be commenced and tried in any city or city and county of this State in which the Attorney General has an office.”); About Cal. Dep’t of Justice, Office of Att’y Gen., Cal. Dep’t of Justice, <https://oag.ca.gov/careers/aboutus>.)

19. Petitioners/Plaintiffs have satisfied any requirement that they exhaust administrative remedies, in that they submitted timely written comments to Respondents/Departments during the rulemaking process that culminated in the final regulations challenged in this suit.

20. Petitioners/Plaintiffs do not have a plain, speedy, or adequate remedy at law.

21. Petitioners/Plaintiffs are interested in having the Act implemented faithfully and its duties enforced—including the obligations that the Act assigns to Respondents/Defendants.

22. The prosecution of this suit by Petitioners/Plaintiffs will confer a substantial benefit to the public because the Act is intended to benefit the public.

Background

Plastic Waste and Pollution Crisis

23. “The excessive amount of plastic waste and pollution is one of the most serious environmental crises confronting California and the planet today.” (Compl. ¶ 60, *California v. Exxon Mobil*.)

24. “Widespread production and promotion of single-use plastic [have] led to persistent plastic leakage into the environment.” (Compl. ¶ 61, *California v. Exxon Mobil*.)

25. “In California, from 1990 to 2022, an astounding 2.7 to 3.3 million tonnes [metric tons] of plastic waste escaped into California’s environment. In 2022 alone, estimates of the amount of plastic waste leaked to land and into the ocean in California ranged from 121,324 to

1 179,656 tonnes—the equivalent of dumping 20 to 30 garbage trucks of plastic waste *per day* into
2 California’s landscapes and waterways.” (Compl. ¶ 62, *California v. Exxon Mobil.*)

3 26. “Plastic pollution has pervasive consequences at the local, regional, and state
4 levels in California, for the environment, the state’s unique natural and recreational resources, the
5 economy, and potentially for human health.” (Compl. ¶ 66, *California v. Exxon Mobil.*)

6 27. “Plastics do not biodegrade. Exposed to the elements, plastics that have leaked into
7 the environment inevitably disintegrate into smaller and smaller pieces until they eventually
8 become ‘microplastics,’ tiny plastic bits measuring five millimeters or less, that are readily
9 transported by air, wind, water, and the fecal matter of organisms that ingest them.” (Compl. ¶ 70
10 (footnote omitted), *California v. Exxon Mobil.*)

11 28. “Microplastic pollution has been identified as one of the most widespread and
12 long-lasting anthropogenic changes to the surface of the Earth, and a great threat to a wide range
13 of species and ecosystems.” (Compl. ¶ 70, *California v. Exxon Mobil.*)

14 ***Plastic Recycling***

15 29. “Recycling can be an effective way to reclaim some natural resources, such as
16 metals, glass, paper, and some plastic resins.” (Pub. Resources Code, § 42040, subd. (b)(4).)

17 30. “[M]echanical recycling” involves “recovering plastic waste by mechanical
18 processes such as sorting, washing, drying, grinding, heating, re-granulating and compounding.”
19 (Compl. ¶ 127, *California v. Exxon Mobil.*)

20 31. “[C]hemical recycling” (or “[a]dvanced recycling”) is “an umbrella term used by
21 the plastics industry to describe a variety of heat or solvent-based technologies that can
22 theoretically convert certain types of plastic waste into fuels, chemicals, waxes, and
23 petrochemical feedstock, which, after further refinement, can be used to make new plastic.”
24 (Compl. ¶ 244 (footnote omitted), *California v. Exxon Mobil.*)

25 32. “In the United States and globally, pyrolysis is the most common type” of
26 chemical recycling. (Compl. ¶ 244, *California v. Exxon Mobil.*)

1 33. Pyrolysis involves incineration or combustion. (See, *e.g.*, Standards of
2 Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other
3 Solid Waste Incineration Units Review (85 Fed. Reg. 54,178, 54,187 (Aug. 31, 2020)).)

