August 14, 2026

SB 54 Advisory Board
Attn: Board Chair, Kobold

RE: Comments on CAA's California draft Program Plan under SB 54

Dear Mr. Kobold:

The National Lubricant Container Recycling Coalition (NLCRC) and Lubricant Packaging Management Association (LPMA, dba Interchange 360) appreciate the opportunity to provide comments on the California draft Program Plan.

The NLCRC is an industry-led coalition of committed companies across the value chain, focused on establishing pathways for the safe collection and recycling of packaging for lubricants and related products. Interchange 360 is a national nonprofit supporting petroleum and automotive product producers with EPR compliance across all states with EPR laws covering packaging, HHW, and automotive fluids. As of March 2026, Interchange 360's approved non-CAA Individual Program Plan (IPP) in Colorado is operational and collecting program materials.

We support thoughtful efforts to improve packaging collection and management and recognize that EPR can be an effective policy tool in appropriate circumstances. We have experience participating in the development and implementation of EPR and related programs in other jurisdictions, including programs for packaging and other product categories. For example, in 2025, the lubricants industry program in British Columbia, Canada, recycled 87.5% of the lubricant packaging sold.

CAA's California draft Program Plan significantly disadvantages lubricant producers, imposing inordinate base fees and potential malus penalties while failing to fund a clear pathway for collecting and recycling lubricant packaging. We have expressed these concerns directly to CalRecycle and CAA and proposed solutions to benefit all stakeholders. Unfortunately, resistance to an independent approach remains despite our efforts to demonstrate its environmental and affordability benefits.

Interchange 360 and NLCRC submit these comments in the hope of dispelling that resistance. We advocate for recognition of a distinct, sector-specific compliance pathway for lubricant packaging within the CAA Program Plan. This pathway, which could eventually be structured as a separate plan or sub-plan, is not only consistent with SB 54 and the regulatory framework but is necessary given the unique regulatory, operational, and environmental characteristics of lubricant packaging that fundamentally distinguish it from conventional consumer packaging.

Consumers frequently manage used lubricant containers alongside used-oil recycling activities. Dedicated collection systems can help prevent improper disposal, reduce contamination of curbside recycling streams, improve consumer participation, and leverage existing used-oil education infrastructure. By providing a clear and convenient management pathway, these systems can improve environmental outcomes while supporting California's waste diversion goals.

The comments that follow explain the need for a parallel, dedicated compliance track for lubricant packaging producers. Each comment identifies and addresses a specific deficiency with respect to lubricant packaging in the current Plan and explains key implementation details necessary to achieving SB 54's objectives according to four thematic pillars:

- **Pillar A – Regulatory and Operational Distinctiveness:** The incompatibility of lubricant packaging with curbside collection due to contamination, regulatory barriers (including California's empty-container standard), and the statutory basis for non-curbside collection pathways under SB 54.
- **Pillar B – Precedent and Feasibility:** Interchange 360's successful operation of dedicated collection networks in Colorado as proof of concept, demonstrating that a sector-specific pathway is both feasible and adaptable to California's regulatory environment, and the need for Program reporting to recognize independently generated performance data.
- **Pillar C – Program Integrity and Environmental Outcomes:** Evidence that routing lubricant packaging through the general system, as opposed to a sector-specific plan, would undermine recycling rates, increase contamination, create health and safety risks, and impose inequitable fee burdens.
- **Pillar D – Governance, Data, and Accountability:** The procedural mechanisms needed for a dedicated compliance pathway, including alternative collection program (ACP) application and approval procedures, transparent exemption processes, fee treatment during exemption evaluation, sector-specific coordination, and material-specific fee accountability.

Together, these pillars demonstrate the need for the California Program Plan to accommodate a dedicated pathway for lubricant packaging to satisfy SB 54's mandate while respecting the distinct regulatory, operational, and environmental realities of this material stream.

