



Meeting of the Board of Directors

September 16, 2021
REGULAR MEETING

Regular Session begins at 9:00 a.m.

Estimated Ending Time 11:30 a.m.

Virtual Meeting via Zoom

<https://sonomacounty.zoom.us/j/92248855470?pwd=OFFVNULiWVh5Wk5SSzVyWWdWbndjdz09>

Or Telephone: +1 669 900 9128

Webinar ID: 922 4885 5470

Passcode: 157476

Meeting Agenda and Documents

ZERO WASTE SONOMA

Meeting of the Board of Directors

September 16, 2021

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Note: This packet is 45 pages total



Zero Waste Sonoma

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September 16, 2021

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Regular Session begins at 9:00 a.m.

Estimated Ending Time 11:30 a.m.

In accordance with Executive Orders N-25-20 and N-29-20 the Board of Directors meeting will be held virtually.

MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON

Virtual Meeting via Zoom

<https://sonomacounty.zoom.us/j/92248855470?pwd=OFFVNULiWVh5Wk5SSzVyWWdWbndjdz09>

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PUBLIC COMMENT:

Public Comment may be submitted via recorded voice message or email. Public comment may also be made by “raising your hand” using the Zoom platform.

Voice recorded public comment: To submit public comment via recorded message, please call 707-565-2722 by 5:00 pm Wednesday, September 15th. State your name and the item number(s) on which you wish to speak. The recordings will be limited to two minutes. These comments may be played or read at the appropriate time during the board meeting.

Email public comment: To submit an emailed public comment to the Board please email leslie.lukacs@sonoma-county.org and provide your name, the number(s) on which you wish to speak, and your comment. These comments will be emailed to all Board members and can be provided anytime leading up to and throughout the meeting.



Agenda

Item

1. Call to Order Regular Meeting
2. Agenda Approval
3. Public Comments (items not on the agenda)

Consent (w/attachments)

- 4.1 Minutes of the August 19, 2021 Regular Meeting
- 4.2 August, September, and October 2021 Outreach Calendar

Regular Calendar

5. Discussion and Possible Action for a Battery EPR Model Ordinance [Scott]
6. Boardmember Comments – NO ACTION
7. Executive Director Report – VERBAL REPORT
8. Staff Comments – NO ACTION
9. Next ZWS meeting: October 21, 2021
10. Adjourn

Consent Calendar: These matters include routine financial and administrative actions and are usually approved by a single majority vote. Any Boardmember may remove an item from the consent calendar.

Regular Calendar: These items include significant and administrative actions of special interest and are classified by program area. The regular calendar also includes "Set Matters," which are noticed hearings, work sessions and public hearings.

Public Comments: Pursuant to Rule 6, Rules of Governance of the Sonoma County Waste Management Agency/Zero Waste Sonoma, members of the public desiring to speak on items that are within the jurisdiction of the Agency shall have an opportunity at the beginning and during each regular meeting of the Agency. When recognized by the Chair, each person should give his/her name and address and limit comments to 3 minutes. Public comments will follow the staff report and subsequent Boardmember questions on that Agenda item and before Boardmembers propose a motion to vote on any item.

Disabled Accommodation: If you have a disability that requires the agenda materials to be in an alternative format or requires an interpreter or other person to assist you while attending this meeting, please contact the Zero Waste Sonoma Office at 2300 County Center Drive, Suite B100, Santa Rosa, (707) 565-3579, at least 72 hours prior to the meeting, to ensure arrangements for accommodation by the Agency.

Noticing: This notice is posted 72 hours prior to the meeting on the internet at www.zerowastesonoma.gov



To: Zero Waste Sonoma Board Members

From: Leslie Lukacs, Executive Director

Subject: September 16, 2021 Board Meeting Agenda Notes

Consent Calendar:

These items include routine financial, informational and administrative items and **staff recommends that they be approved en masse by a single vote.** Any Board member may remove an item from the consent calendar for further discussion or a separate vote by bringing it to the attention of the Chair.

4.1 August 19, 2021 Meeting Minutes

4.2 August, September, and October 2021 Outreach Calendar

Regular Calendar

5 Discussion and Possible Action for a Battery EPR Model Ordinance: The proper disposal management of batteries is costly to the ratepayers, challenging due to sparse collection options and dangerous due to fire concerns when not properly disposed. A potential solution for proper battery collection and recycling is to adopt a local battery Extended Producer Responsibility (EPR) Model Ordinance. EPR is a strategy that places responsibility for the end-of-life product management on the producers instead of local government and the general public. It also encourages product redesign that minimizes the negative impacts on human health and the environment throughout the product's lifecycle. This would remove the cost burden from local governments, ratepayers, and retailers and place it on the product producers that sell batteries in Sonoma County. Several different structural options for the management and financing of batteries will be presented.

Recommended Action: Staff recommends the Board provide direction on developing a model ordinance for extended producer responsibility (EPR) of batteries.



Minutes of the August 19, 2021 Meeting

Zero Waste Sonoma met on August 19, 2021, via Zoom to hold a virtual board meeting.

Board Members Present:

City of Cloverdale - Marta Cruz
City of Cotati - Susan Harvey
City of Healdsburg - Absent
City of Petaluma - Patrick Carter
City of Rohnert Park - Pam Stafford

City of Santa Rosa - Absent
City of Sebastopol - Diana Rich
City of Sonoma - Absent
County of Sonoma – Susan Gorin
Town of Windsor - Deb Fudge

Staff Present:

Executive Director: Leslie Lukacs
Counsel: Ethan Walsh
Staff: Xinci Tan, Sloane Pagal, Thora Collard, Courtney Scott
Agency Clerk: Janel Perry

1. Closed Session:

Closed session was called to order at 8:30 a.m.
CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Initiation of litigation pursuant to Government Code sec. 54956.9(c)
One case
Adjourn Closed Session at 9:06 a.m.

2. Call to Order Regular Meeting

Regular meeting was called to order at 9:14 a.m.
Introductions
There were no reportable actions.

3. Agenda Approval

4. Public Comments (items not on the agenda)

None

5. Consent (w/attachments)

- 5.1 Minutes of the June 20, 2021 Regular Meeting
- 5.2 June, July, August, and September 2021 Outreach Calendar
- 5.3 FY 2020/21 Year End Financial Report
- 5.4 Records Retention Schedule Revisions

Action Items:

Correct typos on calendar:

- Jurisdiction
- Add "open" in front of county-wide

Public Comments:

None

Motion: For approval of all items of the consent calendar, with typo changes on the Outreach Calendar.

