

# EPR

**EXTENDED PRODUCER RESPONSIBILITY**



**CalRecycle**

# EXTENDED PRODUCER RESPONSIBILITY

## A Building Block of the Circular Economy

California is leading the nation to create a circular economy in which “our waste” is viewed as an economic resource that can be reused, recycled, or remanufactured into new products.

Extended producer responsibility, or EPR, programs are one of the many policy tools used in California and around the world to transition from a disposable economy to a circular economy.

EPR offers businesses a flexible approach to meet goals established by the state legislature. EPR programs can be adapted to meet the unique circumstances of manufacturing, distribution, and management for each product type. Performance standards are ideally set in EPR statute, and businesses can identify their own path to compliance.





# WHAT IS EXTENDED PRODUCER RESPONSIBILITY?

**E**PR is an environmental policy approach that extends producers' responsibility for product management from production through the end of a product's useful life and beyond.

EPR programs support recycling and material management goals to:

- Contribute to a circular economy
- Minimize environmental impacts
- Make recycling convenient for consumers
- Reduce recycling costs for local governments

**EPR programs create bridges to the infrastructure needed to meet:**

- Business sustainability targets, and
- The EPR program's performance standards.

EPR programs allow for economies of scale for sustainable practices, generating savings for many businesses already pursuing sustainability goals.

EPR programs incentivize producers to rethink and redesign their products to maximize recyclability.

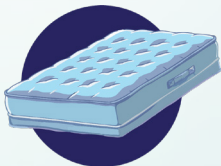
The **Producer Responsibility Organization (PRO)** coordinates industry's efforts to meet the performance standards of the EPR program.

**The PRO typically:**

- Establishes material collection sites,
- Educates the public about how to utilize the EPR program, and
- Ensures collected materials make it to a responsible end market.



# KEY CONSIDERATIONS FOR IDENTIFYING PRODUCTS FOR EPR



**EPR** is a policy model intended for products that are difficult to recycle, examples include:

- The product is bulky and difficult to manage
- The product is dangerous or complicated to recycle
- The product is pervasive
- The product is expensive to manage in the waste stream

# CONSUMER CONVENIENCE - WHY IT'S IMPORTANT

**W**hile performance standards vary from program to program, a unifying component is consumer convenience, which helps to:

- Achieve higher collection rates
- Reduce the environmental impact of improperly disposed products
- Support producers' efforts to meet their regulatory obligations
- Contribute to cleaner material streams for circular economy end-markets



