



San Gabriel Valley Council of Governments*

NOTICE AND AGENDA OF THE REGULAR MEETING OF THE ENERGY, ENVIRONMENT AND NATURAL RESOURCES (EENR) COMMITTEE

Wednesday, May 19, 2021 – 1:00 PM

Zoom Link: <https://zoom.us/j/93151682000>

Livestream Link: <https://youtu.be/J0x3MLOEu2s>

Chair
Denis Bertone
City of San Dimas

Vice Chair
Jennifer Stark
City of Claremont

Members
Claremont
Covina
Duarte
El Monte
Pasadena
Pomona
Rosemead
San Dimas
San Gabriel
Sierra Madre
West Covina

Ex-Officio Member
Jeffrey Lee
City of Temple City's
Planning Commission

Thank you for participating in today's meeting. The EENR Committee encourages public participation and invites you to share your views on agenda items.

MEETINGS: *Regular Meetings of the EENR Committee are held on the third Wednesday of each month at 1:00 PM at the Monrovia Community Center, 119 W. Palm Avenue, Monrovia, CA 91016.* The EENR Committee agenda packet is available at the San Gabriel Valley Council of Government's (SGVCOG) Office, 1000 South Fremont Avenue, Suite 10210, Alhambra, CA, and on the website, www.sgvkog.org. Copies are available via email upon request (sgv@sgvcog.org). Documents distributed to a majority of the Committee after the posting will be available for review in the SGVCOG office and on the SGVCOG website. Your attendance at this public meeting may result in the recording of your voice.

PUBLIC PARTICIPATION: Your participation is welcomed and invited at all EENR Committee meetings. Time is reserved at each regular meeting for those who wish to address the Committee. SGVCOG requests that persons addressing the Committee refrain from making personal, slanderous, profane or disruptive remarks.

TO ADDRESS THE EENR COMMITTEE: At a regular meeting, the public may comment on any matter within the jurisdiction of the Committee during the public comment period and may also comment on any agenda item at the time it is discussed. At a special meeting, the public may only comment on items that are on the agenda. Members of the public wishing to speak are asked to complete a comment card or simply rise to be recognized when the Chair asks for public comments to speak. We ask that members of the public state their name for the record and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a time limit on individual remarks at the beginning of discussion. **The EENR Committee may not discuss or vote on items not listed on the agenda.**

AGENDA ITEMS: The Agenda contains the regular order of business of the EENR Committee. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the EENR Committee can be fully informed about a matter before making its decision.

CONSENT CALENDAR: Items listed on the Consent Calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion on these items unless a Committee member or citizen so requests. In this event, the item will be removed from the Consent Calendar and considered after the Consent Calendar. If you would like an item on the Consent Calendar discussed, simply tell Staff or a member of the Committee.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the SGVCOG office at (626) 457-1800. Notification 48 hours prior to the meeting will enable the SGVCOG to make reasonable arrangement to ensure accessibility to this meeting.



***MEETING MODIFICATIONS DUE TO THE STATE AND LOCAL STATE OF EMERGENCY RESULTING FROM THE THREAT OF COVID-19:** On March 17, 2020, Governor Gavin Newsom issued Executive Order N-29-20 authorizing a local legislative body to hold public meetings via teleconferencing and allows for members of the public to observe and address the meeting telephonically or electronically to promote social distancing due to the state and local State of Emergency resulting from the threat of the Novel Coronavirus (COVID-19).

To follow the new Order issued by the Governor and ensure the safety of Committee Members and staff for the purpose of limiting the risk of COVID-19, in-person public participation at the EENR Committee meeting scheduled for May 19, 2021 at 1:00 p.m. will not be allowed. To allow for public participation, the EENR Committee will conduct its meeting through Zoom Video Communications. To participate in the meeting, download Zoom on any phone or computer device and copy and paste the following link into your browser to access the live meeting: <https://zoom.us/j/93151682000>. You may also access the meeting via the livestream link on the front of the agenda page.

Submission of Public Comments: For those wishing to make public comments on agenda and non-agenda items you may submit comments via email or by Zoom.