First: City of Cotati - Susan Harvey

Second: City of Petaluma - Patrick Carter

Vote Count:

City of Cloverdale	AYE	City of Santa Rosa	ABSENT
City of Cotati	AYE	City of Sebastopol	AYE
City of Healdsburg	ABSENT	City of Sonoma	ABSENT
City of Petaluma	AYE	County of Sonoma	AYE
City of Rohnert Park	AYE	Town of Windsor	AYE

AYES -7- NOES -0- ABSENT -3- ABSTAIN -0-

Motion passed.

Regular Calendar

6. Authorization of Submittal of Regional Application for Beverage Container Recycling Pilot Program Grant [Pagal]

Board Comments/Action Items:

- Continue to actively seek easily accessible CRV buyback locations throughout the county
- Ensure zoning is correct for the Sebastopol Community Church location.
- Identify the total amount of funding available to rent locations due to the delayed start date.
- Discuss with CalRecycle a solution to adding Cotati/Rohnert Park as a CRV buyback location.
- E-mail jurisdictions a list of which stores are opting out of CRV buy-back and complaint link.

Public Comments:

Duncan: Why are grocery stores required to accept recyclables if they aren't aware of proper procedures and probably don't have the staffing to handle the recyclables?

Motion: To approve the proposed resolution as part of the requirement of the CalRecycle Grant Unit, so that the Agency and the Recycler (United Cerebral Palsy of the North Bay's Petaluma Recycling Center) may receive the Notice to Proceed from CalRecycle to begin making reimbursable purchases through the grant component of the approved for Beverage Container Recycling Pilot Program Grant program.

First: City of Petaluma - Patrick Carter

Second: City of Cotati - Susan Harvey

Vote Count:

City of Cloverdale	AYE	City of Santa Rosa	ABSENT
City of Cotati	AYE	City of Sebastopol	AYE
City of Healdsburg	ABSENT	City of Sonoma	ABSENT
City of Petaluma	AYE	County of Sonoma	AYE
City of Rohnert Park	AYE	Town of Windsor	AYE

AYES -7- NOES -0- ABSENT -3- ABSTAIN -0-
Motion passed.

- 7. Boardmember Comments – NO ACTION**
Comments were received by the board.
- 8. Executive Director Report – NO ACTION**
Executive Director presented report.
- 9. Staff Comments – NO ACTION**
Comments were received by staff.
- 10. Next SCWMA meeting:** Sept. 16, 2021
- 11. Adjourn:** 10:17 a.m.

Submitted by: Janel Perry



Agenda Item #: **4.2**
Agenda Date: **9/16/2021**

ITEM: August, September, and October 2021 Outreach Calendar

AUGUST 2021 OUTREACH

Start date	End date	Start time	End time	Event
8/3/21	8/3/21	12:00 PM	1:00 PM	Polystyrene & Disposable Foodware Webinar / Q&A (Virtual)
8/3/21	8/3/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Sebastopol)
8/3/21	8/3/21	10:00 AM	1:30 PM	Petaluma East Side Farmer's Market (Petaluma)
8/7/21	8/7/21	9:00 AM	4:00 PM	Northern Sonoma County Fire and Earthquake Safety Expo (Cloverdale)
8/10/21	8/10/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Windsor)
8/14/21	8/15/21	9:00 AM	5:00 PM	E-Waste Recycling Event (Oakmont)
8/17/21	8/17/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Larkfield)
8/17/21	8/17/21	5:00 PM	6:00 PM	California Resource Recovery Association Conference Associate of the Year Award (Virtual)
8/19/21	8/19/21	2:00 PM	3:00 PM	California Resource Recovery Association Conference Presentation (Virtual)
8/24/21	8/24/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Sonoma)
8/31/21	8/31/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Cotati)
8/29/21	8/29/21	10:00 AM	2:00 PM	Bodega Bay Farmer's Market (Bodega Bay)

SEPTEMBER 2021 OUTREACH

Start date	End date	Start time	End time	Event
9/7/21	9/7/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Santa Rosa)
9/10/21	9/12/21	9:00 AM	5:00 PM	E-Waste Recycling Event (Rohnert Park)
9/14/21	9/14/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Healdsburg)
9/21/21	9/21/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Kenwood)
9/28/21	9/28/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Oakmont)

OCTOBER 2021 OUTREACH

Start date	End date	Start time	End time	Event
10/5/21	10/5/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Forestville)
10/8/21	10/10/21	9:00 AM	5:00 PM	E-Waste Recycling Event (Cloverdale)
10/9/21	10/9/21	9:00 AM	5:00 PM	Mattress Recycling Event (Cloverdale)
10/12/21	10/12/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Cloverdale)
10/16/21	10/16/21	8:00 AM	12:00 PM	Paint Collection Event (Santa Rosa)
10/19/21	10/19/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Rincon Valley)
10/26/21	10/26/21	4:00 PM	8:00 PM	Household Hazardous Waste Event (Rohnert Park)



Staff Contact: **Scott**
Agenda Date: **9/16/2021**
Approved By: **LL**

ITEM: Discussion and Possible Action for a Battery EPR Model Ordinance

I. RECOMMENDED ACTION / ALTERNATIVES TO RECOMMENDATION

Staff recommends the Board provide direction on developing a model ordinance for extended producer responsibility (EPR) of batteries.

II. BACKGROUND

Extended Producer Responsibility (EPR) is a longstanding core value of Zero Waste Sonoma. According to the California Product Stewardship Council (CPSC), EPR is a strategy to place responsibility for the end-of-life product management on the producers instead of local government and the general public. It also encourages product redesign that minimizes the negative impacts on human health and the environment throughout the product's lifecycle. In 2001, ZWS unanimously passed an EPR resolution in support of EPR policies and in 2008 to 2010, each individual jurisdiction passed their own resolutions in support of EPR with varying language. Similarly, the Zero Waste Resolution has been passed by 9 of the 10-member jurisdictions and contains language supporting EPR.

California's Universal Waste Rule of 2006 banned landfill disposal of more products deemed hazardous, including household single-use batteries. State policies such as this hold local governments responsible for achieving waste diversion goals through education and disposal fees without providing a funding mechanism.

In 2006, the Rechargeable Battery Recycling Act went into effect which requires retailers that sell rechargeable batteries to have a system in place to collect used rechargeable batteries from consumers. Battery producers fund the handling, recycling, and disposal of used rechargeable batteries while retailers provide the labor associated with collecting. More recently, two more battery bills were attempted at the State level and failed. AB 1509 of 2019 would have addressed lithium-ion batteries specifically and SB 289 of 2021 would have addressed all batteries and battery-embedded products.