4 34. “Typically, in a pyrolysis operation, plastic waste is heated in a standalone
5 chamber until it yields liquids, waxes, and gases. The liquid is composed of an oil mixture called
6 ‘pyrolysis oil’ or ‘pyoil’ that includes naphtha and other hydrocarbons. Naphtha is then ‘cracked’
7 in a petrochemical processing unit called a steam cracker, which breaks down the naphtha further
8 into various hydrocarbon products including ethylene, and propylene. Ethylene and propylene are
9 then polymerized to make plastic (polyethylene and polypropylene).” (Compl. ¶ 244, *California*
10 *v. Exxon Mobil.*)

11 35. “However, very little of the plastic waste that undergoes pyrolysis and subsequent
12 processing makes it out as new plastic. A 2023 study by the National Renewable Energy
13 Laboratory concluded that pyrolysis and gasification (a similar technology) only retained 1 to 14
14 percent of the plastic waste inputted.” (Compl. ¶ 244 (footnote omitted), *California v. Exxon*
15 *Mobil.*)

16 36. “No chemical recycling project in the last 20 years has successfully recycled
17 plastic at a commercial scale.” (Compl. ¶ 317, *California v. Exxon Mobil.*)

18 37. Chemical recycling is not “a viable, effective, efficient, or scalable method for
19 reducing plastic waste and pollution.” (Compl. ¶ 457(h), *California v. Exxon Mobil.*) Indeed, the
20 Attorney General explains that, since even before S.B. 54, “[t]he definition of ‘recycling’ in the
21 California Public Resources Code explicitly does not include plastic waste processed via
22 pyrolysis or incineration.” (Compl. ¶ 277 (citing, *inter alia*, Pub. Resources Code, § 40201),
23 *California v. Exxon Mobil.*)

24 ***Plastic Pollution Prevention and Packaging Producer Responsibility Act***

25 38. When enacting S.B. 54, the Legislature found and declared: “Disadvantaged and
26 low-income communities are disproportionately impacted by the human health and environmental
27 impacts of plastic pollution and fossil fuel extraction.” (Pub. Resources Code, § 42040, subd.
28 (b)(1).)

1 39. Further, the Act states: “The new statewide comprehensive circular economy
2 framework established by this [Act] is intended to shift the burden of costs to collect, process, and
3 recycle materials from the local jurisdictions to the producers of covered material.” (Pub.
4 Resources Code, § 42040, subd. (b)(2)(A).)

5 40. Similarly, the Legislature expressed its intent “to establish a producer
6 responsibility program designed to ensure that producers of single-use packaging and food
7 service ware covered by this program take responsibility for the costs associated with the end-of-
8 life management of that material and ensure that the material is recyclable or compostable.” (Pub.
9 Resources Code, § 42040, subd. (b)(3)(B).)

10 41. To that end, the Act generally prohibits the sale or distribution of covered material
11 “unless the producer is approved to participate in the plan of a PRO that is approved by the
12 [D]epartment for the source reduction, collection, processing, and recycling of covered material
13 to meet the requirements of [S.B. 54].” (Pub. Resources Code, § 42051, subd. (b)(1).)

14 42. The Act states that all PRO plans must satisfy the requirements of not only S. B.
15 54 itself, but also the regulations promulgated pursuant to the Act. (Pub. Resources Code,
16 §§ 42051, subd. (b)(1), 42051.1, subd. (a).)

17 43. With respect to its regulations, the Act requires that they meet specific
18 requirements and align with applicable definitions. (See, *e.g.*, Pub. Resources Code, §§ 42041,
19 subd. (aa)(5), 42060.)

20 44. Pertinent here, the Act provides that the regulations “shall encourage recycling that
21 minimizes generation of hazardous waste, generation of greenhouse gases, environmental
22 impacts, environmental justice impacts, and public health impacts.” (Pub. Resources Code,
23 § 42041, subd. (aa)(5).)