Pillar A: Regulatory and Operational Distinctiveness

Lubricant packaging is fundamentally incompatible with curbside collection due to contamination risk and California-specific regulatory barriers. SB 54 and PRC § 42051.1(k) expressly contemplate that certain materials may require non-curbside and alternative collection pathways. The comments below demonstrate that these factors necessitate a dedicated pathway—not a "bridge" or exception within the general plan.

Comment A-1: Alternative Collection Must Be a Primary Compliance Pathway

Plan Reference: *Chapter 3, Section 3.2.1.4, pp. 77–78; Section 3.4.4.2, p. 108*

Comment: The draft Plan characterizes alternative collection as merely a "bridge strategy to onsite curbside collection" (Section 3.4.4.2, p. 108) rather than a primary compliance pathway. This framing conflicts with the physical and regulatory realities of managing containers with residual petroleum product. Lubricant containers cannot be safely commingled with single-stream curbside materials due to risks of contamination, damage to MRF equipment, and worker safety concerns. Routing lubricant containers through general curbside collection will thus result in lower capture rates and increased contamination of downstream bales.

Dedicated collection pathways can improve material capture, reduce contamination, increase the quality of recovered resin, and provide more reliable recycling outcomes than traditional curbside collection systems for this material stream. As a result, sector-specific management approaches may better support SB 54's overarching objectives of increasing recycling and reducing environmental impacts.

The Needs Assessment confirms that alternative collection programs "currently collect materials that are hard to manage in the existing system, such as films, flexibles, and small format items" (Current State of Collection Report, p. 2). Interchange's experience operating dedicated collection networks in Colorado and British Columbia (Canada) demonstrates that dedicated, non-curbside collection for packaging achieves strong environmental outcomes for this material stream. It is not merely a stopgap measure.

Requested Revisions: CAA should recognize dedicated non-curbside collection for contaminated packaging as a legitimate and permanent primary compliance pathway where residual-product contamination makes curbside collection infeasible. SB 54 expressly contemplates that certain materials may require non-curbside collection: PRC § 42051.1(k) permits a PRO to "rely on a range of means to collect and recycle or compost various categories of covered materials that are not collected and recycled or composted through a curbside collection program, including, but not limited to, dropoff recycling services and retailer take-back." The Plan should acknowledge that alternative collection for certain material streams is not a secondary option but the approach most likely to achieve SB 54's ambitious objectives.

Comment A-2: DTSC Empty-Container Standards Must Be Addressed

Plan Reference: *Chapter 3; Chapter 9 (beginning on p. 279)*

Comment: California's empty-container standard under 22 CCR § 66261.7 is more stringent than the federal RCRA-empty standard. Containers that do not meet California's standard cannot enter standard MRF processing streams. The draft Plan assumes MRF-based interventions for HDPE Pails & Buckets (CMC 25_P8P) without addressing this regulatory constraint.

This concern is not theoretical. Lubricant containers routinely retain residual product that, under California law, may prevent them from qualifying as "empty" for purposes of standard recycling

facility acceptance. The draft Plan's proposed interventions for this CMC do not account for the additional handling, preprocessing, or separate collection that may be required.

Requested Revisions: The Plan should reflect coordination with the Department of Toxic Substances Control (DTSC) on compliant pathways for these materials. Aligning the Plan's collection and processing assumptions with DTSC's existing requirements will prevent conflict with governing law and allow producers, processors, and collection sites to rely on a single, consistent standard.

Comment A-3: Phase-In Pathway Mismatch for Lubricant Packaging

Plan Reference: *Chapter 3, Section 3.4.9, Table 17, pp. 129–130; Section 3.4.8, pp. 143–144*

Comment: The draft Plan places CMC 25_P8P in the "Phase-In to Achieve Compliance" track. CalRecycle's January 2026 CMC List reports a 0% recycling rate for this category, and the Needs Assessment documents only 200 tons sent to end markets in 2024, with none exported domestically or internationally (Current State of End Markets Report, Table 3-9). This category must reach 32,900 tons by 2032 to meet the 65% recycling rate requirement (Needed State of Collection, Processing, and End Markets Report, Table 2-29, p. 139).