In Fiscal Year 2019-2020, the household hazardous waste (HHW) programs managed by ZWS collected 44,899 pounds of household batteries (both rechargeable and single-use) and spent approximately \$39,736 in disposal costs of single-use batteries alone. HHW Facility staff currently spend around 60 hours per week sorting batteries.

This year, 33 retail locations in the County are advertised as a battery drop-off location. Some stores only accept rechargeable batteries, some stores have drop-off limits, and others have started charging for the drop-off of single-use batteries. Several stores have dropped out of the program over the years and places like Sea Ranch, Guerneville, Geyserville, and Forestville no longer have battery disposal options other than HHW programs. Lastly, ratepayer funded battery-collection locations are built into the franchise agreements for the City of Healdsburg, City of Rohnert Park,

and the City of Sebastopol while curbside battery collection is offered in the City of Santa Rosa and the Town of Windsor.

III. DISCUSSION

Battery chemistries are difficult for professionals to identify, let alone the general public and some batteries are not labeled at all. Batteries of all chemistries still end up in the landfill and recycling streams and often cause fires at recycling facilities. Recology Sonoma Marin reports experiencing battery fires at their Materials Recovery Facility (MRF) at least once a month to varying degrees.

A potential solution for proper battery collection and recycling is to adopt a local battery EPR ordinance. This would remove the cost burden from local governments, ratepayers, and retailers and place it on the product producers that sell batteries in Sonoma County. Targeted product options could include any of the following:

1. All battery chemistries
2. Single-use only
3. Lithium-ion only
4. Loose batteries
5. Embedded batteries

There are also several different structural options for the management and financing of the ordinance including:

1. True EPR: Places the primary responsibility of processing, recycling, and program management on the producer. Because the cost is internalized by the producer, it incentivizes a product design that supports a circular economy. Costs may be incorporated into the total cost of the product.
 - a. Internalized costs: Producers cover the cost of processing, recycling, and program management, though they can also increase the cost of their products.
2. Product stewardship: Places some responsibility onto the producer through processing and recycling, though costs are typically passed onto the consumer through a visible fee and program management can vary.
 - a. Visible fees: Consumers pay an additional fee per item purchased. The fee is clearly labeled on the receipt as a recycling fee, similar to purchasing paint.
 - b. Deposit system: Consumers pay an additional deposit per item purchased. The deposit would be returned to the consumer at the point of recycling similar to the CRV system.

Each option requires a different type of ZWS oversight. For EPR, ZWS would determine each producer that should participate, conduct periodic audits at retail locations, and make sure the stewardship organization is running properly. For product stewardship, ZWS would provide continual enforcement of retail participation and make sure the stewardship organization is running properly.

IV. FUNDING IMPACT

Currently, staff time and legal counsel are the only fiscal impact. In the long term, EPR will save the HHW program in annual battery recycling costs, currently around \$40,000/year. ZWS will provide ordinance oversight and funding should be included in the ordinance to be reimbursed by the stewardship organization.

V. ATTACHMENTS

1. California Product Stewardship Council Presentation
2. Example ordinance: An Ordinance Establishing a Product Stewardship Disposal Program for Batteries



CPSC
California Product
Stewardship Council SM



Batteries Ordinance Discussion

September 16, 2021

CPSC Board/Organization



Joanne Brasch



Doug Kobold



Nate Pelczar



Kamryn Kubose

Staff



Ruby Meza

Board Executive Committee



Kristina Miller, Chair
City of Corning



Manuel Medrano, Vice-Chair
City of Chula Vista



Tedd Ward, Treasurer
Del Norte WMA



Colleen Foster, Secretary
City of Oceanside

CPSC Board/Organization



14 Member Board: <https://www.calpsc.org/about-us>



Derek Crutchfield
City of Vallejo



Amy Hammes
City of Burbank



Alexa Kielty
City & County of San
Francisco



Justin Lehrer
Alameda County
StopWaste



Wes Nelson
GreenWaste Carpet
Recycling



Steve Rodowick
Butte County



Chris Sheppard
LA County Public Works

Funding



Associates

Thank you Cities, Counties, Districts, and JPAs!

Sponsors

Platinum Sponsors (\$10,000+)



Other Levels: Gold (\$5,000+), Silver (\$2,500+), Bronze (\$500+), Green (\$250+)



FIBERSHED



CalRecycle
Product Care Association of Canada
Zanker Road Resource Mgt., Ltd.
R3 Consulting
Resource Recovery Coalition of California
Regent Apparel

The Problem – All those batteries!

So many different types and chemistries of batteries!

So many different uses!

What's a consumer to do?



Which products do you go after?

Loose, Embedded, both?



Existing Program: Rechargeable Batteries



Producer funded! Industry Run!

AB 1125, Pavley, 2005

Shipping Boxes via Common Carrier

- Call2Recycle box example shown below
- Specially designed with fireproof lining



