

# Packaging and Plastic Food Ware Extended Producer Responsibility

**SB 54 (Allen, Ch. 75, Statutes of 2022)**

Department of Resources Recycling and Recovery (CalRecycle)

January 31, 2023



# Agenda

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## **Opening Remarks**

Rachel Machi Wagoner, Director of CalRecycle

## **Overview of SB 54 (Allen, Ch. 75, Stat. 2022)**

Erin Rodriguez, Deputy Director for Legislation

## **Overview of the Rulemaking Process in California**

Kate Nitta, Assistant Chief Counsel

## **Overview of the Material Characterization Studies**

Jennifer Haynes White, Senior Environmental Scientist (Supervisor)

## **Announcements Regarding Further Engagement Opportunities**

Zoe Heller, Deputy Director for Materials Management and Local Assistance

## **Questions**

Moderated by Marcus Santillano, SB 54 Program Manager

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# Protecting California's environment and climate for the health and prosperity of future generations through:

- The reduction, reuse, and recycling of California resources
  - Environmental education
    - Disaster recovery
  - The transition from a disposable to a fully circular economy



**CalRecycle**

# SB 54 Overview

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**Department of Recycling Resources Recycling  
and Recovery, Legislative Affairs**

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**Erin Rodriguez**

*Deputy Director of  
Legislative Affairs*

# **SB 54 (Allen, Chapter 75, Statutes of 2022)**

is a landmark new law that seeks to reduce plastic pollution and increase recycling.

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## **The law establishes:**

- An extended producer responsibility program for covered material
- Recycling rates for covered material
- Source reduction for covered material
- Industry requirements to pay for environmental mitigation

# Packaging and Plastics

- 25% of trash is packaging
- Most packaging including plastic packaging is not recycled at a high rate in California
- Plastics degrades into microplastics



# SB 54: Solid waste:

*reporting, packaging, and plastic food ware*



**25% of Plastic Packaging  
cut by 2032**



**65% of Single-Use Packaging  
Recycled by 2032**



**100% Packaging in California  
Recyclable by 2032**

# SB 54 Basic Overview



**Tasked with implementation and enforcement**



**Producer Responsibility Organization**

- Initially 1 PRO will be approved.
- Producers have option to individually comply if they meet specified requirement.



**Advisory Board**

- Appointed by CalRecycle.
- Independent body that oversees aspects of the program.



**“Covered Material” (materials regulated by statute)**

- Single-use packaging
- Plastic single-use food ware





# Extended Producer Responsibility (EPR)

**EPR means industry supports end of life management of products, by:**



Creating innovative designs



Collecting material



Ensuring recycling

**Goals of an EPR program:**



Reduce Trash Pollution



Make Recycling Convenient



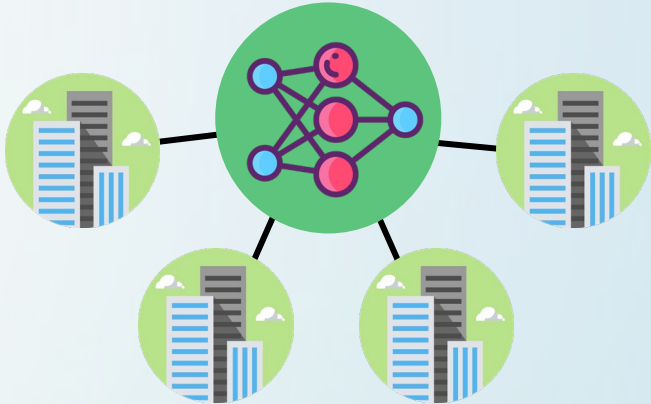
Reduce Recycling Costs for Local Government

**Typical Structure**

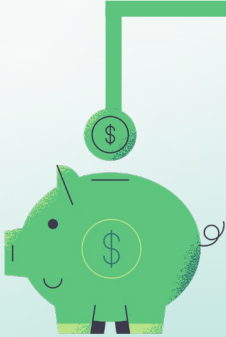


Some EPRs also have external advisory boards

# Key Elements of an Extended Producer Responsibility Program



**Producer Responsibility Organization**



**Funding**



**Program Goals**



**Producer Responsibility Plan, Annual Reports, Budgets**



**Oversight and Enforcement**





## Single-use Packaging (Covered Material)

- “Packaging routinely recycled, disposed of, or discarded and typically not refilled or reused by a producer.”
- Definition is material neutral, which includes plastic, paper, paperboard, etc.
- A producer of single-use packaging of any material type would need to comply with the statute.
- Many of the requirements of SB 54 apply only to plastic covered material.

