



**NATIONAL  
STEWARDSHIP  
ACTION COUNCIL**

**ADVOCATING FOR A CIRCULAR ECONOMY**

# **Recycled Content Requirements California Lessons Learned**

**How to Get it Done Right**

March 30, 2021

**NSAC'S VISION:** The United States attains a circular economy.

# Who is NSAC?



The National Stewardship Action Council (NSAC) is a 501(c)4 non-profit organization. NSAC is a network of committed proponents comprised of governments, non-government organizations, businesses, and consumers who advocate that producers fairly share responsibility in a circular economy.

**Vision:** The United States attains a circular economy.

**Mission:** Collaborate with public and private stakeholders to advance product stewardship and extended producer responsibility.



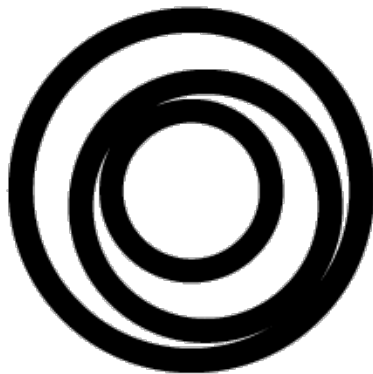
*2017 NSAC Strategic Planning Meeting*

# What is a Circular Economy?

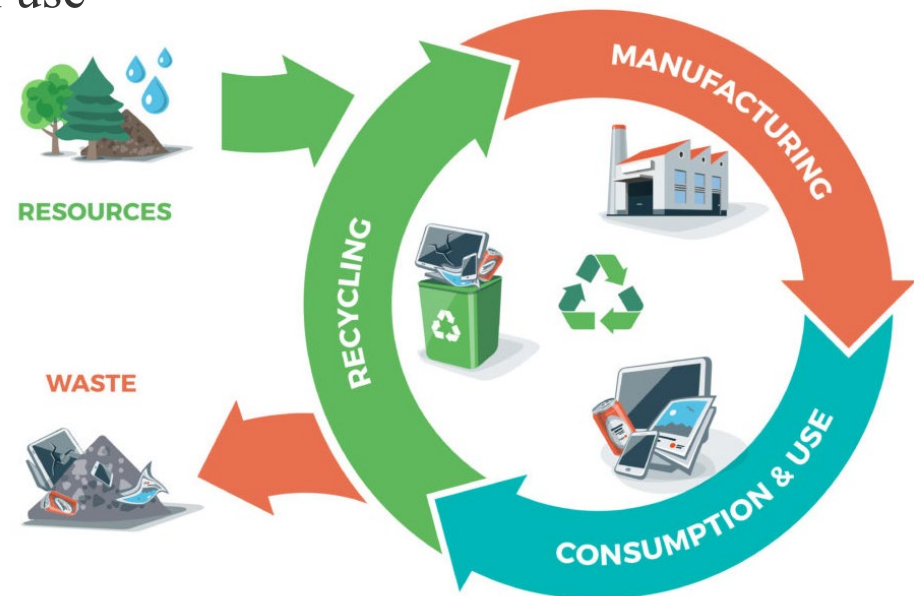
Multi-faceted with a focus on producers embracing sustainable design, using regenerative materials and collecting end of life products and materials for continuous use in the economy.

It is based on three principles:

1. Design out waste and pollution
2. Keep products and materials in use
3. Regenerate natural systems



**ELLEN  
MACARTHUR  
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# Market Development & Recycled Content Laws in CA



RECYCLED  
CONTENT

1. State Agency Buy-Recycled Campaign (SABRC)
2. Ridged Plastic Packaging Containers (RPPC)
3. Newsprint
4. Plastic Bags
5. Glass
6. EPR/Product Stewardship/Eco-modulated fees with RC requirement
7. 2021 Legislation CA – Thermoforms RC



# 1. State Agency Buy-Recycled Campaign (SABRC) 1989 (31 years)

- Joint effort between CalRecycle and DGS
- Required to purchase made with post-consumer recycled content (PCRC) products
- Annual reporting
- 11 categories of material types
- At least 50 percent of purchases
- Minimum PCRC requirement for each category