<https://www.call2recycle.org/>



Large Battery & Cellphone
Recycling Box

\$65.00



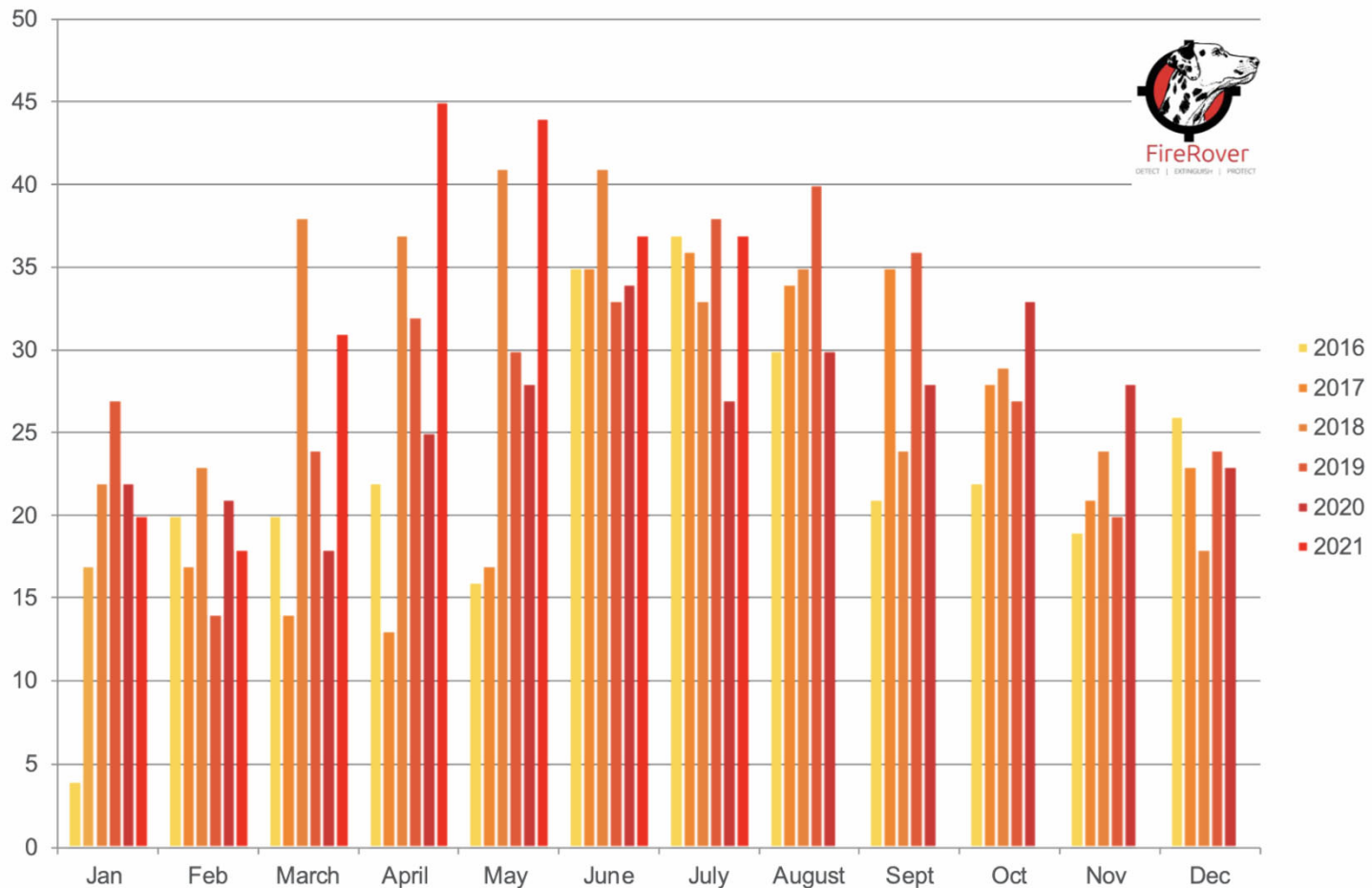
Small Battery & Cellphone
Recycling Box

\$45.00

<https://www.call2recycle.org/product/large-battery-cellphone-recycling-box/>

Fires in facilities!

REPORTED WASTE & RECYCLING FACILITY FIRES IN US/CAN FEB 2016 – JULY 2021



Source: Ryan Fogelman, rfogelman@firerover.com

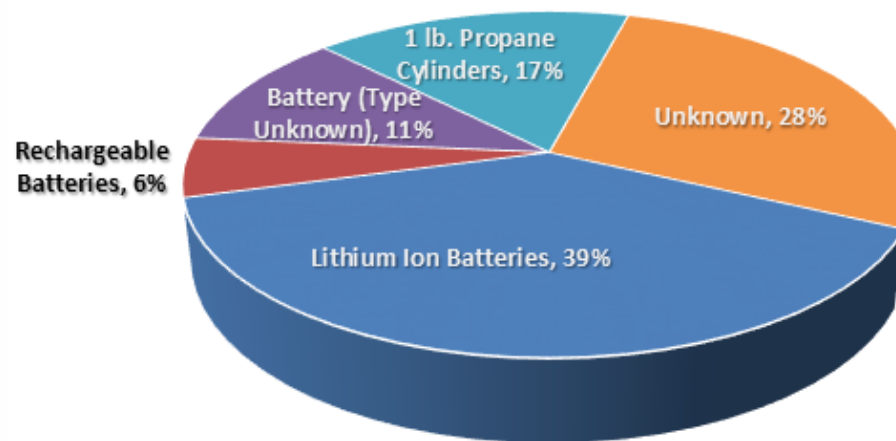
CPSC Fire Incident Survey



CPSC conducted a survey in March 2018 to find out more about waste facility fires:

- 22 respondents from CA waste facilities, with 21 responding yes or no to facility fires.
- **86% of the 21 reported having a fire at their facility** in the last two years.
- When asked to identify the source of the reported fires, **56% of the reported fires** were due to batteries.
- Lithium-ion batteries are the largest source of reported fires.

Sources of Fires at Waste Management Facilities



South Bayside Waste Management Authority



- Major fire at MRF caused by lithium batteries
- Insurance premiums increased causing rates to increase
- **At risk of losing insurance coverage and having to self-insure!**

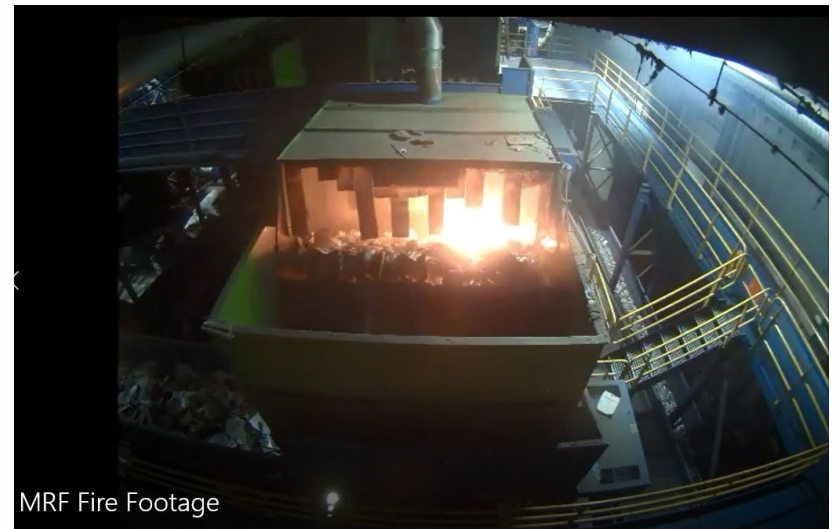
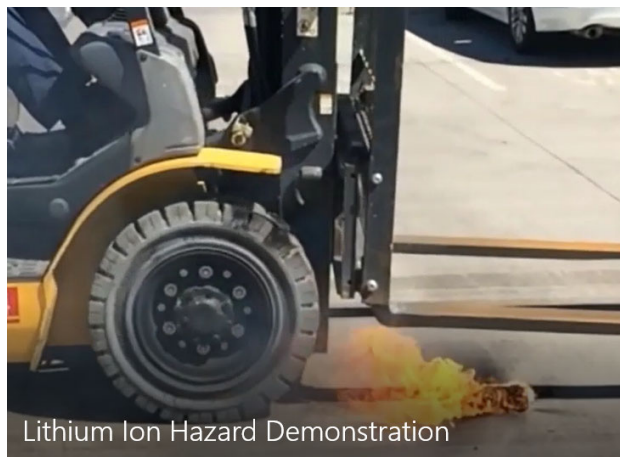
<http://www.rethinkwaste.org/>

MRF fire footage:

<https://www.youtube.com/watch?v=EkK4GdKjp-U>

Hilary running over a battery video:

<https://www.youtube.com/watch?v=9x7Gpygk9TM>



This can't keep happening!