# WHO RUNS AN EPR PROGRAM?

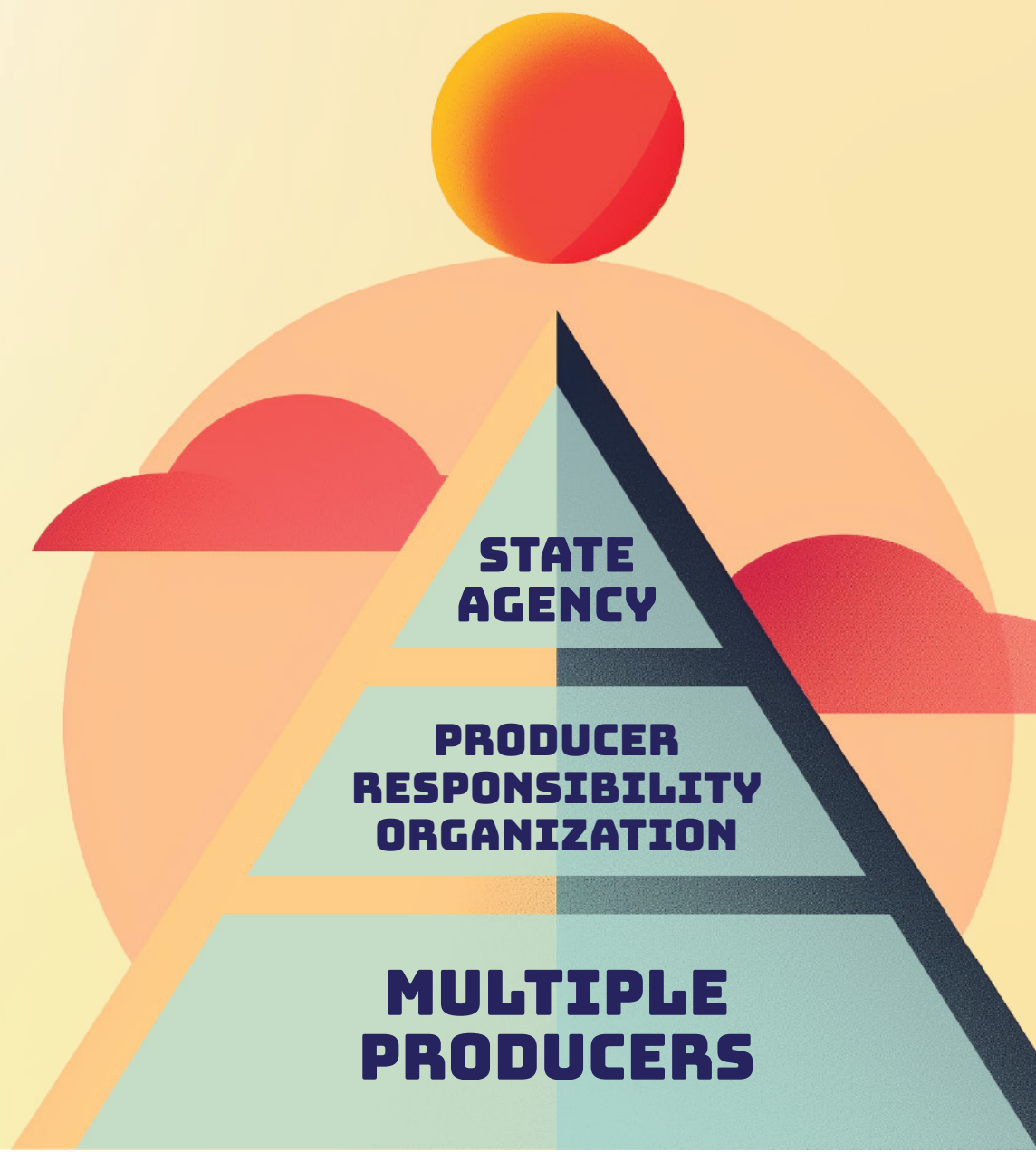
**T**he PRO runs the EPR program and ensures the equitable participation of the individual producers. The PRO must be a 501(c)(3) nonprofit industry group formed by the regulated businesses.

A state agency, typically CalRecycle, has oversight of the PRO and other regulated businesses.

**PROs are the direct operators of an EPR programs.**

**They are responsible for:**

- Registering and educating producers
- Distributing the funding and creating a plan for:
  - » Collecting, transporting, and processing materials
  - » Education and outreach
  - » Creating incentives for reuse or design innovations
  - » Reimbursing the state agency for the program's
    - α Administration
    - α Enforcement
    - α Oversight
- Tracking and reporting program data to the state oversight agency
- Developing a plan and submitting it to CalRecycle for review and approval. The plan lays out how the PRO will operate the stewardship program to achieve the performance standards and requirements of statute and regulations.





# EPR PROGRAMS CURRENTLY ADMINISTERED BY CALRECYCLE

CalRecycle has over a decade of experience implementing EPR programs. In 2010, both paint and carpet EPR programs were created. Since then, CalRecycle has also started overseeing EPR programs for mattresses (starting in 2014) and pharmaceuticals and sharps (starting in 2018).