# Plastic Single-use Food Ware

*(Covered Material)*

- Plastic-coated paper
- Plastic-coated paperboard
- Paper or paperboard with plastic intentionally added during the manufacturing process
- Multilayer flexible material.



Cups, Lids, Straws



Stirrers



Cutlery



Lidded Containers



Trays and Plates



Clamshell



Food Wrap and Wrappers

# Notable Exemptions to “Covered Material”



**Beverage Containers  
in CRV Program**



**Medical  
Product  
Packaging**



**Paint Containers in  
Paint EPR Program**



**Pesticide  
Packaging**

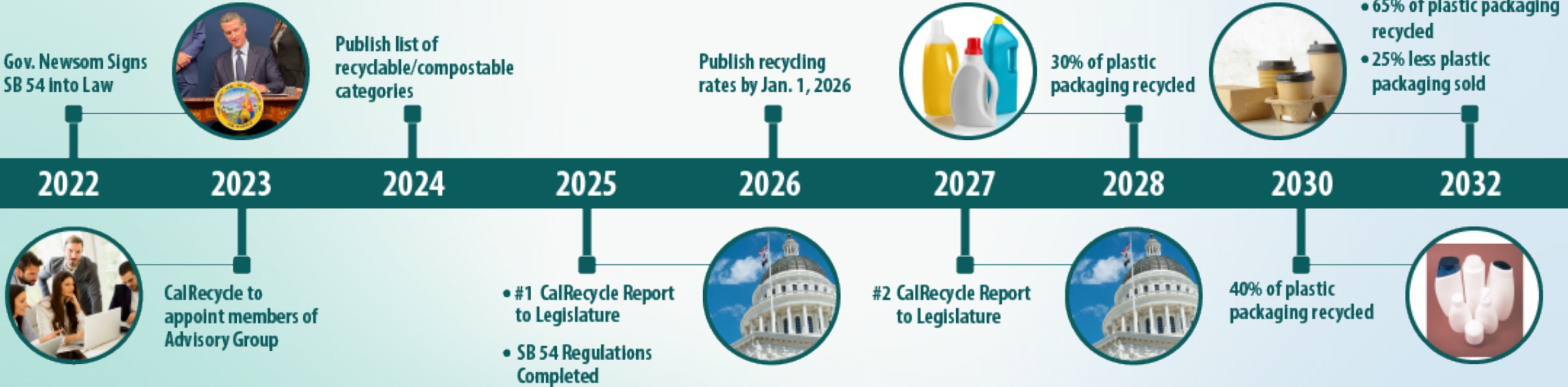


**Hazardous/Flammable  
Product Packaging**

**Long-term Storage  
Packaging**

# Overall Timeline for Implementation

## SB 54 Program Implementation Timeline



# Timeline: SB 54 Goals as Defined by Statute

**2025**

**25% Recycled:**  
All Expanded Polystyrene (EPS) or a statewide prohibition on EPS food service ware

**2028**

**30% Recycled:** Plastic Packaging and Food Ware  
**30% Recycled:**  
All EPS or a statewide prohibition on EPS food service ware

**2030**

**40% Recycled:** Plastic Packaging and Food Ware  
**50% Recycled:**  
All EPS or a statewide prohibition on EPS food service ware

**2032**

**100% Recyclable or Compostable:** All Covered Materials  
**65% Recycled:** Plastic Packaging and Food Ware  
**65% Recycled:**  
All EPS or a statewide prohibition on EPS food service ware