What's been tried at the state level?



How about some legislation?

Legislative Session 2013/2014 - Assembly Bill (AB)2284!

Recycling: household batteries pilot projects

Introduced by Assembly Member Williams

Died in Senate Environmental Quality

Legislative Session 2019/2020 - Assembly Bill (AB)1509!

Solid waste: lithium-ion batteries

Introduced by Assembly Members Mullin and Berman

(Principal coauthor: Senator Hill)

(Coauthors: Assembly Members Bloom and Eggman)

Co-Sponsored by: CPSC, South Bayside Waste Management Authority, & CAW

Died in Senate Environmental Quality

Legislative Session 2021/2022 - Senate Bill (SB)289!

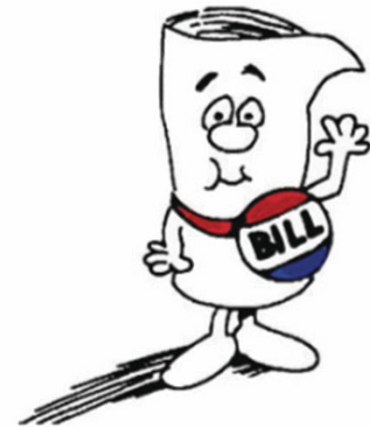
Recycling: batteries and battery-embedded products

Introduced by Senator Newman

(Principal coauthors: Assembly Members Mullin and Berman)

Co-Sponsored by: CPSC, South Bayside Waste Management Authority, & CAW

Died in Senate Appropriations



**WHEN YOU CAN'T
GET IT DONE AT
THE STATE LEVEL!**

**TAKE IT
LOCAL!**



A similar track! After Years of Trying!

CA Meds/Sharps EPR Ordinances

1. Alameda County – meds 7/26/12, sharps 11/17/15
2. City & County of San Francisco – 3/26/15
3. San Mateo County – 4/28/15
4. Santa Clara County – meds 6/23/15, sharps 2/27/18
5. Marin County – 8/11/15
6. Santa Cruz County (meds & sharps) – 12/8/15
7. Santa Barbara County – 6/21/16
8. City of Santa Cruz (meds & sharps) – 8/9/16
9. City of Capitola (meds & sharps) – 8/25/16
10. City of Scotts Valley (meds & sharps) – 12/7/16
11. Contra Costa County – 12/20/2016
12. San Luis Obispo County (med & sharps)– 1/10/18
13. Tehama County (meds & sharps)- 7/3/18



CPSC, Proud Sponsor of SB 212

Landmark Legislation Passed in 2018



FIRST IN THE NATION

To include medicine and needles



CALIFORNIA
PASSES
STATEWIDE
DRUG & NEEDLE
TAKE-BACK
PAID FOR BY
PRODUCERS



Authors of Senate Bill 212



Senator Jackson



Assembly Member Ting



Assembly Member Gray

Local Battery Ordinance Options

EPR?

Product Stewardship?

Internalized Costs?

Visible Fees?

Deposit System?

Funding



Visible Fee vs. Internalized Cost

Visible Fees

- No responsibility on the producers.
- Consumers pay!
- Retailers do most of the work collecting and transmitting the money.
- No incentive for producers to change design.
- Good for products wherein producer is hard to determine or attach to True EPR.
- Public money! Should not be managed by the industry being regulated!



Internalized Costs

- Producers fund and run the program.
- Incentivize collection locations and/or methods.
- Can have a retailer requirement. "Careful here!"
- If producers are paying true costs, they just might make different decisions!
- Needs government oversight to ensure compliance and fairness.

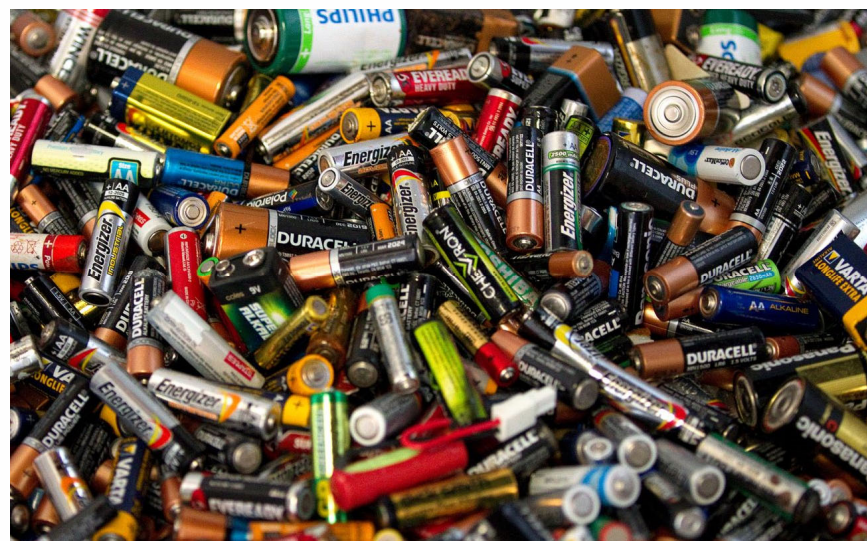
What does EPR for Batteries look like?

Existing California EPR

- Rechargeable Battery Recycling Act (AB 1125, Pavley, 2005)
- Currently no other EPR programs for other chemistries

Potential EPR

- Lithium-Ion batteries only? – Which types? Embedded only? Loose?
- Maybe all Lithium-Ion batteries?
- What about Consumer Confusion?
- Maybe ALL batteries?
- Is the Battery Industry on-board?
- What about Free Riders?
- IRS 501c3 Non-Profit Organization
- Oversight by ???