24 45. The Act similarly instructs the Department to “ensure the regulations, and
25 activities conducted in accordance with the regulations, avoid or minimize disproportionate
26 impacts to disadvantaged or low-income communities or rural areas” (Pub. Resources Code,
27 § 42060, subd. (d)) and “include mechanisms necessary to reduce the amount of covered material
28

entering the environment, in accordance with the regulations adopted pursuant to this section.”
(Pub. Resources Code, § 42060, subd. (a)(6)(A).)

46. Critically, the Act mandates: “The regulations shall include criteria to exclude plastic recycling technologies that produce significant amounts of hazardous waste.” (Pub. Resources Code, § 42041, subd. (aa)(5).)

47. The Act defines “recycle” or “recycling” to mean 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.” (Pub. Resources Code, § 42041, subd. (aa)(1).)

48. At the same time, the Act specifies that “recycle” or “recycling” does *not* include “[c]ombustion,” “[i]ncineration,” “[e]nergy generation,” most “[f]uel production,” and “other forms of disposal.” (Pub. Resources Code, § 42041, subd. (aa)(2); see also Pub. Resources Code, § 42041, subd. (ab) (the Act’s general definition of “recycling rate” to mean the “amount of covered material that is recycled in a given year divided by the total amount of covered material *disposed of*, as defined in subdivision (b) of Section 40192”—i.e., the “management of solid waste through landfill disposal, transformation, or EMSW [engineered municipal solid waste] conversion,” under the referenced, pre-existing statute (Pub. Resources Code, § 40192, subd. (b))—“and the amount of covered material recycled”) (emphasis added); Pub. Resources Code, § 40201 (defining “transformation” to mean “*incineration, pyrolysis, distillation, or biological conversion other than composting*”) (emphasis added); Compl. ¶ 277 (Attorney General explaining that, since even before S.B. 54, “[t]he definition of ‘recycling’ in the California Public Resources Code explicitly does not include plastic waste processed via pyrolysis or incineration,” citing, *inter alia*, Pub. Resources Code, § 40201), *California v. Exxon Mobil*.)

49. According to the Act’s legislative history, S. B. 54’s instruction to the Department “to develop regulations that exclude plastic recycling technologies that generate significant amounts of hazardous waste” and its definition of recycling to “specifically exclude[]

1 combustion, incineration, energy generation, fuel production, and other forms of disposal” evince
2 a legislative intent “to exclude technologies, such as gasification, pyrolysis, and solvent-based
3 technologies.” (Senate Floor Analyses: S.B. 54 (June 29, 2022), at p. 9; Assembly Floor Analysis:
4 S.B. 54 (June 26, 2022), at pp. 4-5; both reports available at
5 https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB54; see
6 also *supra* Compl. ¶ 244 (pyrolysis and gasification are similar technologies), *California v. Exxon*
7 *Mobil.*.)

8 50. The Act also states that “[t]o be considered recycled, covered material shall be sent
9 to a responsible end market” (Pub. Resources Code, § 42041, subd. (aa)(3)) and requires that
10 PROs demonstrate that such a market is “viable.” (See, e.g., Pub. Resources Code, § 42041.1,
11 subd. (c)(2) (“The [PRO] plan shall include objective and measurable criteria whenever possible[]
12 and describe . . . [h]ow the PRO will support and achieve, and how the budget will fund . . . the
13 development of viable responsible end markets for[] covered materials to meet the requirements
14 of [the Act].”).)

15 51. The Act further instructs that fees PROs charge to their producers “shall be
16 adjusted using malus fees or credits” based on specific factors, such as whether and to what extent
17 covered material attributable to the producer “contains toxic heavy metals, pathogens, or
18 additives.” (Pub. Resources Code, § 42053, subds. (a), (e).)