CalRecycle 

<https://www.calrecycle.ca.gov/buyrecycled/stateagency>

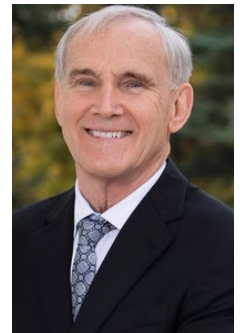


# Opportunities for SABRC Improvement

1. Clarify that SABRC covers all purchases of goods by state agencies and contractors
2. Include service contracts where the contractor is purchasing reportable recycled products in the performance of the service contract
3. **Revise product categories, and minimum content percentages and update every three years at minimum**
4. Remove requirement to purchase only when available at the same or lesser total cost than non-recycled products
5. **Codify CalRecycles' established process for non-compliant agencies and provide more enforcement tools**
6. Require annual mandatory online training for procurement and contracting officers
7. **Clarify definition of compost – 85% recycled content if compost was a category?**

## AB 661 (Steve Bennett) Introduced:

Updates California's SABRC program with the items above in **red**.





## 2. Rigid Plastic Packaging Container Program (RPPC) 1991 and amended – 29 yrs!

- California's law requires product manufacturers that sell products held in RPPCs meet one of the compliance options
- One compliance option: **must be made from at least 25% postconsumer material**
- One compliance option: Light-weighting
- Penalties of up to \$100,000 annually

<https://www.calrecycle.ca.gov/Plastics/RPPC/>

# What is an RPPC?

## Self-Determination

- CalRecycle developed two self-determination tools for product manufacturers:
  1. [Quick checklist](#) with three questions regarding a product's packaging
  2. [Expanded Self-Determination Checklist](#) to be used if additional review is necessary after using the quick checklist
- All product packaging container determinations are made on a case-by-case basis

## Examples of Products in RPPCs

RPPCs are used by a diverse community of product manufacturers. The products include, but are not limited to:

- Adhesives
- Cleaning Products
- Hardware
- Paints & Coatings
- Arts and Crafts
- Computers
- Lubricants
- Sealants
- Automotive Products
- Electronics
- Office Supplies
- Toys



# Defined RPPC's

[www.calrecycle.ca.gov/Plastics/RPPC/SelfDetermin/](http://www.calrecycle.ca.gov/Plastics/RPPC/SelfDetermin/)

## Examples of Regulated RPPCs

The RPPCs used by product manufacturers range in shape, color, size, and form. RPPCs can include, but are not limited to, the examples below (most photos include rulers to represent container height and width):



**Buckets.** The example bucket is cylindrical, straight-based, and opaque and includes a snap-on lid and a metal handle.



**Jugs.** The example jug is opaque and cylindrical with a built-in handle and funnel top, featuring a threaded cap.



**Pails.** The example pail is cylindrical, straight-based, and opaque and includes a snap-on lid and metal handle.



**Clamshells (both heat-sealed and reclosable).** The example is rectangular and clear and opens like a clamshell with a hinge. The two sides overlap slightly, forming a closure.



**Tubes.** The example tubes are cylindrical and opaque with different lids. One lid was sealed during manufacturing and one lid is threaded and resealable.



**Clamshells (both heat-sealed and reclosable).** The example is rectangular and clear and opens like a clamshell with a hinge. The two sides overlap slightly, forming a closure.

# Problems:

- Complicated, too many ways to comply
  - Ex: Light-weighting for source reduction and other methods results in companies able to justify what they are already able to do which may not be including higher RC
- CalRecycle not historically focused on enforcement
- Last enforcement order was 2018 – why?
- Relying on producers to self –verify, no 3<sup>rd</sup> party verification of tons sold

2006-2012: Compliance certifications not conducted.