What does Product Stewardship for Batteries look like?

Existing California Product Stewardship Programs

- Beverage Container Recycling Act - **5¢ or 10¢ deposit**
- Tire Recycling Act - **\$1.75/tire**
- Ewaste Recycling Act - **\$4, \$5, or \$6/unit**
- Paint - **75¢/gallon or \$1.60/5-gallon**
- Carpet - **35¢/square yard**
- Mattresses - **\$10.50/unit**



Potential Product Stewardship

- Visible fee per battery
- Costs covered by consumer fees
- Canadian Program Environmental Handling Fees (EHFs)
- Stewardship Organization
- Independent Board?
- IRS 501c3 Non-Profit
- Oversight by ???

Selected Product	Provincial EHFs Per Unit
Button cell single use replacement (e.g., watch)	\$0.02
AAA single use replacement (e.g., TV remote)	0.03 - 0.04
C single use replacement (e.g., flashlight)	0.08
Large single use replacement (e.g., lantern)	0.75
Small rechargeable replacement (e.g., camera)	0.10
Medium rechargeable replacement (e.g., laptop)	0.50
Large rechargeable replacement (e.g., power tool)	\$2.00
Power Tool (battery powered, with battery)	\$2.00

What are you offering?



<https://sfenvironment.org/recycle-household-batteries>



Single-family home or small multifamily building (under six units): Put loose batteries into a clear plastic bag and place on top of your black bin on collection day.



Buildings with six units or more: Place loose batteries in the orange battery collection bucket.



"Lithium" or "Li" or "Li-ion". Please tape over the ends of these batteries before recycling.

Next Steps:

1. What kind of program?
 - True EPR
 - Product Stewardship
2. What's the political landscape look like?
3. How long until implementation (target date)?
4. Who's going to have oversight?
5. How do you deal with non-compliance?
6. Other considerations?





Questions?

Connect with CPSC!



Doug Kobold
Executive Director

email@calpsc.org

916-706-3420 (O)

916-413-5262 (C)

www.CalPSC.org



Follow and Share!



City/County

AN ORDINANCE ESTABLISHING A PRODUCT STEWARDSHIP DISPOSAL PROGRAM FOR BATTERIES

The City/County of _____ ordains as follows:

SECTION 1. GENERAL PROVISIONS

The City/County of _____ (City/County) finds and declares all the following:

- (a) The purpose of this Ordinance is to enact a producer responsibility program for loose batteries (and embedded batteries), all chemistries, hereinafter “Batteries”.
- (b) The purpose of this Ordinance is to assure that the costs associated with the handling and recycling of Batteries are primarily the responsibility of the producers and not retail stores and government agencies.
- (c) The purpose of this Ordinance is to assure that producers of Batteries, while working to achieve the goals and objectives of this Ordinance, should have the flexibility and are mandated to partner with those private, nonprofit business and government enterprises that provide collection and processing services to develop and promote a safe and effective battery collection and disposal system.
- (d) The purpose of this Ordinance is to provide for the safe and convenient collection, reuse, and recycling of 100 percent of the used Batteries discarded in the City/County with no additional fee to the Consumer either added to the receipt or for disposal.
- (e) The purpose of this Ordinance is to protect public health and safety as batteries contain metals and corrosive materials that can impact water quality and also have been demonstrated to be responsible for the increase in fires in products due to design flaws, improper storage, during transport in shipments and at materials handling and disposal facilities.

SECTION 2. DEFINITIONS

For the purposes of this Ordinance, the following terms have the following meanings, unless the context clearly requires otherwise:

- (a) “Consumer” means a person who has lawfully obtained, and who possesses, Batteries and who resides in the City/County.
- (b) “Director” means the Director of the City/County Agency with oversight authority of the program.

- (c) “City/County” means the geographic area that includes the unincorporated area of _____ City/County, California and the incorporated cities within the City/County (if applicable).
- (d) “Batteries” means batteries used primarily for household and personal uses, including nickel-cadmium, alkaline, carbon-zinc, Lithium, Lithium metal, Lithium Ion, NiMH and other batteries generated as non-RCRA waste similar in size to those typically generated as household waste (include embedded batteries if included above). “Batteries” does not include lead-acid batteries, gel cell batteries, and electric vehicle batteries.
- (e) “Embedded Batteries” are those Batteries that have been embedded in the product and either glued in or made non-removable so as to be unable to be removed easily by the consumer without tools.
- (f) “Person” means an individual, firm, sole proprietorship, corporation, limited liability corporation, general partnership, limited partnership, limited liability partnership, association, cooperative, or other legal entity, however organized.
- (g) “Producer” shall be determined, with regard to Batteries or Embedded Batteries that are sold, offered for sale, or distributed in the City/County as meaning any of the following:
 1. The Person who Manufactures Batteries and who sells, offers for sale, or distributes Batteries in the City/County under that Person's own name or brand.
 2. If there is no Person who sells, offers for sale, or distributes Batteries in the City/County under the Person's own name or brand, the Producer of Batteries is the owner or licensee of a trademark or brand under which the Batteries are sold or distributed in the City/County, whether or not the trademark is registered.
 3. If there is no Person who is a Producer of Batteries for purposes of paragraphs (1) and (2), the Producer of Batteries is the Person who brings the Batteries into the City/County for sale or distribution.
- (h) “Product Stewardship Program” or “Program” means a program financed, designed, and operated by Producers to collect, transport, and dispose of Batteries or Embedded Batteries.
- (i) “Retail Store” means any retail or on-line store which sells Batteries to a Consumer.
- (j) “Stewardship Organization” means an organization designated by a Producer, or group of Producers, to act as an agent on behalf of each Producer to operate the Program.

SECTION 3. THE STEWARDSHIP ORGANIZATION

- (a) A Stewardship Organization may be designated to act as an agent on behalf of a manufacturer or manufacturers in operating and implementing the stewardship program required under this chapter. Any stewardship organization that has obtained such designation must provide to the department a list of the manufacturers and brand names

that the stewardship organization represents within sixty days of its designation by a manufacturer as its agent, or within sixty days of removal of such designation.

- (b) A designated Stewardship Organization shall be registered as a California 501(c)(3) organization (California Corporations Code Section 5000 et. seq.). Stewardship Organization will follow all requirements of California law, including holding regular public meetings and providing public information as required.

