

California Delays Extended Producer Responsibility Regulations for Plastic and Packaging: Three Takeaways

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Earlier this month, California Governor Gavin Newsom directed the state's recycling agency, CalRecycle, to restart the process of issuing regulations for California's landmark plastic and packaging extended producer responsibility (EPR) law.

Over the past year, CalRecycle has been [working](#) to finalize implementing regulations by March 7. Facing a [one-year deadline](#) to finalize the regulations, Governor Newsom [asked them to start again](#).

CalRecycle will now issue a new administrative rulemaking notice and reopen draft regulations for public comment. The agency is expected to revise its proposed rules due to Governor Newsom's concern over the cost of the initial draft regulations, estimated at \$36 billion over 10 years.

As this development with California's EPR legislation shows, EPR programs for plastic and packaging are still evolving. Even before Governor Newsom's decision, CalRecycle had revised its draft regulations [twice](#) in response to public feedback. We have previously covered trends in plastic regulation at state, national and global levels [here](#) and [here](#), as well as California's first-in-the-nation producer responsibility law for textiles [here](#).

An overview of California's plastic and packaging EPR law and key takeaways for impacted businesses follow below.

California's EPR Landscape

In 2022, California enacted the Plastic Pollution Prevention and Packaging Producer Responsibility Act ([SB 54](#)), setting ambitious goals for reducing and recycling plastic. By 2032, the law requires:

- A 25% reduction in single-use plastic packaging and food ware.
- 65% of single-use plastic packaging and food ware to be recycled.
- 100% of single-use packaging and plastic food ware to be recyclable.

The law also sets interim recycling targets, requiring 30% plastic packaging and food ware recycling by 2028, and 40% by 2030.

The law requires “producers” of “covered material” to join a producer responsibility organization (PRO), a nonprofit organization formed by producers. The PRO works with CalRecycle and producers to build and operate source reduction and recycling programs.

“Covered material” includes single-use packaging and plastic food service ware, such as plates and utensils. The “producer” is typically a California-located entity that owns or licenses the brand under which the covered product is sold. If there is no California-located entity, the distributor into California is considered the “producer.”

The PRO’s responsibilities include submitting a program plan for CalRecycle’s approval, detailing how it will meet the law’s targets. For example, the plan may involve creating recycling programs, like curbside or drop-off collection, or improving sorting processes. To fund these efforts, the PRO will assess fees on producers. It will also collect funds for California’s Plastic Pollution Mitigation Fund. From 2027-2037, the PRO must deposit \$500 million annually into the fund. CalRecycle has named the [Circular Action Alliance](#) as the PRO.

Takeaways

There are three key takeaway points from the regulated community:

- **EPR Programs Are Evolving:** Although some EPR laws have existed for decades, producer responsibility for many products is new. Recent years have seen state EPR laws for batteries, pharmaceutical drugs, tires, and household items such as mattresses, [textiles](#), paint, and carpets. We expect more regulatory developments over the next several years, as states refine these laws and their implementing regulations.
- **Impacted Businesses Have Another Chance to Comment:** By restarting the regulatory process, businesses have another opportunity to comment on the proposed regulations. California law requires at least 45 days for public comment on new proposals.
- **Potential Changes in Regulation:** Over the past year, CalRecycle [considered](#) whether to include plastic-coated paper items in its source reduction and recycling rate targets. CalRecycle decided to include these items (composed mostly of paper and less than 20% plastic) because it believed that option better served the law’s goals. However, given Governor Newsom’s concern about program cost, CalRecycle may decide to exclude these items from some recycling targets.

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