**2027**

**10% Source Reduced:**  
Plastic Packaging and Food Ware

**2030**

**20% Source Reduced:**  
Plastic Packaging and Food Ware

**2032**

**25% Source Reduced:**  
Plastic Packaging and Food Ware

# CalRecycle's Statutory Duties and Authority



Oversees  
Program



Appoints  
Advisory Board



Researches  
Packaging  
Waste Types



Feedback on  
Plan and Budget

- 
- **Legislative Reports**
  - **Develop a Needs Assessment**
  - **Collect data and estimate recycling rate**
    - Material Characterization studies
    - Collect data from PRO/producers
  - **Publish lists of covered material categories and recycling rates**
  - **Set the baseline for 25% source reduction**
  - **Write regulations**
  - **Select the producer responsibility organization**
  - **Review and approve/disapprove:**
    - **Producer responsibility plans**
    - **PRO annual reports**
  - **Conduct enforcement and audits**
  - **Appoint members to the advisory board**



# CalRecycle Requirements:

**2023**

**July 1, 2023:**  
Appoint Advisory Board

**Hold Informal Rulemaking**  
Workshops & Engage with Stakeholders

**2024**

**Mid-2024: Publish Materials**  
Characterization Studies

**Hold Formal Rulemaking**  
Workshops & Engage with Stakeholders

**2025**

**Establish baseline for Plastic**  
Materials for Source Reduction

**Report to Legislature**

**Promulgate regulation by**  
January 1, 2025

**Material Characterization**  
Studies published

**2026**

**Review and approve producer**  
responsibility organization  
(PRO) plans

**Publish covered material**  
recycling rates

## Recurring

**Publish list of recyclable**  
and compostable  
materials in CA

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and compostable  
materials in CA

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and compostable  
materials in CA

**2027**

**Report to Legislature**

**2028**

**Publish materials**  
characterization studies  
**Publish covered material**  
recycling rates  
**Mid-2028: CalRecycle and**  
Advisory board consider  
recycling rate adjustment

**2029**

**Report to legislature**

**2030**

**Publish materials**  
characterization studies  
**Publish covered material**  
recycling rates

## Recurring

**Publish list of recyclable**  
and compostable  
materials in CA

**Review annual report**

**Review of annual audits of**  
PRO accounting books

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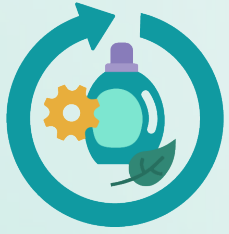
**Review annual report**

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PRO accounting books

**Publish list of recyclable**  
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# Producer Responsibility Organization

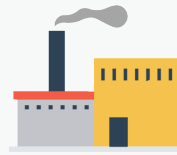
A Nonprofit Organization Established by Industry



Creates  
Program



Increases  
Recycling



Enrolls  
Manufacturers



Cuts Trash Pollution  
in Disadvantaged  
Communities

- 
- **PRO develops the Producer Responsibility Plan**
    - Instituting ways to source reduce
    - Funding infrastructure development
    - Conducting public education campaigns
  - **Producers are required to participate in plan; producers must pay a fee, set by the PRO, to participate**
  - **PRO sets requirements for producers to comply with the law**
  - **PRO pays the administrative costs for implementation**
  - **PRO pays the mitigation fee (\$500 million annually for 10 years).**

# PRO Requirements:

**2025**

**Producers must**  
demonstrate Expanded  
Polystyrene (ESP) is  
recycled

**2026**

**Producers must**  
participate in PRO plan

**2027**

**10% Source Reduced:**  
plastic covered material

**2028**

**Producers must**  
demonstrate Expanded  
Polystyrene (ESP) is  
recycled  
**30% Recycled:**  
covered plastic

## Recurring

**PRO submits annual**  
report

**PRO pays \$500 Million**  
in Environmental  
Mitigation

**PRO submits annual**  
report

**PRO pays \$500 Million**  
in Environmental  
Mitigation

**2029**

**2030**

**2031**

**2032**

**Producers must**  
demonstrate Expanded  
Polystyrene is recycled

**40% Recycled:**  
covered plastic material

**20% Source Reduced:**  
covered plastic material

**Producers must**  
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Polystyrene is recycled

**65% Recycled:**  
covered plastic material

**25% Source Reduced:**  
covered plastic material

## Recurring

**PRO submits annual  
report**

**PRO pays \$500 Million  
in Environmental  
Mitigation**

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**PRO submits annual  
report**