## 2005 RPPC Certification Cycle Penalties

Company Name	Agreement Number	Type of Penalty	Amount of Penalty
PETCO Animal Supplies	No agreement executed.	Container Violation	\$42,025.23
Office Max	No agreement executed.	Container Violation	\$34,350.61
Sony Corporation	No agreement executed.	Container Violation	\$50,000.00
			Total: \$126,375.84



# Opportunities for RPPC Improvement

1. Enforcement must be stronger - \$100,000 max in annual penalties is not enough
2. Add 3<sup>rd</sup> party verification for volumes sold and RC
3. Provide funding for state agency oversight
4. CalRecycle needs to be much more on top of this program! Or, totally review and update it
5. Update/limit compliance methods or be more specific by product type how they can comply



# 3. Recycled Newsprint Law



- CA law mandates the use of a specified amount of recycled-content newsprint (RCN) by printers and publishers located in CA, and CalRecycle implements the program to encourage and track the use of RCN.
- RCN is defined as newsprint comprised of **at least 40% postconsumer waste-paper fiber by weight**
- At least 50% of the newsprint used for printing and publishing by each commercial printer and publisher (“consumers”) in California must be RCN
- Consumers (printers and publishers), suppliers and manufacturers must comply with the program requirements

<https://www.calrecycle.ca.gov/buyrecycled/newsprint>



# Opportunities for Newsprint Improvement

1. 3<sup>rd</sup> party verification of producers reporting
2. Ban sale in CA for non-compliance
3. Paying for state oversight and enforcement costs to address the lack of enforcement – last compliance report was from 2011 and last enforcement order was 2009
4. RCN Quality Standards last updated in 2010

Date ▼ ↓	Program Type ▼	Enforcement Order ▼
Apr 17, 2009	Recycled-Content Newsprint	<a href="#">Administrative Penalty for Wave Community Newspapers for Late Submittal of Newsprint Consumer Certification. April 17, 2009.</a>
Apr 17, 2009	Recycled-Content Newsprint	<a href="#">Administrative Penalty for L.A. Web Offset Printing, Inc. for Late Submittal of Newsprint Consumer Certification. April 17, 1999.</a>
Apr 17, 2004	Recycled-Content Newsprint	<a href="#">Administrative Penalty for San Dieguito Printers for late submittal of Newsprint Consumer Certification</a>
Nov 16, 1999	Recycled-Content Newsprint	<a href="#">Administrative Penalty for Quebecor Printing, San Jose for late submittal of Newsprint Consumer Certification</a>
Nov 16, 1999	Recycled-Content Newsprint	<a href="#">Administrative Penalty for Pizazz Printing for late submittal of Newsprint Consumer Certification</a>
Jan 29, 1998	Recycled-Content Newsprint	<a href="#">Administrative Penalty for Publishers' Printing Service, Inc. dba Day and Night For Failure to Submit Newsprint Consumer Certifications</a>



# 4. Plastic Trash Bag Program

- Requires plastic trash bag manufacturers to use **min. 10% of PC material to produce the trash bags sold in CA. OR 30% RC across entire plastic product line sold**
- Noncompliant companies are ineligible for award of any state contract or subcontract.
- CalRecycle is authorized to audit companies



<https://www.calrecycle.ca.gov/BuyRecycled/TrashBags/>



# Opportunities for Trash Bag RC Improvement

1. Require producers to pay for CalRecycle oversight and enforcement including auditing which can be expensive with out of state producers
2. Penalties should increase to be banned from sale, not just ineligible for state contracts
3. CalRecycle Enforcement Orders imposed – currently none with pages of non-compliant companies on their website!



# 5. Glass

- CA manufacturers of **new glass containers must use at least 35% postconsumer recycled glass, or 25% if the cullet is mixed-color**
- **Fiberglass insulation manufacturers must use at least 30% postconsumer glass.**
- In recent years, the two industries in California have used more than 700,000 tons of cullet annually.
- Producers and Processors required to report (triangulate)
- Quality Incentive Payment (QIP) program is designed to improve the quality and marketability. Certified recyclers and processors are encouraged to clean and color sort glass in return for a [Quality Incentive Payment](#) for each ton recycled.



# Opportunities for Glass Improvement

Its working pretty darn well now!