- Email: Please submit via email your public comment to SGVCOG Management Analyst, Alexander Fung, at afung@sgvcog.org at least 1 hour prior to the scheduled meeting time. Please indicate in the Subject Line of the email “FOR PUBLIC COMMENT.” Emailed public comments will be read into the record and will be part of the recorded meeting minutes. Public comment may be summarized in the interest of time, however the full text will be provided to all members of the Committee prior to the meeting.
- Zoom: Through Zoom, you may speak by using the web interface “Raise Hand” feature. Wait to be called upon by staff, and then you may provide verbal comments for up to 3 minutes. Public comment is taken at the beginning of the meeting for items not on the agenda. Public comment is also accepted at the beginning of each agenda item.

Any member of the public requiring a reasonable accommodation to participate in this meeting should contact SGVCOG Management Analyst, Alexander Fung, at least 48 hours prior to the meeting at (626) 457-1800 or at afung@sgvcog.org.

PRELIMINARY BUSINESS

1. Call to Order
2. Roll Call
3. Public Comment (*If necessary, the Chair may place reasonable time limits on all comments*)
4. Changes to Agenda Order: Identify emergency items arising after agenda posting and requiring action prior to next regular meeting (*It is anticipated that the EENR Committee may take action on the following matters*)

CONSENT CALENDAR (*It is anticipated that the EENR Committee may take action on the following matters*)

5. EENR Meeting Minutes – April 21, 2021 (**Page 1**)
Recommended Action: Review and approve.

LIAISON REPORTS

6. Clean Power Alliance
7. San Gabriel Mountains Community Collaborative
8. San Gabriel Valley Mosquito and Vector Control District
9. Trust for Public Land
10. San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
11. Sanitation Districts of Los Angeles County
12. Southern California Edison
13. Southern California Gas Company
14. South Coast Air Quality Management District (**Page 7**)

UPDATE ITEM (*It is anticipated that the EENR Committee may take action on the following matters*)

15. 2021 San Gabriel Valley Energy Champion Awards Progress Updates – Ana Bordallo, Management Aide, SGVCOG (**Page 9**)
Recommended Action: For information only.

ACTION ITEMS (*It is anticipated that the EENR Committee may take action on the following matters*)

16. AB 1201 (Ting) – Alexander Fung, Management Analyst, SGVCOG (**Page 13**)
Recommended Action: Recommend the Governing Board to support AB 1201 (Ting).
17. SB 289 (Newman) – Alexander Fung, Management Analyst, SGVCOG (**Page 22**)
Recommended Action: Recommend the Governing Board to support SB 289 (Newman).

PRESENTATIONS (*It is anticipated that the EENR Committee may take action on the following matters*)

18. Revised Regional Park and Open Space District Reimbursement Guidelines – Christina Angeles, District Administrator, Los Angeles County Regional Park and Open Space District (**Page 68**)
Recommended Action: For information only.
19. Reopening Procedures and Recommendations from the Los Angeles County Department of Public Health – John Ferrer, REHS, Industrial Hygienist, Los Angeles County Department of Public Health (**Page 74**)
Recommended Action: For information only.

STAFF ANNOUNCEMENTS

20. Next Committee Meeting
Recommended Action: For information only.

ADJOURN



SGVCOG EENR Committee Regular Meeting Minutes

Date: April 21, 2021
Time: 1:00 PM
Location: Zoom Virtual Meeting

PRELIMINARY BUSINESS

1. Call to Order
D. Bertone called the meeting to order at 1:00pm.

2. Roll Call
A quorum was in attendance.

Committee Members Present

Claremont	J. Stark
Covina	M. Saint
El Monte	P. Garcia
Pasadena	J. Guess
Pomona	J. Carver
Rosemead	M. Clark
San Dimas	D. Bertone
San Gabriel	C. Liao
Sierra Madre	R. Arizmendi
West Covina	T. Wu
Temple City (Ex-Officio)	J. Lee

Absent

Duarte

Guests

City of South Pasadena	A. Kasparian
South Coast AQMD	R. Yeung
ICF	B. Moncada
ICF	L. Penner
Main San Gabriel Watermaster	L. Augino
Nature for All	B. Bernal
RMC	S. Gee
SoCalGas	B. Cruz
SoCalGas	H. Shaw
SoCalGas	J. Huleis
SoCalGas	J. Kroh
SoCalGas	Y. Freedman

SGVCOG Staff

P. Hubler, Staff
K. Ward, Staff
A. Fung, Staff

3. Public Comment
S. Gee from the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) provided a verbal public comment to report that the RMC recently received wildfire funds for projects in the San Gabriel Valley.

B. Bernal from Nature for All provided a verbal public comment to introduce herself as

the new Executive Director for Nature for All.