19 52. The Act requires that the Department’s regulations “not conflict with regulations
20 issued by the United States Food and Drug Administration and the United States Department of
21 Agriculture” and similarly prohibits “any requirement . . . in direct conflict with a federal law or
22 regulation.” (Pub. Resources Code, § 42060, subd. (b)(1)-(2).)

23 53. The Act established a deadline of January 1, 2025, for the Department to complete
24 the rulemaking process. (Pub. Resources Code, § 42060, subd. (a).)

25 ***Rulemaking Process***

26 54. Throughout 2024, the Department published and solicited public comments on an
27 initial set of proposed regulations to implement and enforce the Act. (Proposed Regulation Text:
28 S.B. 54 (2024), CalRecycle, at p. 1, <https://www2.calrecycle.ca.gov/Docs/Web/129411>.)

1 55. Respondents/Defendants’ 2024 proposed regulations provided that “a technology
2 that employes [sic] chemical, rather than mechanical or physical, processes to alter the chemical
3 structure of plastic to create new raw material for use in manufacturing is not considered
4 recycling until an independently peer-reviewed scientific study confirms that the technology does
5 not generate a significant amount of hazardous waste.” (Proposed Regulation Text, *supra* ¶ 54, at
6 p. 75 (proposed section 18980.3.6, subd. (a)).) Further, with respect to the Act’s direction that
7 disposal is not recycling (See Pub. Resources Code, § 42041, subds. (aa)(2), (ab)),
8 Respondents/Defendants’ 2024 proposed regulations incorporated a pre-existing, statutory
9 definition of “disposal” (Pub. Resources Code, § 40192, subd. (b)), which, in turn, uses the
10 statutory term “transformation” that explicitly includes pyrolysis as a form of disposal and thus
11 not recycling (Pub. Resources Code, § 40201). (See Proposed Regulation Text, *supra* ¶ 54, at pp.
12 74-75 (proposed section 18980.3.5, subd. (e)).)

13 56. In May 2025, the Governor and the Department’s Director submitted a report to
14 the Legislature stating: “The Governor is directing CalRecycle to restart these regulations to
15 ensure California’s bold recycling law can achieve its goal of cutting plastic pollution and is
16 implemented fairly — minimizing costs for small businesses and working families as much as
17 possible.” (Report to the Legislature (May 2025), Governor of Cal., *et al.*, at pp. ii, 3,
18 <https://www2.calrecycle.ca.gov/Docs/Web/130194>.)

19 57. Beginning in August 2025, as the Governor directed, the Department published a
20 new set of proposed regulations. (See Rulemaking Archive, *supra* ¶ 5, at “Current Documents.”)

21 58. Following periods of public comment, final regulations were approved and took
22 effect on May 1, 2026. (See Rulemaking Archive, *supra* ¶ 5, at “Current Documents” and
23 “Overview.”)

24 59. On May 5, 2026, the Department published the final regulations on its website.
25 (Final Regulation Text: S.B. 54 (2026), CalRecycle,
26 <https://www2.calrecycle.ca.gov/Docs/Web/138757>; see also Rulemaking Archive, *supra* ¶ 5, at
27 “Current Status.”)

60. On May 12, 2026, the Department published additional documents related to the rulemaking process on its website. (See Rulemaking Archive, *supra* ¶ 5, at “Current Documents.”)

Final Regulations

61. Respondents/Defendants’ final regulations—unlike their initial proposed regulations (see *supra* ¶¶ 54-55)—interpret the Act’s instruction to exclude plastic recycling technologies that produce “significant amounts of hazardous waste” (Pub. Resources Code, § 42041, subd. (aa)(5)) to mean plastic recycling technologies producing hazardous waste that “presents a significant risk of harm to public health, or of contamination of the environment.” (Cal. Code Regs., tit.14, § 18980.4.1, subd. (d)(1).)