**PRO pays \$500 Million  
in Environmental  
Mitigation**

# Rulemaking Overview

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## Department of Resources Recycling and Recovery, Regulations Unit

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### **Kate Nitta**

*Assistant Chief Counsel*  
Executive Offices, Legal

### **Kris Chisholm**

*Attorney IV*  
Executive Offices, Legal

### **Craig Castleton**

*Staff Services Manager I*  
Regulations Unit, Executive  
Offices, Legal

# The Rulemaking Process

*From Broad Strokes to Detailed Rules*



**Regulations are rules orders, and standards that implement, interpret, and clarify a law.**

# CalRecycle Welcomes Stakeholder Input on SB 54 Regulations

- CalRecycle welcomes questions and feedback
- CalRecycle staff reads every comment
- CalRecycle wants to hear how potential regulations impact industry
- Stakeholder comments influence regulations





# Rulemaking Process at CalRecycle

1

## Concept Development

- Develop regulatory concepts
- Hold informal workshops
- Stakeholder outreach

2

## Informal Rulemaking

- Develop rulemaking documents
- Hold informal workshops
- Stakeholder outreach
- Initial Economic Impact analysis
- Department and Agency approval

3

## Formal Rulemaking

- Publication in the Notice Register
- Send notice package to interested stakeholders
- Post on Department webpage
- Begin 45 Day Public Comment period

4

## 45-Day Public Comment Period

- Opportunity to provide written comments
- Public Hearing
- Review public comments and revise regulations

Process continued on next slide



# Rulemaking Process at CalRecycle

5

## Additional Comment Period(s)

- Propose changes to regulatory language
- Review public comments and revise regulations

6

## Final Approvals and Adoption

- DOF approval of Fiscal and Economic Impact Assessments
- Department Adoption of regulation text

7

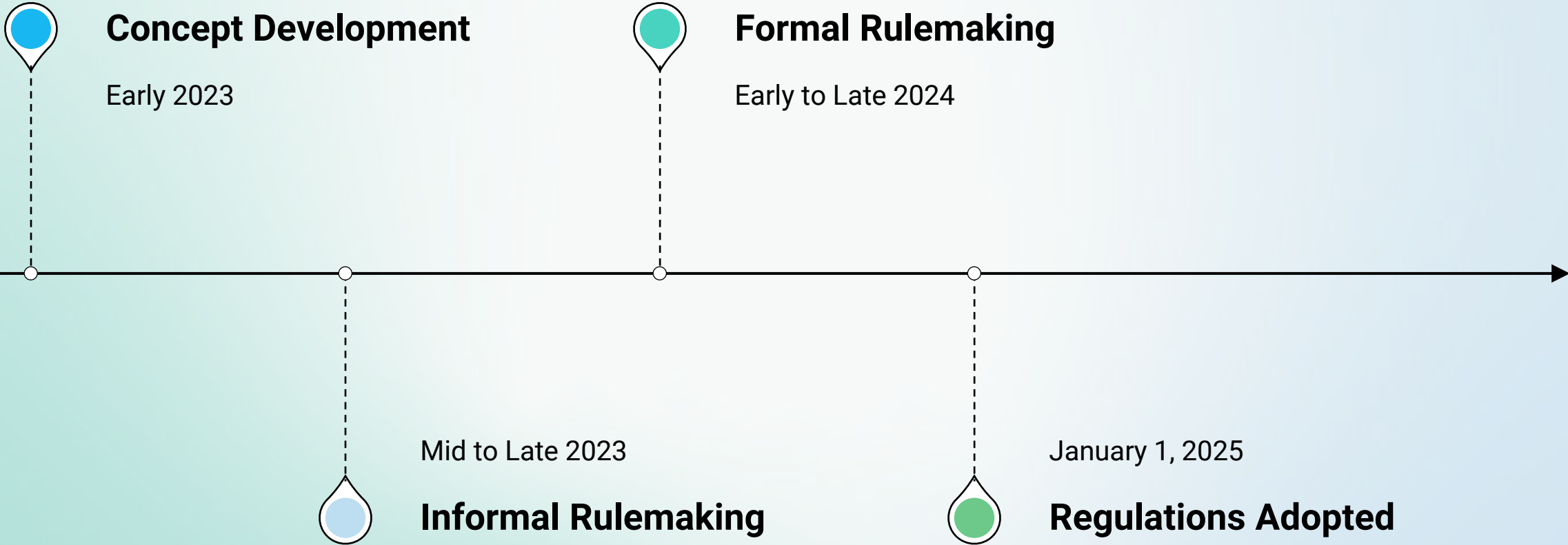
## Submit Final Rulemaking Package to OAL