The draft Plan's listed interventions—MRF Upgrades, Recovery Incentives, and similar infrastructure measures—address sorting and processing capacity, not the underlying contamination and regulatory classification issues specific to lubricant packaging. A phase-in plan predicated on general infrastructure improvements cannot resolve regulatory barriers that require dedicated collection. The interventions are well suited for clean HDPE containers but do not address the distinct characteristics of petroleum-contaminated packaging. Notably, the Plan also lists Increase Access to Recycling as an intervention for this CMC (p. 129), thus providing a potential framework for establishing dedicated alternative collection pathways. However, the Plan does not explain how this intervention would be implemented for lubricant packaging or how it would address the DTSC regulatory barriers that prevent these materials from entering standard MRF processing streams.

Requested Revisions: CAA should acknowledge that contaminated lubricant packaging requires specialized collection separate from general HDPE interventions. The phase-in pathway for CMC 25_P8P should include DTSC-related regulatory analysis and should identify dedicated collection as an intervention category. Specifically, the Increase Access to Recycling intervention already listed for this CMC should be expanded to include establishment of dedicated alternative collection pathways that can accommodate residue-bearing containers outside the curbside system. Interchange 360 is prepared to share information concerning its participation in the Colorado and Washington programs to inform this analysis.

Comment A-4: Health/Safety and Unsafe-to-Recycle Analysis for Lubricant Packaging

Plan Reference: *Chapter 3, Section 3.4.9.2.5, pp. 154–156*

Comment: The draft Plan describes the health/safety and unsafe-to-recycle exemption pathways without considering their applicability to lubricant packaging, despite documented contamination

risks to MRF equipment, worker health, and downstream bale quality. The Needs Assessment identifies plastic film as the "most frequent contaminant" in recycling streams (Current State of Collection Report, p. 45). Residual petroleum contamination presents analogous—and likely more severe—challenges. These are precisely the circumstances the exemption pathway was designed to address under PRC § 42060(a)(4) and 14 CCR § 18980.2.4.

Requested Revisions: CAA should engage with Interchange 360 and DTSC on whether residual-product contamination satisfies the applicable regulatory standards for exempting lubricant packaging via the proposed exemptions. Interchange 360 is prepared to provide technical data on contamination levels, worker exposure risks, and MRF processing impacts in support of this determination.

Comment A-5: Specialized Nature of Used Lubricant Packaging Must Be Recognized

> ***Plan Reference:*** *Chapter 3 – Materials Strategy; Section 9.5.3 – Alternative Collection Program; Chapter 2 – Reimbursement and Payment Process*

Comment: Post-consumer lubricant containers are not equivalent to clean household HDPE bottles. Curbside programs, MRFs, and reclaimers may reject packaging with residual oil even where the underlying plastic resin is technically recyclable. The consideration in Section 9.5.3 of an exemption for materials collected outside the residential recycling does not address these differences.

Lubricant packaging is often generated through automotive maintenance activities occurring at quick-lube facilities, vehicle service centers, fleet maintenance operations, agricultural facilities, industrial users, and automotive retail locations. These generation patterns differ substantially from conventional residential packaging streams and support the need for tailored collection and recycling approaches.

Requested Revisions: The Plan should expressly evaluate specialized collection channels, including used-oil collection centers, household hazardous waste facilities, automotive retailers, service centers, and others to develop a distinct lubricant-container management strategy that:

- identifies appropriate collection locations;
- defines acceptable residual-product limits and preparation instructions;
- evaluates transportation and handling requirements;
- identifies qualified processors and end markets;
- coordinates with existing used-oil programs; and
- permits reimbursement of specialized collection systems.

