UPDATES ON SB 54: CALRECYCLE TO TAKE A SECOND STAB AT IMPLEMENTING REGULATIONS

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US Policy and Regulatory Alert

On 7 March 2025, Governor Gavin Newsom sent the Department of Resources Recycling and Recovery (CalRecycle) back to the drawing board on proposed regulations to implement the state's Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54). Senate Bill (SB) 54 is one of many state extended producer responsibility laws that seek to make product manufacturers responsible for the environmental burden associated with single-use packaging and similar materials. Newsom signed SB 54 into law in 2022, and CalRecycle has been working to implement the law since 2023.

SB 54 targets single-use plastic packaging and food service ware (Covered Materials) and has the lofty goals of achieving by 2032 making 100% of Covered Materials recyclable or compostable, reducing the use of Covered Materials by 25%, and actually recycling Covered Materials at a minimum of 65%.

SB 54 mandated CalRecycle to propose permanent regulations for SB 54 by 8 March 2025. The recently rejected proposed regulations were originally released for public comment in February 2024 and underwent two rounds of public comment. After two public comment periods, CalRecycle arrived at the proposed permanent regulations that Newsom declined to accept. Newsom declined to adopt CalRecycle's proposed regulations due to the unacceptable burdens and costs the proposed regulations would have imposed on businesses. CalRecycle will have to convene another series of stakeholder meetings and develop new regulations, but CalRecycle's timeline for proposing these new regulations is not yet clear.

In addition to monitoring the updated rulemaking process for California's SB 54, our firm is keeping up with several other proposed and enacted state regulations impacting food packaging and food-contact material producers, including the following:

- Expected release of CalRecycle's final “material characterization study” required under SB 343 by 4 April 2025; the report will determine what materials are considered “recyclable” for purposes of “chasing arrows” symbols and SB 54.
- Introduced 16 January 2025, Minnesota's Senate File 188/House File 44 would require food-packaging manufacturers and brand owners to test for and report ortho-phthalates. If enacted, the law would take effect 1 July 2026.
- On 20 February 2025, California introduced the Safer Food Packing Act of 2025 to regulate antimony trioxide, bisphenols, and ortho-phthalates in food packaging.
- Introduced 3 February 2025, Illinois House Bill 2516 will prohibit the sale or distribution of any cookware and food packaging that contains potentially added per- and polyfluoroalkyl substances (PFAS). If passed, this regulation will take effect 1 January 2026.

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- Introduced 13 February 2025, Hawaii SB 683 will prohibit the sale or distribution of any cookware and food packaging that contains potentially added PFAS. If passed, this regulation will take effect 1 January 2028.

Our Healthcare and FDA team is ready to assist with questions and will continue to monitor for updates.

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