- Must be within one year of the Notice publication date
- OAL 30 working day Review Period

8

## Regulations Become Effective

# SB 54 Rulemaking Timeline



# Material Characterization Study (MCS) Overview

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Department of Resources Recycling and Recovery,  
Policy Development and Analysis Office,  
Knowledge Integration Section

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**Dan Brown**

*Environmental  
Program Manager I*

**Surjit Dhillon**

*Sr. Environmental  
Scientist (Supervisor)*

**Jennifer  
Haynes White**

*Sr. Environmental  
Scientist (Supervisor)*

**Laura Moreno**

*Sr. Environmental  
Scientist (Supervisor)*

# Answering the Big Question: How much plastics and packaging do we throw away?



CalRecycle will use a Material Characterization Study to:

- Identify packaging and food service materials that are being landfilled
- Publish findings that will contribute to estimating the recycling rate



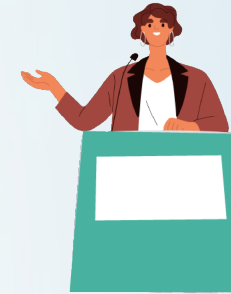
# SB 54 MCS Overview



**1** Design the study



**2** Collect data



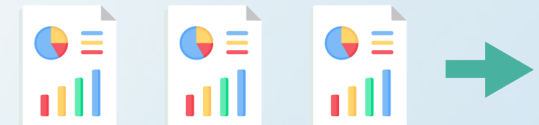
**3** Present findings  
in workshop  
*and seek stakeholder  
feedback*



**4** Final report  
published  
60 days later



**5** CalRecycle will use  
final data to estimate  
recycling rate



**6** Future studies will  
be used to measure  
progress

# SB 54 MCS Material Types



**What we throw away –  
and where it comes from –  
highlight recycling  
opportunities to build a  
circular economy**

## **Key Areas of Interest**

- Plastic Packaging
- Food Ware



# SB 54 MCS Timeline

**7/1/2024**

**Publish a list of covered material categories for SB 54**

**7/1/2025**

**Completion of first SB 54 MCS**

**2028**

**SB 54 MCS Update**

**2030**

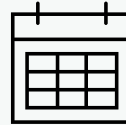
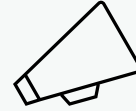
**SB 54 MCS Update**

**2032**

**SB 54 MCS Update to be updated at least every 4 years thereafter**



## Ways to stay informed



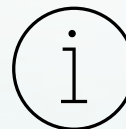
### [Sign-up for our SB 54 Listserv](#)

**Announcing information about the Advisory Board in early February.**

### **February SB 54 Informational Session**

- February 28, 2023 at 10:00 AM
- Topic: Advisory Board + Needs Assessment

**More information forthcoming; will be distributed through our listserv.**



**Email: [Packaging@CalRecycle.ca.gov](mailto:Packaging@CalRecycle.ca.gov)**

# Questions

## In-person:

- Line-up at the microphones.

## On Zoom:

- Please use the raise hand feature in your Zoom toolbar.
- CalRecycle staff will invite you to unmute.