

CalRecycle Product Stewardship (PS) Legislation Checklist¹

Proposed legislation with a product stewardship approach should consider the following attributes:

Scope

- Defines “Producer” (sometimes called “manufacturer”)
- Defines what is a “covered product” and what is exempt (consider incentives for zero waste).
- Covers new, historic, and orphan products.
- Covers Internet sales.
- Requires statewide coverage, both urban and rural.
- Establishes a process for including additional products over time (for Framework legislation²).
- Requires state legislation (alternatives include changes in regulation or legislative correspondence)
- Harmonizes with PS legislation in other states or countries for similar covered product(s).

Measurement & Effectiveness

- Requires targets or goals. Who sets them – Producers or Government? Are they enforceable?
- Requires reporting from Producers. Defines reporting requirements?
- Addresses customer satisfaction with program.
- Provides incentives and enforcement provisions, e.g., disposal ban of covered product/product category to encourage recycling; prevent sales of covered products that don't have an approved plan; fines for noncompliance, other?
- Requires report(s) covering program effectiveness and recommendations by state oversight and enforcement agency to state legislature or other entity for continual improvement.
- Harmonizes program measurement/performance metrics³ with PS legislation in other states or countries for similar covered product(s). Metrics are in units that allow for comparisons among programs.

Transparency & Accountability

- Identifies Producers as being responsible for developing product stewardship (PS) plans.
- Provides a PS plan submission/approval process. Provides for plan updates.
- Describes plan contents (see next page for topics to consider in plan).
- Allows individual and collective PS programs.
- Provides for an independent, third party audit of the recycling, reclamation or disposal, and financial systems and outcomes.
- Requires online posting of PS plans, annual reports, and lists of compliant Producers.

Financing

- Makes those who benefit from a product pay for program and end-of-life (EOL) management costs.
- Requires front-end financing mechanisms (e.g., cost internalization or point-of-sale as opposed to fees charged when old products are collected or disposed).
- Requires insurance/bonds or other financial assurances for program operations.
- Allows oversight entity to recover costs associated with oversight and enforcement.
- Authorizes an account at state agency to accept fees/penalties dedicated to PS program-related enforcement and oversight activities.

¹ This guidance document is based on the [CalRecycle EPR Framework](#) and generally covers topics that may be considered and/or included in product stewardship or extended producer responsibility legislation.

² Ibid.

³ The [CalRecycle Sample Metrics Table](#) provides a set of metrics which cover program cost, environmental management and impacts, program effectiveness, and job impacts. These metrics represent the kind of data to measure, evaluate, compare, and track effectiveness of EPR or other programs. Also consider tracking impacts to jobs (see the [Jobs Analysis Template](#) for suggestions).

Fairness

- Establishes and collects penalties for non-compliance or provides incentives to encourage participation that levels the playing field among Producers.
- Contains anti-trust provisions attempting to allow Producers and/or product stewardship organizations to establish sustainable financing mechanism for their program(s).
- Requires stakeholder consultation by Producers during program development and/or prior to plan submission.
- Grants authority to a state agency (or other entity) for oversight and enforcement and establishes a fund to receive funds used to provide this service. If more than one entity has authority, clearly defines the roles and responsibilities.
- Costs for state services are minimized yet adequate for oversight and enforcement activities.

Environmental Protection

- Requires best management practices for materials management operations (e.g., reuse, recycling, disposal).
- Generally adheres to California's solid waste hierarchy or otherwise ensures products are managed for highest and best use (e.g., address source reduction and reuse in addition to recycling; incineration is not considered recycling in California).
- Ensures products are properly managed for disposal if hazardous and not recyclable.
- Ensures minimum performance levels and/or provides incentives to surpass those levels (e.g. product performance goals/standards, EOL management systems, and/or covering recycling/recovery facilities).

Education & Outreach

- Producer has lead role for marketing, outreach, training, and/or education of stakeholders, including consumers.
- Requires labeling of product and/or product package so consumers know how to properly dispose of product.

Product Design

- Provides guidance mechanisms/incentives/fee structures to drive product design for environmental improvement.

Product Stewardship Plan Elements Checklist

- Contact information for participating Producers.
- A description of the covered product and associated brands covered by the plan.
- Dates for when plan must be submitted and take effect.
- Performance goals and a description of how the performance goals will be achieved and how results will be measured:
 - Tons/capita collected of the target materials;
 - Total cost (\$)/lbs diverted;
 - Percent of targeted material collected (e.g., as percentage of what was discarded);
 - Percent of material recovered (e.g., as percentage of annual sales);
 - Tons of greenhouse gas emissions reduced (if able to calculate); and
 - Reuse rate, recycling rate, and other processing methods.
- Roles and responsibilities of key players along the product chain; names and location of transporters, recyclers, and disposal facilities; description of how product and components will be collected, transported, and managed.
- Financing methods and evidence of adequate insurance and financial assurance for collection, handling and recycling/disposal operation. Tracking of program cost.
- Strategies for managing and reducing the life cycle impacts of a covered product, e.g., producer may identify goals that address the use of virgin material in the manufacture of a covered product, recycled content and recyclability; consumption of water or energy; use or generation of hazardous substances; carbon footprint; product's longevity.
- Education and outreach activities.
- Consultation process used to consult with affected stakeholders prior to plan submittal and ongoing feedback during implementation.
- Market development opportunities for collected materials.