62. The final regulations continue: “The production and management of hazardous waste that is handled and disposed of in compliance with an applicable permit does not present a substantial risk of harm to public health or the environment, for purposes of the Act and this chapter.” (Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d)(1)(B).)

63. While Respondents/Defendants’ final regulations conclude that “[m]echanical recycling technologies that were in use within the State as of January 1, 2023 *do not* produce significant amounts of hazardous waste” (Cal. Code of Regs., tit. 14, § 18980.4.1, subd. (d)(1)(A) (emphasis added)), they do not conclude that certain plastic recycling technologies, such as chemical recycling via pyrolysis, *do* produce significant amounts of hazardous waste. (See Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d).)

64. Nor do the final regulations set forth a quantity, weight, or similar kind of numeric limitation to implement the Act’s instruction to exclude plastic recycling technologies that produce “significant amounts of hazardous waste.” (See Pub. Resources Code, § 42041, subd. (aa)(5); Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d).)

65. Respondents/Defendants’ final regulations provide that the Act’s term “hazardous waste” (Pub. Resources Code, § 42041, subd. (aa)(5)) means “hazardous waste as defined in section 261.3 of Title 40 of the Code of Federal Regulations.” (Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d)(1).)

1 66. The final regulations do not reference California’s pre-existing, statutory definition
2 of “hazardous waste,” which is more stringent than federal law. (See Health & Saf. Code,
3 § 25117; Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d).)

4 67. Also, in contrast to the 2024 proposed regulations (see *supra* ¶ 55), the final
5 regulations do not incorporate California’s pre-existing, statutory definition of “disposal” (Pub.
6 Resources Code, § 40192, subd. (b)), which includes pyrolysis (Pub. Resources Code, § 40201).
7 (See Cal. Code Regs., tit. 14, §18980.3.5 (stating that “any amount of covered material that is
8 disposed of shall not be considered recycling” and providing a non-exhaustive list of what
9 disposal “includes” while omitting reference to Pub. Resources Code, § 40192, subd. (b)).)

10 68. Respondents/Defendants’ final regulations state: “A facility’s use of a technology
11 that is not a type of mechanical recycling technology in use within the State as of January 1,
12 2023, shall not be considered recycling for the covered material processed using it unless the
13 facility operates in a manner consistent with ISO [International Organization for Standardization]
14 59014:2024.” (Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d)(2).) ISO 59014:2024 is not specific
15 to recycling or S.B. 54 but instead addresses the sustainability and traceability of activities and
16 processes for the recovery of secondary materials. (Cal. Code Regs., tit. 14, § 18980.1, subd.
17 (b)(4); ISO 59014:2024, Int’l Org. for Standardization, <https://www.iso.org/standard/80694.html>.)

18 69. Respondents/Defendants’ final regulations do not provide a definition for, or
19 include parameters respecting, the Act’s requirement that a “viable” responsible end market exists
20 for covered material. (See *supra* ¶ 50; Cal. Code Regs., tit. 14, §§ 18980.1-.14.)

21 70. Respondents/Defendants’ final regulations lack elaboration with respect to the
22 Act’s instruction that “[c]overed material that contains toxic heavy metals, pathogens, or
23 additives shall be subject to an increased fee.” (See Pub. Resources Code, § 42053, subd. (e)(9);
24 Cal. Code Regs., tit. 14, §§ 18980.1-.14.)

25 71. With respect to the Act’s requirement to avoid conflicts with federal law (Pub.
26 Resources Code, § 42060, subd. (b)(1)-(2)), Respondents/Defendants’ final regulations establish a
27 case-specific process for a producer to obtain what is referred to as a “not covered material”
28 exclusion—which could be read to remove the producer’s packaging or packaging components

1 entirely from the scope of S.B. 54—on the ground that “it is not reasonably possible to use
2 packaging or packaging components that comply with both the Act and mandatory regulations,
3 rules, or guidelines issued by the United States Department of Agriculture or the United States
4 Food and Drug Administration.” (Cal. Code Regs., tit. 14, § 18980.2, subd. (a)(2).)