Comment A-6: Distinguish Hazardous Packaging Constituents from Residual Lubricant

> ***Plan Reference:*** *Section 10.2 / Figure 1 – Eco-Modulation Factors; Section 10.3.1.3.2 – Eliminate Hazardous and Toxic Additives*

Comment: The draft Plan identifies the "presence of hazardous materials in the packaging" and toxic additives as possible malus factors.

Requested Revisions: This language must be interpreted to exclude product residue remaining in otherwise compliant packaging. The apparent intent to limit Section 10.3.1.3.2 to chemicals intentionally incorporated into packaging should be stated expressly, with hazardous or toxic packaging materials defined as substances that are:

- intentionally added to the packaging material or component;
- present above a specified threshold; and
- attributable to packaging design or manufacturing.

The definition should likewise exclude:

- residual packaged product;
- incidental contamination occurring after sale;
- substances introduced by consumers or waste handlers; and
- classifications arising solely from the packaging's former contents.

Comment A-7: Recognize Nuance of Determining Recyclability Under SB 343

> ***Plan Reference:*** *Section 10.3.1.2.1 – Eco-Modulation to Improve Recyclability; Section 3.2 – Collection Access and Acceptance; Section 9.3.4.2 – Cost-to-Manage Categorization*

Comment: The draft Plan proposes using SB 343 criteria or an alternative evidence-based framework to determine recyclability and related fee adjustments. For lubricant packaging, failure to meet SB 343 collection or sorting criteria may reflect residual product, local program restrictions, MRF acceptance decisions, lack of specialized collection, or unavailable end markets—not necessarily problematic resins or defective physical designs. This framework would thus unnecessarily penalize this type of packaging without removing the barriers to its recycling.

Requested Revisions: Packaging should not incur a design malus merely because of inadequate infrastructure or collection systems. CAA should separately evaluate:

- technical recyclability of the empty packaging;
- compatibility of labels, closures and components;
- collection access for residue-bearing containers;
- processor acceptance;
- end-market availability; and
- actual recycling rates.

Pillar B: Precedent and Feasibility

Interchange 360's successful operation of dedicated collection networks elsewhere demonstrates that a sector-specific pathway is feasible and adaptable to California. Below, we describe Interchange 360's track record and explain how its performance data should be integrated into Program reporting.

Comment B-1: Interchange 360's Dedicated Collection Networks in Colorado as Proof of Concept

Plan Reference: *Chapter 3, Section 3.2.1.4, pp. 77–78; Section 3.4.9, Table 17, pp. 129–130*

Comment: As of March 2026, Interchange 360 is operational in Colorado under an approved Individual Program Plan (IPP) and is approved to operate an ACP in Washington State. The dedicated collection network operating separately from CAA in Colorado, and in Canada separate from the curbside packaging program, demonstrates that sector-specific collection achieves measurable recycling performance and provides direct proof of concept for California.

Requested Revisions: The Plan should acknowledge Interchange 360's track record and identify dedicated collection as an appropriate intervention category for lubricant packaging. Interchange 360 is prepared to share data and operational learnings from its other-state programs to inform California's approach.

Comment B-2: Interchange 360 Collection Data Must Be Recognized in Plan Reporting

Plan Reference: *Chapter 11, Section 11.3; Chapter 3*

Comment: The draft Plan reports data from CAA-contracted alternative collection programs but does not address how independently funded collection systems' performance data will be captured and credited. Interchange 360's California collection and recycling system may generate significant performance data that, if unrecognized, would understate lubricant-packaging recycling rates.

Requested Revisions: CAA should recognize independent collection and recycling data in program reporting and provide a defined pathway for submitting verified performance data. This data should be reflected in CMC-level recycling rate calculations and should inform fee-setting to avoid penalizing materials achieving recycling outcomes through alternative pathways.