4. Changes to Agenda Order
There were no changes to the agenda.

CONSENT CALENDAR

5. EENR Meeting Minutes – March 17, 2021
Action: Review and approve.

There was a motion to approve consent calendar item 5. (M/S: J. Stark/R. Arizmendi)
[Motion Passed]

AYES:	Claremont, Covina, Pasadena, Pomona, Rosemead, San Dimas, San Gabriel, Sierra Madre, West Covina
NOES:	
ABSTAIN:	
NO VOTE RECORDED:	El Monte
ABSENT:	Duarte

LIAISON REPORTS

No verbal report was given unless otherwise noted.

6. Clean Power Alliance
7. San Gabriel Mountains Community Collaborative
8. San Gabriel Valley Mosquito and Vector Control District (MVCD)
9. Trust for Public Land
10. San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC)
11. Sanitation Districts of Los Angeles County
12. Southern California Edison
13. Southern California Gas Company
14. South Coast Air Quality Management District (AQMD)

UPDATE ITEM

15. Legislative Updates: AB 33 (Ting)
SGVCOG Management Analyst, Alexander Fung, provided updates on this item. Originally introduced in December 2020 as a bill to limit the use of natural gas in new public schools and state buildings, AB 33 was gut-and-amended by Assemblymember Phil Ting (D-San Francisco) last month to state the intent of the California Legislature that the California Energy Commission (CEC) administer the State Energy Conservation Assistance Account to provide grants and loans to local governments and public institutions to maximize energy use savings, including technical assistance, demonstrations, and identification and implementation of cost-effective energy efficiency measures and programs in existing and planned buildings or facilities. Additionally, the bill further declares that it is the intent of the California Legislature that the CEC seeks the assistance of utility companies in providing energy audits for local governments and public institutions in publicizing the availability of State Energy Conservation Assistance Account funds to qualified entities. AB 33 has been referred to the Assembly Committee

on Utilities and Energy for review.

Key Discussions/Questions:

- M. Clark expressed that she supported the revised version of AB 33 given that balanced energy is important, provided that the gas is clean.

ACTION ITEMS

16. SB 343 (Allen)

SGVCOG Management Analyst, Alexander Fung, provided a presentation on this item. Introduced by Senator Ben Allen (D-Santa Monica) in February 2021, SB 343 would further declare that it is the public policy of California that claims related to the recyclability of a plastic product be truthful and that consumers deserve accurate and useful information related to properly handling the end of life of a plastic product. The bill would also require the California Department of Resources Recycling and Recovery (CalRecycle) to update certain regulations to include the types and forms of plastic products and packaging for which a claim of recyclability may be made. SB 343 was recently placed on suspense file by the Senate Appropriations Committee

Key Discussions/Questions:

- D. Bertone inquired about whether this bill would inhibit the producers' ability to produce non-recyclable plastics. Mr. Fung responded that SB 343 only focuses on ensuring that producers would not be able to claim non-recyclable plastics as recyclables.
- J. Stark commented that there should be additional efforts to emphasize on educating the public regarding the recyclability of products.
- R. Arizmendi inquired about the bill's fiscal implications given that additional monitoring efforts were proposed. Mr. Fung responded that the details of the fiscal implications were not available and commented that this was likely the reason for the Senate Appropriations Committee to place the bill on suspense file.

**There was a motion to recommend the Governing Board to support SB 343 (Allen).
(M/S: J. Stark/T. Wu)**

[Motion Passed]

AYES:	Claremont, Pasadena, Pomona, Rosemead, San Dimas, San Gabriel, West Covina
NOES:	
ABSTAIN:	Sierra Madre
NO VOTE RECORDED:	Covina, El Monte
ABSENT:	Duarte

17. SB 619 (Laird)

SGVCOG Management Analyst, Alexander Fung, provided a presentation on this item. Introduced by Senator John Laird (D-Monterey) in February 2021, SB 619 would provide additional flexibility and time for local jurisdictions to comply with existing SB 1383

(Lara, 2016) mandates. Until January 1, 2023, SB 619 would require CalRecycle to only impose a penalty on a local jurisdiction, and would require a penalty to only accrue, for a violation of the regulations if the local jurisdiction did not make a reasonable effort, as determined by CalRecycle, to comply with regulations.