5 72. Under the final regulations, a producer makes a conflict claim by providing notice
6 with certain supportive information to the Department. (Cal. Code Regs., tit. 14, § 18980.2, subd.
7 (a)(2)(A)-(B).) If the notice is incomplete on its face, “or if the Department identifies packaging
8 or packaging components that the notice did not address but that would avoid the cited conflict,”
9 the regulations require the Department to act “within 90 days” by informing the producer to
10 correct and resubmit the deficient notice. (Cal. Code Regs., tit. 14, § 18980.2, subd. (a)(2)(C).)

11 73. While Respondents/Defendants’ final regulations establish a 90-day deadline for
12 the Department to make completeness assessments, they do not establish a deadline for the
13 Department to render actual conflict determinations. (See Cal. Code Regs., tit. 14, § 18980.2,
14 subd. (a)(2)(E) (“Following review of the information provided by the entity, and any further
15 consultation with the entity and any state or federal government agencies . . . that the Department
16 deems advisable, the Department shall determine whether the notice and additional information
17 have demonstrated that each packaging or packaging component qualifies for the exclusion.”);
18 see also Cal. Code Regs., tit. 14, § 18980.2, subd. (d) (“Nothing in this section precludes the
19 Department from conducting investigations . . . to determine whether any packaging or other item
20 qualifies for an exclusion identified in this section[.]”).)

21 74. Also, under the final regulations, the plastic material in question is treated as “not
22 covered material” indefinitely beginning from the moment the claim is made and appears on the
23 Department’s website. (See Cal. Code Regs., tit. 14, § 18980.2, subd. (a)(2)(D).) The material
24 ceases being excluded by operation of the regulations (i.e., it reverts to being regarded as
25 “covered material”) only if the Department ultimately determines that there is no qualifying
26 conflict. (See Cal. Code Regs., tit. 14, § 18980.2, subd. (a)(2)(E).) And even after a no-conflict
27 determination, the material continues being deemed “not covered material” for another 180 days.
28 (See Cal. Code Regs., tit. 14, § 18980.2, subd. (a)(2)(E).)

75. Respondents/Defendants’ final regulations do not establish expiration dates for any conflict determinations made by the Department, i.e., once the Department determines that there is a conflict, the final regulations do not require the producer or the Department to re-evaluate the material’s eligibility for relief at any later point in time or after any change of circumstances. (See Cal. Code Regs., tit. 14, § 18980.2, subd. (a)(2).)

Causes of Action

First Cause of Action: Inconsistent with the Act

(Code Civ. Proc., § 1085; Gov. Code, § 11350)

76. Petitioners/Plaintiffs incorporate all preceding allegations.

77. Respondents/Defendants' final regulations are invalid because or to the extent they are inconsistent with the Plastic Pollution Prevention and Packaging Producer Responsibility Act, Pub. Resources Code, §§ 42040-084.

78. The final regulations’ provision that “significant amounts of hazardous waste” means “hazardous waste as defined in section 261.3 of Title 40 of the Code of Federal Regulations that presents a substantial risk of harm to public health, or of contamination of the environment” (Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d)(1)), and provision that “[t]he production and management of hazardous waste that is handled and disposed of in compliance with an applicable permit does not present a substantial risk of harm to public health or of contamination of the environment” (Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d)(1)(B)), are inconsistent with the Act, including its requirements that the regulations:

- (1) “include criteria to exclude plastic recycling technologies that produce significant amounts of hazardous waste” (Pub. Resources Code, § 42041, subd. (aa)(5));
- (2) “encourage recycling that minimizes generation of hazardous waste, generation of greenhouse gases, environmental impacts, environmental justice impacts, and public health impacts” (Pub. Resources Code, § 42041, subd. (aa)(5); see also Pub. Resources Code § 42060, subds. (a)(6)(A), (d)); and/or

(3) align with S.B. 54’s definition of what is *not* recycling, such as “[c]ombustion,” [i]ncineration,” and “other forms of disposal.” (Pub. Resources Code, § 42041, subds. (aa)(2), (ab).)

