CalRecycle Best Practices for Extended Producer Responsibility Programs (July 2025)

Product stewardship, or Extended Producer Responsibility (EPR) programs can transition California towards a circular economy by placing the responsibility for reducing waste, maximizing reuse and recycling, or other end-of-life management of products on producers. Effective EPR programs can provide Californians with more sustainably designed products, free and convenient collection opportunities, assurances of proper management or recycling for covered products, drive industry's achievement of performance standards, lessen the burden on local governments and ratepayers, drive toward zero waste, strengthen the circular economy, and establish comprehensive, fair, transparent, and effective management of covered products.

Product stewardship (or EPR) programs should contain all the components described below, considering factors unique to each product/product category. The program development timeline should provide sufficient time for CalRecycle to hire staff, adopt regulations, and allow a stewardship organization to consult with interested parties and develop a stewardship plan.

<u>Program Components</u>

1. Purpose
2. Definitions
3. Performance Standards
4. Stewardship Organization
5. Public Consultation
6. Stewardship Plan
7. Annual Report
8. CalRecycle Responsibilities
9. Industry/Producers/Retailers/Etc. Responsibilities
10. Financial Provisions
11. Enforcement and Civil Penalties
12. Miscellaneous Provisions

<u>Program Development Timeline</u>

- Law effective January 1 (Year 1)
- Hiring starts July 1 (Year 1)
- Informal rulemaking October to March (Year 1 to 2)
- Formal rulemaking June to June (Year 2 to 3)
- Stewardship Plan development, including public consultation June to December (Year 3)

<u>Program Component Descriptions</u>

1. **Purpose** – Assists CalRecycle's decision-making during rulemaking and throughout program implementation.

2. **Definitions** – Defines key terms as applicable, including, but not limited to, definition of producer, covered product(s), source reduction, method of collection, recycling, and others with responsibilities under the law.
    - Must Include Tiered Definition of Producer. The wording of each tier will vary depending on the products or types of products covered by the legislation. The top tier should be the entity which exercises the most direct control over the design and production of the product.

3. **Performance Standards** – Specifies the performance standard for convenience as primary focus, along with the metrics and the date(s) by which the standard must be met. Additional performance standard categories that are appropriate for the product and that must be included in the stewardship organization's plan (e.g., collection targets, source reduction, reuse, recycling, environmental standards) should be defined, and be required elements of the stewardship

organization’s plan. For adequate oversight, CalRecycle should have authority to adjust performance standards.

4. **Stewardship Organization** – Describes the requirements that must be satisfied to be a stewardship organization. At a minimum, requirements should ensure that representatives from relevant industries participate in the stewardship organization’s governance and require verifying the stewardship organization’s status as a 501(c)(3). Describes the stewardship organization’s primary responsibilities, which include developing, funding, implementing, and administering a program (See Section VI. Stewardship Plan). A stewardship organization may be called a producer responsibility organization (PRO).

5. **Public Consultation** – Requires a transparent and public consultation process that a stewardship organization shall conduct with interested parties prior to the submittal of a plan and at other relevant times during program implementation. The process should include public workshops, with advanced notice to interested parties including, but not limited to, retailers, service providers, consumers, local government, and public interest groups. Stewardship organizations must also present the stewardship plan to CalRecycle at a public meeting prior to formal submittal to CalRecycle.

6. **Stewardship Plan** – Includes requirements for a stewardship organization to include in its plan. Describes how the stewardship organization intends to provide free and convenient access to the program, achieve performance standards, and meet the requirements specified in the law. The plan contains metrics the stewardship organization will utilize to measure program performance and specifies mechanisms to achieve the annual reporting requirements. Describes how the program will be funded and how public consultation was and will continue to be conducted. Ideally, plans will cover all producers and all covered products as defined in the statute. All producers must be required to comply, either through a stewardship organization or individually.

7. **Annual Report** – Describes how the stewardship organization implemented the plan and met statutory and regulatory requirements during the reporting period. The annual report includes the metrics and relevant information needed for CalRecycle to determine if the performance standards were achieved, including describing the activities the stewardship organization conducted to achieve the performance standards. Contains independently audited financial statements and other financial information that demonstrate the program revenues and expenditures are sufficient to implement the plan and achieve the performance standards.

8. **CalRecycle Responsibilities** – Provides CalRecycle the authority to, at a minimum, adopt regulations, conduct inspections of regulated entities and enforce the chapter, review and make compliance determinations for stewardship plans and annual reports (within 120 days), revise program performance standards, conduct audits of stewardship organizations, and direct certain programmatic activities.

9. **Industry/Producers/Retailers/Etc. Responsibilities** – Describes obligations of entities specific to the product/product category, including producers, distributors, retailers, solid waste facilities and recyclers. Such obligations include, for example, registration requirements, reporting obligations, and business practices required to fund or otherwise facilitate activities of the stewardship organization. If there are other entities with responsibilities under the law, there should be specified requirements for the stewardship organization to support or compensate those entities.

10. **Financial Provisions** – Specifies that the producers participating in the stewardship organization pay all costs associated with developing and implementing the program at no additional cost to consumers, local governments, or the state. Identifies reserve level requirements (e.g., six months of program expenses). Stewardship organization covers all CalRecycle and other state oversight costs, including personnel, regulatory development activities, and ongoing oversight and enforcement costs. Cost internalization, rather than a visible fee at the point-of-sale, is recommended.

11. **Enforcement and Civil Penalties** – Authorizes CalRecycle to impose civil penalties on regulated entities for noncompliance. The stewardship organization must be prohibited from using program funds (e.g., visible assessments, interest on reserve funds, routine payments from members) to pay penalties or costs for litigation against the state. Authorizes CalRecycle to collect any administrative penalties awarded in an enforcement action and outlines how penalty funds may be expended by CalRecycle.

12. **Miscellaneous Provisions** – Addresses provisions such as confidential, proprietary, or trade secret information, recordkeeping, audits, and antitrust provisions.