Pillar C: Program Integrity and Environmental Outcomes

Routing lubricant packaging through the general CAA-administered system would undermine recycling rates, increase contamination, create health and safety risks, and impose inequitable fee burdens on producers whose materials cannot be effectively managed under the general Plan, even where such producers have demonstrated viable alternatives. Below, we explain how the draft Plan would compromise environmental outcomes absent a dedicated pathway.

Comment C-1: Producer Fees Without a Guaranteed Collection or Recycling Pathway

Plan Reference: *Chapter 3 – Materials Strategy and CMC Compliance Plan; Section 3.2 – Collection Access; Chapter 9 – Fee-Setting; Sections 9.3–9.5*

Comment: The draft Plan acknowledges that acceptance varies significantly by material and jurisdiction and that no material is universally accepted. Yet producer fees are calculated from supplied tonnage, projected system costs, and cost-to-manage indices rather than demonstrated collection and recycling.

Requested Revisions: Lubricant-packaging producers should not fund collection, transportation, and recycling activities on the same basis as conventionally recyclable packaging unless the Plan establishes a credible pathway for lubricant containers to be accepted, collected, sorted, processed, and recycled. The Plan should:

- identify which collection systems will accept lubricant containers;
- establish measurable access, acceptance, collection and recycling targets;
- report annually on lubricant-container performance;
- dedicate material-specific fees to lubricant-container management;
- reduce, defer, or offset fees when the promised collection pathway is unavailable or where a producer funds collection infrastructure that achieves verified recycling performance, with clear performance standards, verification requirements, and a defined application process; and
- avoid representing packaging as recyclable unless collection, processing, and end-market conditions are met.

Comment C-2: Do Not Penalize Producers for Contamination Outside Their Control

Plan Reference: *Section 9.3.3 – Fee-Setting Methodology; Section 10.3 – Eco-Modulation Principles; Chapter 3 – Collection and Processing Strategy*

Comment: Lubricant-container recycling outcomes depend on consumer emptying practices, local collection rules, MRF restrictions, processor specifications, and end-market tolerance—factors outside producers' control.

Requested Revisions: Although the draft Plan states that eco-modulation will rely on measurable environmental outcomes, it should distinguish design characteristics controlled by producers from operational factors controlled by the recycling system and penalize only conditions a producer can reasonably correct through packaging design. Such other factors should be addressed through:

- education;
- collection investments;
- processing improvements;
- operating standards; and
- targeted infrastructure expenditures.

Comment C-3: Avoid Circular Fee Treatment

Plan Reference: *Sections 9.3.4 and 9.4 – Cost-to-Manage and Fee Allocation; Section 10.3.1.2.1 – Recyclability Malus*

Comment: Lubricant packaging could face both a higher base fee because it is costly or difficult to collect and process, and an additional malus because the same limitations cause it to be classified as non-recyclable—effectively charging producers twice for the same condition.

Requested Revisions: The Plan should prohibit duplicative fee adjustments where the same characteristic is already reflected in:

- the cost-to-manage index;
- a material-specific assessment;
- an infrastructure investment;
- a recyclability malus; or
- another eco-modulation factor.

Comment C-4: Exempt Safety-Critical and Functionally Necessary Packaging Features

Plan Reference: *Section 10.3.1.2.2 – Packaging Features that Cause Issues with Recycling*

Comment: CAA may target labels, sleeves, valves, nozzles, coatings, adhesives, and other components for malus fees. Lubricant packaging often requires specialized components to prevent leakage, preserve product integrity, support controlled dispensing, and provide mandatory warnings. Potentially necessary features include induction seals, tamper-evident closures, chemical-resistant labels and adhesives, dispensing spouts, venting systems, caps designed to resist leakage, and durable regulatory labeling.

Requested Revisions: CAA should evaluate the entire packaging's environmental performance, including avoided spills and product loss, rather than recycling compatibility alone. The Plan should exempt components from malus fees where a producer demonstrates they are reasonably necessary for:

- health or safety;
- hazardous-material transportation;
- leakage prevention;
- product compatibility;
- tamper evidence;
- regulatory labeling; or
- proper product dispensing.