79. The final regulations’ use of “hazardous waste as defined in section 261.3 of Title 40 of the Code of Federal Regulations” (Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d)(1)) is inconsistent with the ordinary meaning of the term “hazardous waste” under both the Act (Pub. Resources Code, § 42041, subd. (aa)(5)) and in state law (Health & Saf. Code, § 25117).

80. The final regulations’ incorporation of ISO 59014:2024 (Cal. Code Regs., tit. 14, §§ 18980.1, subd. (b)(4), 18980.4.1, subd. (d)(2)) does not cure the deficiencies alleged in the preceding paragraphs of this **First Cause of Action**.

81. The final regulations’ provisions regarding conflicts with federal law (Cal. Code Regs., tit. 14, § 18980.2, subd. (a)(2); *supra* ¶¶ 71-75) are inconsistent with the Act (Pub. Resources Code, § 42060, subd. (b)(1)-(2)), because or to the extent that they grant relief from S.B. 54-related requirements:

- (1) beyond the scope of an actual conflict with federal law;
- (2) for an indefinite period without a determination from the Department that a conflict actually exists, allowing plastic material to be treated as “not covered material” even when its producer’s conflict claim is meritless; and/or
- (3) for an indefinite period of time after the Department determines that a conflict actually exists, allowing plastic material to be treated as “not covered material” even when its producer’s conflict claim ceases having merit as circumstances change.

Second Cause of Action: Arbitrary, Capricious, or Without Reasonable or Rational Basis
(Code Civ. Proc., § 1085; Gov. Code, § 11350)

82. Petitioners/Plaintiffs incorporate preceding paragraphs 1 through 75.

83. Respondents/Defendants’ final regulations are invalid because or to the extent they are arbitrary, capricious, or without reasonable or rational basis.

1 84. In their 2024 proposed regulations (see *supra* ¶ 55), Respondents/Defendants
2 validly interpreted the Act to presumptively exclude chemical recycling technologies given their
3 well-known, harmful characteristics as correctly outlined by the Attorney General of California
4 (see *supra* ¶¶ 29-37).

5 85. In contrast, Respondents/Defendants’ 2026 approach reflects an invalid
6 interpretation of the Act because Respondents/Defendants fail to explicitly exclude technologies
7 that clearly do not meet the statutory criteria (such as those involving combustion, incineration, or
8 disposal) or otherwise reasonably explain their approach. (See Cal. Code Regs., tit. 14,
9 §§ 18980.1, subd. (b)(4), §18980.3.5, 18980.4.1, subd. (d)(1)(B), 18980.4.1, subd. (d)(2).)
10 Cal. Code Regs., tit. 14,

11 86. Similarly, neither in the final regulations nor in explanatory documents in the
12 administrative record, such as the initial statement of reasons, final statement of reasons, or
13 responses to public comments, did Respondents/Defendants reasonably explain their final
14 regulatory provision that “significant amounts of hazardous waste” means hazardous waste that
15 “presents a substantial risk of harm to public health, or of contamination of the environment,” or
16 that “[t]he production and management of hazardous waste that is handled and disposed of in
17 compliance with an applicable permit does not present a substantial risk of harm to public health
18 or of contamination of the environment.” (See Cal. Code Regs., tit. 14, § 18980.4.1, subd. (d)(1);
19 Rulemaking Archive, *supra* ¶ 5, at “Current Documents.”)

20 87. Respondents/Defendants also failed to reasonably explain their use of “hazardous
21 waste as defined in section 261.3 of Title 40 of the Code of Federal Regulations” rather than
22 “hazardous waste” as defined in state law (See Health & Saf. Code, § 25117; Cal. Code Regs.,
23 § 18980.4.1, subd. (d)(1); Rulemaking Archive, *supra* ¶ 5, at “Current Documents.”)