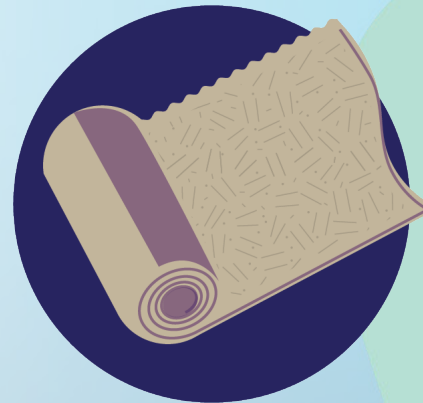
## In 2023 CalRecycle began informal rulemaking for:

- Loose battery EPR, and
- Single-use packaging and plastic single-use food service ware EPR.

In the first half of the 2023-2024 legislative session, the Legislature expanded the paint EPR program to include aerosol coating products.

CalRecycle does not necessarily maintain expertise in all products managed by EPR, but it is expert at administering the EPR programs.

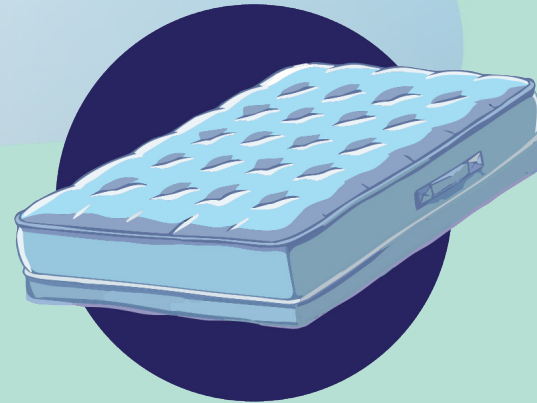
CalRecycle's partnership with the private sector through the PRO allows product-specific expertise to manage the programs.



**Carpet (2010)**



**Paint (2010)**



**Mattresses (2014)**



**Sharps & Pharma (2018)**



**Batteries (2022)**



**Packaging & Plastic Food Ware (2022)**

An illustration of a person with dark hair in a ponytail, wearing a teal jacket over a striped shirt and dark pants, walking up a staircase. The staircase is composed of red and orange steps. The background is a large yellow triangle on the left and a light blue background on the right.

## Who is a “producer” with ultimate responsibility for products in an EPR program?

To account for the variety and complexity of how products are produced and delivered to consumers, EPR statutes use a tiered definition of producer.

The next page is just an example of what a tiered definition of producer can look like.

The wording of each tier will vary depending on the products or types of products covered by the legislation.

The top tier should always be the entity with the most direct control to alter design and manufacturing to ensure best management at the product's end of life.

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# TIERS OF RESPONSIBILITY



# TIERS OF RESPONSIBILITY

## CONTINUED ...

**For example, in the case of a product for which the actual manufacturer is primarily responsible for product design, a producer could be defined as follows:**

1. "Producer" means a person who manufactures a covered product and who sells, offers for sale, or distributes a covered product into the state under that person's own name or brand.
2. If there is no person in the state who is the producer for purposes of paragraph (1), the producer of the covered product is the owner or licensee of a brand or trademark under which the covered product is sold or distributed into the state, whether or not the trademark is registered. For purposes of this subdivision, an exclusive licensee is a person holding the exclusive right to use a trademark or brand in the state in connection with the manufacture, sale, or distribution for sale in the state of the covered product.
3. If there is no person in the state who is the producer for purposes of paragraph (1) or (2), then the producer of the covered product is the person that imports the covered product into the state for sale or distribution.
4. If the person who sells, offers for sale, or is the importer or distributor of the covered product in or into the state for sale in or into the state is a marketplace seller, then the marketplace facilitator is the obligated producer.
5. If there is no other person in the state who is the producer for purposes of paragraphs (1), (2), (3), or (4), the producer of the covered product is the distributor, retailer, or wholesaler who sells the product in or into the state.
6. For the purposes of this chapter, the sale of a covered product shall be deemed to occur in the state if the covered product is delivered to the consumer in the state.



# PRO PLANS: MEETING THE REQUIREMENTS

The statutory requirements for the plan should be designed to work for the intended covered product and industry.