Comment C-5: Limit Escalating Maluses Where Alternatives Are Unavailable

Plan Reference: *Section 10.3.1.2.2; Sections 10.3.1.4–10.3.1.5 – Implementation*

Comment: The draft Plan contemplates maluses beginning near 10% and potentially rising to 100% of the base fee even where no technically viable alternative exists, alternatives fail product-compatibility testing, alternatives increase leakage or product waste, regulatory approval is required, conversion requires major equipment changes, or commercial supply is inadequate.

Requested Revisions: The Plan should establish the following limits on automatically escalating maluses:

- technical-infeasibility exemptions;
- safety and regulatory exemptions;
- a formal petition and appeal process;
- reasonable phase-in periods;
- notice before new targeted features take effect;
- commercially available alternative requirements; and
- caps on cumulative maluses.

Pillar D: Governance, Data, and Accountability

Effective implementation of a sector-specific compliance pathway requires formal governance mechanisms, transparent exemption procedures, and fee accountability. The comments below identify the procedural, reporting, and fee mechanisms needed to ensure accountability for environmental outcomes.

Comment D-1: A Dedicated ACP Procedure Must Be Established

Plan Reference: *Section 7.5.5 – Alternative Collection Programs*

Comment: Section 7.5.5 lacks details on how "hard to recycle" materials would be handled beyond Education and Outreach, providing no procedure for ACP application or approval for "hard to recycle" or non-curbside packaging. A single, state-appointed PRO could use its authority to bypass these "orphaned" products, impose malus fees on producers and competitor programs, and prevent this class of packaging from meeting the 2032 recycling requirement.

Requested Revisions: The Plan should include a procedure to accept and approve an ACP application submitted by a producer or group of producers as follows:

- CAA would review the ACP for impact and alignment within 30 days;
- CalRecycle would either approve or disapprove within 90 days;
- The approval of the ACP would be independent from the CAA plan approval;
- All performance accountability for the ACP is assigned to the submitting entity;
- CAA would remove the management of approved ACP materials from its plan;
- The ACP must demonstrate clear cost, safety and recyclability benefit;
- Must include coordination with the CAA plan to ensure alignment with state objectives;
- The ACP must be independently funded by the submitting entity;
- Must set performance targets and report on progress annually; and
- The ACP could transition to be a separate PRO plan as SB 54 allows in 2031.

Comment D-2: Transparent Process for Exemption Requests

Plan Reference: *Chapter 11, Section 11.2.6*

Comment: Under the regulatory framework, only the PRO or an approved Independent Producer may submit unique challenges, health/safety, or unsafe-to-recycle exemption applications to CalRecycle. CAA establishes its own internal procedures for receiving and deciding whether to forward producer-prepared applications, creating a gatekeeping function with no published standards, timelines, or appeal mechanisms.

Requested Revisions: CAA should adopt a transparent, well-documented process for packaging-specific exemption proposals, including defined timelines for CAA's response, criteria for evaluation, and an opportunity for producers and groups of producers to supplement applications with additional technical or regulatory information.

Comment D-3: Fee Obligations During Exemption Evaluation Periods

Plan Reference: *Chapter 9, Fee-Setting; Chapter 3, Section 3.4.9.2.4, p. 151*

Comment: Under 14 CCR § 18980.2.4(a), a unique challenges exemption relieves a producer from recyclability and recycling-rate performance targets but does not suspend registration, reporting, or fee obligations. Producers must continue paying full base fees—calculated under a methodology that assumes progress toward compliance—for materials that CAA has identified as unable to meet recycling targets under current conditions and where the barriers are regulatory rather than infrastructure related.

Requiring the same base fee treatment for materials on a unique-challenges pathway and materials progressing toward compliance is inequitable: the fee does not fund a solution for lubricant packaging but subsidizes infrastructure investments for other material categories without addressing the unique challenges posed by this packaging format.