24 88. In addition, Respondents/Defendants did not reasonably explain their
25 incorporation of ISO 59014:2024 into the final regulations. (See Cal. Code Regs., tit. 14,
26 §§ 18980.1, subd. (b)(4), 18980.4.1, subd. (d)(2); Rulemaking Archive, *supra* ¶ 5, at “Current
27 Documents.”)
28

89. Further, Respondents/Defendants did not reasonably explain their decision not to provide a definition for, or include parameters respecting, the Act’s requirement that a “viable” responsible end market exist for covered material. (See *supra* ¶ 49; Cal. Code Regs., tit. 14, §§ 18980.1-18980.14; Rulemaking Archive, *supra* ¶ 5, at “Current Documents.”)

90. Respondents/Defendants similarly failed to reasonably explain the final regulations’ lack of elaboration with respect to the Act’s instruction that “[c]overed material that contains toxic heavy metals, pathogens, or additives shall be subject to an increased fee.” (See Pub. Resources Code, § 42053, subd. (e)(9); Cal. Code Regs., §§ 18980.1-.14; Rulemaking Archive, *supra* ¶ 5, at “Current Documents.”)

91. Lastly, the final regulations’ provisions regarding conflicts with federal law (14 Cal. Code of Regulations, § 18980.2, subd. (a)(2); *supra* ¶¶ 71-75) are arbitrary, capricious, or without reasonable or rational basis because or to the extent that they grant relief from S.B. 54-related requirements:

- (1) beyond the scope of the actual conflict with federal law;
- (2) for an indefinite period without a determination from the Department that a conflict actually exists, allowing plastic material to be treated as “not covered material” even when its producer’s conflict claim is meritless; and/or
- (3) for an indefinite period of time after the Department determines that a conflict actually exists, allowing plastic material to be treated as “not covered material” even when its producer’s conflict claim ceases having merit as circumstances change.

(See Cal. Code Regs., tit. 14, § 18980.2, subd. (a)(2); Rulemaking Archive, *supra* ¶ 5, at “Current Documents.”)

Request for Administrative Record Preparation

92. Petitioners/Plaintiffs hereby request and will promptly transmit a letter to the Department requesting the preparation of the administrative record for purposes of the Court’s review of Respondents/Defendants’ final regulations under S.B. 54.

Prayer for Relief

WHEREFORE, Petitioners/Plaintiffs Natural Resources Defense Council, Inc., Californians Against Waste Foundation, and Oceana, Inc. respectfully request that the Court issue the following relief:

A. a declaration that the final regulations challenged in this suit are inconsistent with the Plastic Pollution Prevention and Packaging Producer Responsibility Act, Pub. Resources Code, §§ 42040-084;

B. a declaration that the challenged final regulations are arbitrary, capricious, or without reasonable or rational basis;

C. a writ of mandate or injunction directing Respondents/Defendants Department of Resources Recycling and Recovery and the Director of Resources Recycling and Recovery to correct the invalid final regulations forthwith and in accordance with the Court's judgment;

D. a writ of mandate or injunction instructing Respondents/Defendants to implement and enforce the Plastic Pollution Prevention and Packaging Producer Responsibility Act consistent with the substance of the Court's judgment until they have promulgated new, compliant final regulations;

E. an award of fees and costs incurred in relation to the commencement and prosecution of this suit by Petitioners/Plaintiffs, including their reasonable attorneys' fees and costs under Code of Civil Procedure, sections 1021.15, 1095, or other applicable law; and

F. any further relief that the Court deems just and proper.

Respectfully submitted,

Dated: June 2, 2026



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3 *Against Waste Foundation*

4
5 Dated: June 2, 2026



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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Renée Sharp
Natural Resources Defense Council, Inc.