Key Discussions/Questions:

- J. Stark inquired about possible rewards for jurisdictions that have made efforts to comply with SB 1383 mandates before the stated deadlines. Mr. Fung responded that the original version of SB 619 included language to reward cities and counties for early actions, but that language was removed in the recent amendments.
- J. Carver commented that some jurisdictions lack resources and staff capacity to comply with SB 1383. J. Stark added that CalRecycle should analyze each jurisdiction’s capacity to comply with the SB 1383 mandates and consider possible extensions to cities and counties based on their individual capacity and resources.
- M. Clark commented that the lack of infrastructure in the region to support jurisdictions to comply with SB 1383 may lead to the spread of diseases and inquired about the City of Claremont’s strategy for residents to discard food waste at curbside pick-ups. Ms. Stark responded that residents were instructed to discard food waste in their green bins.
- C. Liao commented that the City of San Gabriel’s waste hauler developed the American Organics Recycling Facility in Victorville, CA and expressed concerns for apartment and multifamily property tenants who may not have green bins to discard food waste for collection.
- C. Liao commented that jurisdictions that have not started working on SB 1383 compliance may need more than one year to develop the plans needed to comply with the regulations. M. Clark added that most jurisdictions are in the process of developing the plans needed to comply with SB 1383 and commented that a one-year extension of the deadline can assist jurisdictions to comply with the regulations appropriately and effectively.

There was a motion to recommend the Governing Board to support SB 619 (Laird) in concept. (M/S: M. Clark/J. Carver)

[Motion Passed]

AYES:	Claremont, El Monte, Pasadena, Pomona, Rosemead, San Dimas, San Gabriel, Sierra Madre
NOES:	West Covina
ABSTAIN:	
NO VOTE RECORDED:	Covina
ABSENT:	Duarte

PRESENTATIONS

18. SoCalGas Hydrogen Presentation

SoCalGas Senior Director of Market Development, Yuri Freedman, provided a

presentation on this item. A global shift to clean molecules and hydrogen plays a key role in meeting the future energy demand as communities move towards net zero emissions. According to SoCalGas, hydrogen is an energy carrier that can be used to store, move, and deliver energy. The element serves as a high efficiency and low polluting fuel that can be used for transportation, heating, and power generation given that it can be transported over long distances and can be suitable for long-term storage.

Key Discussions/Questions:

- D. Bertone sought additional clarification on energy carriers. Mr. Freedman responded that hydrogen is a chemical that is extremely difficult to find in nature. As a result, the most effective to locate hydrogen is to manufacture the chemical. Once manufactured, the hydrogen contains energy that can be carried and used as an energy source.
- C. Liao commented that the League of California Cities proposed building hydrogen cars several years ago and inquired about the energy sources needed to manufacture hydrogen. Mr. Freedman responded that green hydrogen can be manufactured from renewables and water and added that the technology of hydrogen cars has progressed tremendously since several years ago. Additionally, fuel cell electric vehicles have the potential to minimize the emissions' impacts on disadvantaged communities.
- C. Liao emphasized the importance of promoting the safety of driving fuel cell electric vehicles and expressed that additional charging stations in the region can help with fuel cell electric vehicle adoption. Mr. Freedman added that the use of hydrogen is common in various sectors and agreed that safety is a priority when using hydrogen as a fuel source.

19. Southern California Regional Energy Network Multifamily Program

ICF Account Manager, Brianna Moncada, provided a presentation on this item. Earlier this year, the SGVCOG launched a partnership with ICF to promote the Southern California Regional Energy Network (SoCalREN) Residential Program. This program offers multifamily communities throughout the San Gabriel Valley an opportunity to reduce energy use and provide a more comfortable and safer living environment for tenants through property improvements and upgrades.

Key Discussions/Questions:

- D. Bertone inquired whether property owners can apply to the SoCalREN Residential Program without working with their respective local jurisdictions. Ms. Moncada responded that the property owners can reach out to the SoCalREN Residential Program directly.

STAFF ANNOUNCEMENT

20. California Climate Investments Fire Prevention Grant Opportunity

The California Department of Forestry and Fire Protection (CAL FIRE) recently released the call-for-projects for the California Climate Investments Fire Prevention Grant Program. This program aims to reduce the risk of wildland fires to habitable structures and communities, while maximizing carbon sequestration in healthy wildland habitats and minimizing the

uncontrolled release of emissions emitted by wildfires.

21. Next Committee Meeting

The committee is scheduled to reconvene on Wednesday, May 19, 2021 at 1:00pm.

ANNOUNCEMENTS

There were no additional announcements.