Requested Revisions: CAA should (a) reflect the exemption designation in the Cost-to-Manage index or base-fee calculation for the affected CMC rather than pricing it as a material progressing toward compliance; and (b) exclude or defer eco-modulation maluses, which remain undesigned for future program years, for materials on a unique-challenges pathway where the barrier is regulatory rather than design related.

Comment D-4: Sector-Specific Governance and Coordination Mechanisms

Plan Reference: *Chapter 11, Section 11.2.9; PRC § 42051.1(e); Introduction; Chapter 11; Section 7.5.5*

Comment: SB 54 expressly permits the establishment of subcommittees by CMC. The draft Plan's discussion of coordination with Independent Producers is minimal and does not describe how CAA will engage with sector-specific organizations managing unique material streams. Lubricant packaging presents collection, processing, and consumer-education challenges that differ fundamentally from food, beverage, and general consumer product packaging. CAA's founding members represent retail, food, beverage, and CPG sectors with no comparable role for petroleum or automotive product packaging expertise.

Requested Revisions: The Plan should provide that ACPs be submitted to and approved directly by CalRecycle, independent of CAA. The management of approved ACP materials would be removed from the Plan, which should specify that ACP-submitting entities are responsible for providing performance accountability data and independent funding and allow ACPs to transition to separate PRO plans in 2031.

Comment D-5: Prevention of Duplicate Funding with Used-Oil and HHW Programs

Plan Reference: *Chapter 2 – Reimbursement and Payment Process; Section 9.4 – Cost Categories; Section 9.5 – Fee-Setting Compliance*

Comment: Lubricant producers already support used-oil recovery, regulatory compliance, household hazardous waste programs, and other product-specific systems. The Plan should prevent

duplicate charging for the same collection, transportation, public education, or processing activities. The principle from Chapter 2 that costs paid by another program are not eligible covered costs should be applied explicitly to used-oil and lubricant-container programs.

Requested Revisions: The Plan should provide for CAA to reimburse only incremental SB 54 packaging-related cost and should expressly require reimbursement applicants to disclose:

- all other public and private funding;
- used-oil program payments;
- HHW funding;
- grants and commodity revenues; and
- costs attributable to the product residue rather than the packaging.

Comment D-6: High-Recycling-Rate Exclusion Timeline and Qualifying Data

Plan Reference: *Chapter 9, Section 9.5.3; PRC § 42041(e)(2)(H)*

Comment: PRC § 42041(e)(2)(H) excludes from covered-material status and associated program fees any material achieving a 65% recycling rate for three consecutive years before January 1, 2027, and a 70% rate annually thereafter, provided the material is "collected outside of a residential recycling program" and "not commingled with the material that is source separated through an unsorted single-stream residential curbside collection process." The draft Plan states that CAA is "encouraging and incentivizing producers to keep covered materials within the program plan, even if they may qualify for the exemption" (Section 9.5.3). Interchange 360's California collection program is building toward these thresholds but may not yet have qualifying historical data.

Requested Revisions: The Plan should (a) provide guidance on qualifying data requirements for the high-recycling-rate exclusion, including acceptable data sources, verification standards, and application timeline; and (b) ensure its incentive design does not discourage legitimate applications by producers that meet the statutory threshold.

Comment D-7: Material-Specific Fee Accountability

Plan Reference: *Section 9.4 – Cost Categories Used for Fee-Setting; Section 9.5 – Material-Specific Investments and Assessments; Special Assessments for Unusual Collection or Processing Costs*

Comment: Material management fees can cover collection, transportation, processing, infrastructure, and operating costs. The draft Plan also permits special assessments where a material imposes unusual costs and states that revenues should support improvements for the affected material category. But there is no mechanism ensuring that fees for lubricant packaging are used to benefit that material stream rather than absorbed into general system costs.