SECTION 4. PRODUCT STEWARDSHIP PROGRAM

- (a) Requirement for Sale. This section shall apply only to Producers whose batteries are sold and/or distributed in the City/County and to Retail Stores who sell batteries in the City/County. Each Producer must:

1. Operate, individually or jointly with other Producers, a EPR program approved by the City/County: or
2. Enter into an agreement with a Stewardship Organization to operate, on the Producer's behalf, an EPR Program approved by the City/County.

- (b) Extended Producer Responsibility Program Costs.

1. A Producer, group of Producers, or Stewardship Organization must pay all administrative and operational fees associated with their Product Stewardship Program, including, but not limited to, the cost of promoting, collecting, transporting, and disposing of batteries collected from Consumers and the recycling or disposal, or both, of packaging collected with the Batteries.
2. No Person, Producer, group of Producers or Stewardship Organization may charge a specific point-of-sale fee to Consumers to recoup the costs of their EPR Program, nor may they charge a specific point-of-collection fee at the time the Batteries are collected from Consumers or delivered for disposal. The cost must be internalized into the price of the product.
3. A Producer, group of Producers, or Stewardship Organization must pay all costs incurred by the City/County in the administration and enforcement of their EPR Program. Exclusive of fines and penalties, the City/County shall only recover its actual cost of administration and enforcement under this Ordinance and shall not charge any amounts under this Ordinance in excess of its actual cost.
4. A Producer, group of Producers, or Stewardship Organization must pay all collection, transportation and disposal costs of Batteries beginning no later

than 180 days after the effective date of the Ordinance. *If after 180 days of the effective date of the Ordinance, the City/County incurs any costs resulting from the collecting, transporting, and disposing of Batteries due to delays in implementation of an approved Stewardship Plan, the Producer, Group of Producers, or Stewardship Organization must reimburse the City/County in full for such cost including labor to manage them. Reimbursement shall be paid each month.*

SECTION 5. RETAILER PARTICIPATION

Any retail location which sells batteries shall be required to participate in the Product Stewardship Program. Participating businesses shall provide convenient locations to display collection containers provided by the Stewardship Organization and shall prominently display signage provided informing customers of the availability of the service and how to participate. For online sales, they must prominently promote the recycling program and provide free mail-back program or direct them to a battery stewardship program with in store collection that the online retailer is participating in. Participating locations shall take reasonable precautions to ensure proper and safe compliance with the requirements of the program. Failure to participate or to follow the requirements of the program may result in penalties or other enforcement action by the City/County.

SECTION 6. PRODUCT STEWARDSHIP PLAN

- (a) Plan Content. Each Product Stewardship Program shall have a Product Stewardship Plan “Plan” that contains each of the following:
1. Certification that the Product Stewardship Program will accept all Batteries, regardless of who produced them, unless excused from this requirement by the City/County as part of the approval of the Plan;
 2. Contact information for the individual and the Entity submitting the Plan and for each of the Producers participating in the EPR Program;
 4. At least one convenient collection site per every 10,000 residents;
 5. The Battery Stewardship Organization must supply each battery collection site with at least one Damage, Defective, or Recalled (DDR) safety kits at all times.
 3. A description of the Batteries collection program that will be made available to every Retail Store and multi-family residential complex in the City/County (multi-family residential complex as defined in state code).

The Household Battery collection program shall include: (1) Convenient locations throughout the City/County for the “take-back” of Batteries from Consumers at no cost to Consumers; (2) An appropriate receptacle or receptacles for the collection of Batteries within the Retail Store or multi-family residential complex; and/or (3) Mail-back program for batteries sold on the internet.

4. A description of training and safety procedures that will be made available to every Retail Store and multi-family residential complex in the City/County participating in the Batteries collection program.
5. Information about what requirements will be placed on participating locations, including reasonable plans for compensation for any time or effort required of participating businesses or their employees.
6. Plans for collection of Batteries from City/County Household Hazardous Waste facilities and other local government sponsored collection sites, including reasonable plans for compensation for any time or effort required of participating businesses or their employees.
7. Plans for collection of Batteries from Nonprofit Charitable organizations focused on reuse as defined in PUBLIC RESOURCES CODE SECTION 41904 s, and as defined in Section 501 of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.”
8. The date the collection of Batteries will begin, which shall not be more than 60 days after the approval of the Plan.

(b) City/County Review and Approval

1. No Producer, group of Producers, or Stewardship Organization may begin collecting Batteries to comply with this Ordinance until it has received written approval of its Product Stewardship Plan from the City/County. *The City/County will continue collection, transportation and disposal of Batteries on an interim basis if there is any delay in establishing a Stewardship Program as required.* Cost recovery will be assessed for any City/County provided services required by Program delays.
2. Product Stewardship Plans must be submitted to the City/County for approval. The Plan must be submitted within 180 days of the effective date of the Ordinance.

3. Within 30 days after receipt and review of a Product Stewardship Plan, the **City/County** will determine whether the Plan complies with the requirements of this Ordinance and of any Ordinances previously adopted.
 - a. As part of its approval, the **City/County** may set reasonable performance goals for the Program.
 - b. If the **City/County** approves a Plan, it shall notify the applicant of its approval in writing.
 - c. If the **City/County** rejects a Plan, it shall notify the applicant in writing of its reasons for rejecting the Plan.
- (c) An applicant whose Plan has been rejected by the **City/County** must submit a revised Plan to the **City/County** within thirty (30) days after receiving notice of the rejection. The **City/County** may require the submission of a further revised Plan or, at its sole discretion, the **City/County** may develop, approve and impose its own Product Stewardship Plan or an approved Plan submitted by other Producer(s) pursuant to this chapter.
- (d) If the **City/County** rejects a revised Product Stewardship Plan or any other subsequently revised Plan, the Producer(s) at issue shall be out of compliance with this Ordinance and shall be subject to the enforcement provisions contained in this Ordinance.
 1. At least every three years, a Producer, group of Producers or Stewardship Organization operating an EPR Program shall update its Product Stewardship Plan and submit the updated Plan to the **City/County** for review and approval.
 2. A Producer who begins to offer Batteries for sale in the **City/County** after the adoption of Product Stewardship Plan, must submit a Product Stewardship Plan to the **City/County** or provide evidence of having joined an existing approved Product Stewardship Program within sixty (60) days following the Producer's initial offer for sale.
 3. Any proposed changes to a Product Stewardship Plan must be submitted in writing to the **City/County** and approved by the **City/County** in writing prior to implementation of any change.

SECTION 7. RECYCLING OF BATTERIES

- (a) Compliance with Applicable Law. Each EPR Program must comply with all local, state, and federal laws and regulations applicable to its operations, including laws

and regulations governing the collection, transport, treatment and recycling/disposal of Batteries.