PRO plans are a flexible and integral part of EPR. The PRO develops and submits a plan to the state agency, which describes, in detail, how it will implement the statutory requirements, including:

**Environmental Stewardship Plans** set strategies to:

- Meet the performance standards set in statute and
- Reduce the environmental impact of products throughout their lifecycle by efficiently using resources and recycling materials.

**Cost Sharing Plans** outline how costs to run the program will be distributed among producers.

**Collection and Recycling Plans** establish systems that organize collection and recycling efforts for covered products providing:

- Conveniently located and free product collection options to meet required convenience standards and
- Systems to ensure materials are processed, and recycled

**Education and Awareness Plans** outline how PROs will educate consumers about recycling and responsible product management.

**Reporting and Compliance Plans** set specific metrics and timelines to track progress and optimize programs ensuring producers comply with EPR requirements, including:

- A description of how performance and convenience standards will be achieved, and
- Providing a list of producers and brands of covered products.

**Innovation plans** encourage product design improvements for sustainability.



# PRO ANNUAL REPORTS

**P**ROs are also required to submit annual reports to the state agency that demonstrate the progress and success of their plan's implementation. The reports' requirements are laid out in statute and regulations.

**Reports must include the program's measurable data on the:**

- Convenience
- Collection
- Disposition, and
- Overall implementation of the program.

All program participants must maintain records in accordance with generally accepted accounting principles.

# OVERSIGHT AGENCY RESPONSIBILITIES

**Typically, CalRecycle provides oversight for EPR programs in the state, including:**

- Conducting a public rulemaking process to implement, interpret, and make specific the EPR statute
- Reviewing and approving proposed PRO plans
- Providing a list of compliant producers on its website
- Reviewing annual reports for compliance
- Conducting audits and enforcement activities



# CALRECYCLE ENFORCEMENT



**C**alRecycle ensures that the PROs meet the performance standards and program requirements laid out in statute, regulations, and the PRO's plan.

If CalRecycle determines that a PRO is noncompliant, the department may issue penalties or take other enforcement actions against the PRO, such as:

- Removing noncompliant producers from CalRecycle's website
- Revoking the plan
- Requiring the PRO to:
  - » Revise the implementation of its plan and/or
  - » Provide more detailed data in its annual reports.

CalRecycle has a progressive enforcement approach across all programs. The priority for the department is that programs run as intended to meet the waste reduction and recycling goals and to create a circular economy that benefits Californians and the environment.

# EPR AS A SANDWICH

**W**hile the EPR policy model has many necessary components, much like a sandwich, they can all be adapted to meet the needs of the desired product category. To build an EPR sandwich you will need to choose:



- **Top Bread**

PRO's Plan

- **Vegetables**

Consumer convenience, education, and collection requirements

- **Cheese**

Performance standards and metrics

- **Protein**

Covered product

- **Bottom Bread**

State agency oversight and enforcement



## Key Terms:

**Extended Producer Responsibility** – Policy model that extends the responsibility of a product's producer to managing the product at the end of its life.

**Covered Product** – A product intended to be covered by the EPR program. Usually a product that is difficult, expensive, or somehow challenging to manage.

**Tiered Definition of Producer** – Makes it clear who is responsible for the product.

- The first tier is always the entity with the most control over products' manufacturing, design, and distribution.
- Each following tier is responsible if the oversight agency is unable to enforce against the preceding tier.

**Producer Responsibility Organization** – A 501(c)(3) organization established and managed by the producers to draft and implement the plan for how the producers will meet the EPR requirements established in statute and regulations.

**PRO Plan or Plan** – The PRO develops a plan for how the producers will implement the EPR program for the Covered Product. The Oversight Agency reviews and must approve the plan before the PRO begins implementation of the EPR program.

**Consumer Convenience** – A requirement that consumers can access and use the EPR program. Consumers must have convenient access to discard their covered product so that the EPR program recovers it.

**Performance Metrics** – Metrics to measure the EPR programs' success and progress towards achieving the policy objectives set in statute.

## Contact information

For more information or if you have any questions, please contact CalRecycle's Office of Legislative and External Affairs:

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