Interchange 360 is investing in lubricant-packaging collection infrastructure in California. If that infrastructure achieves verified recycling outcomes, the absence of a fee credit or offset mechanism effectively charges Interchange 360's members twice for the same material stream: once through CAA program fees and again through direct investment in collection and recycling.

Requested Revisions: The Plan should require CAA to demonstrate justification before imposing any lubricant-specific assessment and to provide material-specific accountability thereafter. Specifically, CAA should:

- demonstrate, before imposing any special assessment,
  - the intervention to be provided,
  - the nature of the unusual cost,
  - that it is incremental,
  - that it is not funded elsewhere,
  - the expected performance improvement,
  - and a process for terminating the assessment when completed;
- disclose annually for lubricant packaging
  - tonnage reported,
  - fees collected,
  - collection locations established,
  - reimbursement recipients,
  - quantities collected,
  - quantities rejected,
  - quantities recycled,
  - processing destinations,
  - end markets, and
  - cost per ton collected and recycled.

Comment D-8: Address Cumulative Plastic Fees

Plan Reference: *Section 9.3.3.2 – California-Specific Fee Elements; Section 9.4 – Cost Categories; Section 9.7 – Plastic Pollution Mitigation Fund*

Comment: Plastic lubricant containers may be subject to EPR base fees, cost-to-manage adjustments, eco-modulation maluses, source-reduction funding, program reserves, closure and transfer funding, and Plastic Pollution Mitigation Fund payments. The draft Plan confirms that PPMF and reuse/refill obligations are separate from base fees and allocated based on plastic weight or components.

Requested Revisions: CAA should show how cumulative charges are calculated and ensure that:

- producers are not charged for the same environmental impact more than once;
- lubricant packaging is not funding activities from which it receives no reasonable benefit;
- reserves and special assessments are reconciled annually; and
- unused or excess material-specific funds are credited to affected producers.

Conclusion

The foregoing comments establish the legal, regulatory, and operational basis for a dedicated compliance pathway. This approach is both permissible and necessary under SB 54.

SB 54 expressly contemplates non-curbside collection pathways (PRC § 42051.1(k)); authorizes subcommittees by covered material category (PRC § 42051 (e)); provides for high-recycling-rate exclusions for materials collected outside residential recycling (PRC § 42041(e)(2)(H)); and

establishes exemption pathways for materials posing health/safety risks (PRC § 42060(a)(4); 14 CCR § 18980.2.4). California's empty-container standard (22 CCR § 66261.7) creates additional regulatory barriers the draft Plan does not address. Together, these provisions both authorize and necessitate the dedicated pathway we propose.

An effective Program Plan must not evaluate lubricant packaging through the lens of conventional consumer packaging. Lubricant containers are functional packaging for products that may contain hazardous or environmentally sensitive residues and are subject to unique safety and regulatory requirements. Accordingly, the Plan should:

- Prevent producer payment without a credible collection and recycling pathway;
- Create a specialized lubricant-container collection strategy;
- Prevent duplicate funding with used oil and HHW programs;
- Distinguish hazardous packaging additives from product residue;
- Protect against SB 343-based penalties caused by infrastructure limitations;
- Exempt safety-critical packaging components;
- Limit escalating maluses based on technical feasibility;
- Require material-specific accounting, performance, and fee credits; and
- Protect against duplicative and cumulative fee assessments.

The draft Plan does not currently address the product categories we represent. Because they are more difficult to handle and recycle, the draft Plan gives them short shrift and would make producers of these products pay disproportionate program fees without the benefit of safely managing and recycling their materials. Given the nature of these materials and the unsuitability of curbside collection, the Plan must specifically provide for their management.

We respectfully request that the SB 54 Advisory Board direct CAA to address these concerns and establish the dedicated pathway described. NLCRC and Interchange 360 remain available to provide additional technical information, operational data, and program design expertise.

Best Regards,

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Tristan Steichen
Executive Director, NLCRC

Cc: CalRecycle

Circular Action Alliance