## 1. Update RC number to 50% (tried and failed)

- Ave. now around 46% (not enough collected)



# Reusable Plastic Bag Law (Bag Ban)

- SB 270 prohibits the distribution of single-use plastic grocery bags and **requires that all paper and reusable bags meet specific requirements**
- Lessons learned from previous RC bills:
  - Required third party certification of producers
  - Paying for state agency oversight
  - Narrow exception for reusable plastic bag producers that demonstrate that their plastic bags meet specified reusability, recycling, and recycled content standards



# CA 2020: AB 793 (Ting & Irwin)

## Signed into law

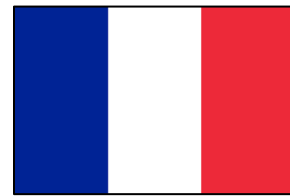
- Require plastic beverage containers subject to the Bottle Bill to contain specified percentages of postconsumer recycled plastic annually:
  - i. From January 1, 2022 until December 31, 2024, no less than **15%**;
  - ii. From January 1, 2025 until December 31, 2029, no less than **25%**; and,
  - iii. On and after January 1, 2030, no less than **50%**.
- **World's toughest plastic bottle RC law, exceeding the European Union's standards**
- Potentially significant "off ramps" for companies to seek waivers that could limit the law's impact
- Under the bill, manufacturers missing the targets are subject to penalty fees, which are **20 cents for each pound** of PCR short of goal.
- Fees are deposited into a new "Recycling Enhancement Penalty Account" and is to be spent on recycling, infrastructure, collection and processing of plastic beverage bottles
- AB 792 (Ting) was previously vetoed by the Governor in 2019



# Eco-Modulated Fees

## Ex: Recycled Content Criteria

- Germany: German Packaging Act (VerpackG) obliges PROs to incentivize the use of recycled content
  - Packaging recycling fees charged by recovery organizations must be based on 'ecological criteria'. This means lower recycling fees for packaging that is more easily recycled and that **contains recycled material** or renewable raw materials.
- France: CITEO (only active household packaging recovery organization operating) **must charge 50% lower recycling fees for packaging materials which comprise at least 50% recycled content.**
  - CITEO must finance this lower packaging recycling fee by increasing the recycling fees for plastic.





# 6. CA Carpet Product Stewardship

- Carpet **eco-modulated fees can drive RC**
- EX: AB 729 (Chu) – Sponsored by NSAC
  - Replaces the (existing) assessment with **differential assessments that take into account the financial burden that a particular carpet material has on the stewardship program, and the amount of postconsumer recycled content contained in a particular carpet, as prescribed.**



053-3537-0	PALM REG ORIG.1	\$	1.99
(SAVED \$	1.50)		
098-0778-8	ECO FEE \$0.13	\$	0.13
042-2780-0	TETRAFIN GOLDFI	\$	2.99
	SUBTOTAL	\$	5.11

# Carpet Industry Draft Eco-Modulation

- Doesn't address RC
- Another example of why producers should not be setting the standards/goals and government needs strong enforcement tools!

<b>Proposed Differential Assessment Levels</b>		
<b>Product</b>	<b>&gt; or = 10% Post-Consumer Content</b>	<b>&lt;10% Post-Consumer Content</b>
Broadloom	\$0.33 /square yard	\$0.35 /square yard
Tile	\$0.48 /square yard	\$0.50 /square yard

# AB 478 (Ting-D San Francisco) Thermoforms PCRC 30% by 2030



42376.

(a) Thermoform plastic containers offered for sale, sold, distributed, or imported in or into the state by a producer shall meet the following:

(1) **January 1, 2024, until December 31, 2026**, inclusive, the total thermoform plastic containers sold by a producer in the state shall, on average, contain no less than **10 percent** postconsumer recycled plastic per year.

(2) **January 1, 2027, until December 31, 2029**, inclusive, the total thermoform plastic containers sold by a producer in the state shall, on average, contain no less than **20 percent** postconsumer recycled plastic per year.

(3) **January 1, 2030**, the total thermoform plastic containers sold by a producer in the state shall, on average, contain **no less than 30 percent** postconsumer recycled plastic per year.

(b) (1) **Beginning January 1, 2024**, a producer that does not meet the minimum postconsumer recycled plastic requirements pursuant to subdivision (a) is subject to an **annual administrative penalty pursuant to this subdivision**.



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## Heidi Sanborn

Executive Director

Cell: (916) 217-1109

[Heidi@nsaction.us](mailto:Heidi@nsaction.us)

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*[www.nsaction.us](http://www.nsaction.us)*



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