ADJOURN

D. Bertone adjourned the Energy, Environment, and Natural Resources (EENR) Committee meeting at 2:35 p.m.

DATE: May 19, 2021

TO: Energy, Environment, and Natural Resources (EENR) Committee

FROM: South Coast Air Quality Management District (AQMD)

RE: **AQMD LIAISON REPORT**

RECOMMENDED ACTION

For information only.

CLEAN AIR PROGRAM FOR ELEMENTARY STUDENTS (CAPES)

The Clean Air Program for Elementary Students (CAPES) is South Coast AQMD's educational program for elementary students. The goal of CAPES is for students to learn about the importance of air quality, the impact of air pollution, and actions students can take to improve the environment. Students will be equipped to make healthier, clean air choices.

Educators are provided with short videos and a curriculum kit that includes lesson plans, worksheets, and answer keys. South Coast AQMD recognizes the diverse needs of schools and CAPES is designed to provide educators with the flexibility in implementing the curriculum. Support is available upon request.

For more information, please contact Alicia Lizaraga at arodriguez1@aqmd.gov or visit <http://www.aqmd.gov/home/programs/education/capes>.

CLEAN AIR PROGRAM FOR MIDDLE/HIGH SCHOOL STUDENTS (WHAM)

The Why Healthy Air Matters (WHAM) education program for middle and high schools was successfully launched in the fall of 2020. In its second year, WHAM now features distance learning-friendly options, such as guest speakers via videoconference, video lectures, PowerPoints presentations for each unit and online materials. WHAM also will be available for teachers in summer school. The response from teachers and students has been positive.

“We must get these kiddos into action!” said Kelly Meade, a teacher at Jordan High School. “The WHAM program is a necessary and relevant opportunity for our students to engage in. The curriculum brings real-world circumstances to students to participate in, truly engaging them as citizen scientists.”

WHAM is available at no cost to qualified middle and high schools within South Coast AQMD's jurisdiction. Spaces are limited.

- **Fully Funded** - Free curriculum offered to qualified middle and high schools within the South Coast AQMD's jurisdiction (all of Orange County, and parts of Los Angeles,

Riverside and San Bernardino counties).

- **Hands-on Experiments** - Students can measure air quality and interpret data of pollution in your community.
- **Accommodates Distance Learning** - Virtual options include guest speakers, PowerPoints, pre-recorded video lectures & more!

For more information, please contact Monika Kim at mkim@aqmd.gov or visit <http://www.aqmd.gov/home/programs/education/wham>.

Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP)

The Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) will open to new voucher requests at 10 a.m. Pacific on Tuesday, June 8.

The FY 20-21 Implementation Manual is now available at www.californiahvip.org/im. Dealers and other participants should familiarize themselves with the new Implementation Manual in advance. FAQs to help guide you through the policy changes are at www.californiahvip.org/about.

When HVIP begins accepting new voucher requests, funds will be available in two "waves." A total of approximately \$165 million will be available, however, only half of the funds will be released beginning when the program opens on June 8. The other half will be made available two months later, at 10 a.m. on Tuesday, August 10. Available voucher funds can be viewed in real-time in the blue bar at the top of the page at www.californiahvip.org any time once the program is open.

It is important to note that Class 8 trucks performing drayage operations as well as any vehicles purchased by a public government entity are exempt from the two-month pause. Vouchers can continue to be requested for such vehicles. More information is available in the FAQs.

Please contact info@californiahvip.org with any questions.

DATE: May 19, 2021

TO: Energy, Environment, and Natural Resources (EENR) Committee

FROM: Marisa Creter, Executive Director

RE: **2021 SAN GABRIEL VALLEY ENERGY CHAMPION AWARDS**

RECOMMENDED ACTION

For information only.

BACKGROUND

Earlier this year, the SGVCOG launched the 2021 San Gabriel Valley Energy Champion Awards to encourage San Gabriel Valley cities and agencies to implement energy efficiency actions and engage in long-term energy planning activities. Requirements for cities and agencies to receive an award include implementing a combination of activities such as attending energy efficiency trainings and meetings, benchmarking municipal facilities, and conducting energy efficiency outreach activities.