- (b) Treatment and Disposal. Each EPR Program must arrange to recycle Batteries unless the City/County authorizes the disposal of Batteries.

SECTION 8. PRODUCT STEWARDSHIP PROGRAM PROMOTION AND OUTREACH

- (a) A Product Stewardship Program must promote the program to Consumers. The Product Stewardship Plan shall include the proposed outreach program which is subject to approval by the City/County. Program shall at a minimum include signage at participating locations, as well as print ads, radio and television ads. Content, frequency and distribution shall all be pre-approved by the City/County.

SECTION 9. REPORTING

- (a) On or before May 1, ____ (or at a later date as approved in writing by the City/County and in each subsequent year, every Producer, group of Producers, or Stewardship Organization operating a Product Stewardship Program must prepare and submit to the City/County an annual written report describing the Program activities during the previous reporting period. The report must include, at minimum, the following:
 - 1. A list of Producers participating in the Product Stewardship Program;
 - 2. The amount, by type and by weight, of Batteries collected from Consumers at each Retail Store and other collection locations;
 - 3. The name and location of facilities at which Batteries were recycled and/or disposed;
 - 4. Whether policies and procedures for collecting, transporting, and disposing of Batteries, as established in the Plan, were followed during the reporting period and a description of any noncompliance;
 - 5. Whether any safety or security problems occurred during collection, transportation, or disposal of Batteries during the reporting period and, if so, what changes have or will be made to policies, procedures, or tracking mechanisms to alleviate the problem and to improve safety and security;
 - 6. How the Product Stewardship Program complied with all other elements in the Product Stewardship Plan approved by the City/County, including its degree of success in meeting any performance goals set by the City/County as part of its approval of the

Program; and

7. Any other information that the City/County may reasonably require.

- (b) For the purposes of this section, “reporting period” means the period beginning January 1 and ending December 31 of the same calendar year.

SECTION 10 - STEWARDSHIP PLANS – FEES

- (a) The City Council/Board of Supervisors authorizes the Director to charge fees to any Producer, group of Producers, or Stewardship Organization participating in a Stewardship Plan to cover all costs that the City/County incurs in administering and enforcing this Chapter. Fees shall not exceed actual costs to the City/County.

SECTION 11. ENFORCEMENT

- (a) The City/County may enforce the provisions of this Ordinance through a civil action for civil penalties in the amounts established herein, and any other civil remedy, including prohibitory and mandatory injunctive relief, file in the Superior Court for the City/County of _____ to compel and enforce the provisions herein against any Producer, group of Producers, or Stewardship Organization who violates this Ordinance. In addition to any relief available to City/County to enforce this Ordinance, the City/County shall also be entitled to recover its reasonable attorneys’ fees and costs incurred in enforcing this Ordinance.
- (b) For any violation of this Ordinance, the City/County may sue to recover civil penalties in the amount of \$1,000.00 per day for every day on which a violation exists. For purposes of calculating the civil penalties to be established hereunder, each day on which the Producer, group of Producers, or Stewardship Organization fails to comply with the requirements of this Ordinance, after having received a written notice of violation issued by the City/County, shall constitute a separate offense.
- (c) In addition to the civil relief available to the City/County set forth above, any violation of this Ordinance shall also constitute a misdemeanor punishable under the laws of the State of California. The District Attorney, the City/County Counsel, or any City Attorney shall be authorized to enforce the provisions of this Ordinance within their respective jurisdictions. In the event of such criminal enforcement, the following criminal penalties apply to violations of this Ordinance:
1. Violation as Misdemeanor. Violations of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor.
 2. The City/County Sheriff and/or any other police or law enforcement agencies located within the City/County’s jurisdiction may issue a Notice to Appear Citation for any

misdemeanor pursuant to California Penal Code Section 853.6 for any violation of this Ordinance.

3. Penalty for Misdemeanor. Any Producer, group of Producers, or Stewardship Organization found to be in violation of any provision of this Ordinance, or who fails to comply with any of its requirements, shall upon conviction thereof be punished by imprisonment in the City/County jail for not more than six months, or be fined not more than one thousand dollars (\$1,000.00), or by both. Each day such violation continues shall be considered a separate offense.

(d) To the extent that the City/County, the incorporated cities, and the districts within said City/County have adopted code enforcement ordinances applicable to their jurisdictions, this Ordinance shall be enforceable by said governmental entities under said ordinances as land-use or code-enforcement violations consistent with said ordinances.

SECTION 12 - STEWARDSHIP PLANS—REGULATIONS, PERFORMANCE STANDARDS, AND REPORT TO BOARD.

- (a) The Director may adopt regulations necessary to clarify, implement, administer, and enforce this Chapter.
- (b) The Director may work with a Stewardship Plan Operator to define goals for collection amounts, education, and promotion for a Stewardship Plan.
- (c) The Director shall report as requested to the Board of Supervisors concerning the status of all Stewardship Plans and recommendations for changes to this Chapter.

SECTION 13. CONFLICT WITH STATE OR FEDERAL LAW

This Ordinance shall be construed so as not to conflict with applicable federal or state laws, rules or regulations. Nothing in this Ordinance shall authorize the City/County to impose any duties or obligations in conflict with limitations on municipal authority established by state or federal law at the time such action is taken. The City/County shall suspend enforcement of this Ordinance to the extent that said enforcement would conflict with any state or federal legislation.

SECTION 14. CEQA FINDINGS

The City/County finds that this Ordinance falls within the activities described in Section 15061(b)(3) of the CEQA Guidelines which are deemed not to be “projects” for the purposes of CEQA, because it can be seen with certainty that the adoption of the Ordinance will not have a significant effect on the environment. The City/County Manager is directed to prepare and file an appropriate notice of exemption.

SECTION 15. SEVERANCE CLAUSE

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the City/County hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

SECTION 16. EFFECT OF HEADINGS IN ORDINANCE

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

This Ordinance was introduced, and the title thereof read at the regular meeting of the City/County Board of Supervisors on _____ and further reading was waived by a majority vote of those Supervisors present.

This Ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the City/County .

On a motion by Supervisor _____, seconded by Supervisor _____, the foregoing Ordinance was passed and adopted by the Board of Supervisor of the City/County, this _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

_____,
Chair of the City/County

ATTEST:

_____, City/County Board Secretary

ORDINANCE CODE PROVISION APPROVED
AS TO FORM AND CODIFICATION:

City/County Counsel _____

Date: _____