Requirements for the Energy Champion Awards are separated into four separate categories as follows:

Categories	Requirements
Energy Work Group	Silver: Attending 1 Energy Work Group meeting Gold: Attending 2 Energy Work Group meetings Platinum: Attending 3 Energy Work Group meetings
Education & Trainings	Silver: Attend 1 energy efficiency training or provide 1 energy efficiency presentation Gold: Complete a combination of 2 activities that include attending energy efficiency training(s) or providing energy efficiency presentation(s) Platinum: Complete a combination of 3 activities that include attending energy efficiency training(s) or providing energy efficiency presentation(s)
Outreach & Marketing	Silver: Refer 1 entity that has not been previously engaged with the SGVCOG’s energy efficiency efforts or implement 1 energy efficiency marketing campaign Gold: Complete a combination of 2 activities that include referring entities that have not been previously engaged with the SGVCOG’s energy efficiency efforts or implementing energy efficiency marketing campaigns Platinum: Complete a combination of 3 activities that include referring entities that have not been previously engaged with the SGVCOG’s energy efficiency efforts or implementing energy efficiency marketing campaigns
Benchmarking, Audits, and Projects	Silver: Complete 1 of the following menu items Gold: Complete 2 of the following menu items Platinum: Complete 3 of the following menu items <u>Menu Items:</u>


REPORT

	<ul style="list-style-type: none">• Collaborate with the SGVCOG, SoCalGas, and the SoCalREN to benchmark all facilities on Energy Star Portfolio Manager or host a Comparative Energy Analysis meeting with the SGVCOG in 2021.• Conduct at least 1 municipal facility audit in 2021.• Participate in the SoCalGas Direct Install Program.• Participate in one of the following SoCalREN programs to install a gas project: Metered Savings Program, Revolving Savings Fund, and Pathway to Zero.• Install a gas energy efficiency project in 2020 or 2021.• Complete or update an Energy Action Plan.• Submit an energy efficiency grant application.
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Jurisdictions have most of the year to complete the necessary requirements to reach the highest tier. Requirements in the “Benchmarking, Audits, and Projects” Category must be completed by November 1, 2021. Requirements in all other categories must be completed by December 1, 2021. Cities and agencies that have reached recognizable tiers by the stated deadlines will receive their awards at the Energy Work Group meeting in December 2021.

The Energy Champion Awards’ most recent progress report can be found in Attachment A. The reports can also be found on the San Gabriel Valley Energy Wise Partnership website at <https://www.sgvenergywise.org/2021-sgv-energy-champion-awards>.

SGVCOG Management Aide, Ana Bordallo, will provide updates on this item.

Prepared by: 
Alexander P. Fung
Management Analyst

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – 2021 San Gabriel Valley Energy Champion Awards Progress Report



Alhambra
Arcadia
Azusa
Baldwin Park
Bradbury
Claremont
Covina
Diamond Bar
Duarte
El Monte
Glendora
Industry
Irwindale
La Cañada Flintridge
La Puente
La Verne
Monrovia
Montebello
Monterey Park
Pasadena
Pomona
Rosemead
San Dimas
San Gabriel
San Marino
Sierra Madre
South El Monte
South Pasadena
Temple City
Walnut
West Covina

2021 Energy Champion Award Progress: 4/27/21		Alhambra	Arcadia	Azusa	Baldwin Park	Bradbury	Claremont	Covina	Diamond Bar	Duarte	El Monte	Glendora	Industry	Irwindale	La Cañada Flintridge	La Puente	La Verne	Monrovia	Montebello	Monterey Park	Pasadena	Pomona	Rosemead	San Dimas	San Gabriel	San Marino	Sierra Madre	South El Monte	South Pasadena	Temple City	Walnut	West Covina	
SILVER LEVEL																																	
Attended 1 Energy Work Group meeting in 2021	★						★	★	★	★	★		★	★			★	★	★	★		★	★	★	★								★
Attended 1 energy efficiency training OR provided a presentation relating to energy efficiency										★	★			★			★	★	★	★		★			★								
Referred 1 agency that has not previously engaged with the SGVCOG's energy efficiency efforts OR implemented an energy efficiency marketing campaign			★				★											★				★			•		★			★			
Completed 1 of the following: attended a CEA meeting with facilities benchmarked on ESPM OR conducted a municipal audit OR participated in the SoCalGas Direct Install Program OR participated in one of the SoCalREN programs to install a gas project OR installed a gas project in 2020 or 2021														•										★	★								
GOLD LEVEL																																	
Attended 2 Energy Work Group meeting in 2021																																	
Attended 2 energy efficiency trainings OR provided presentations relating to energy efficiency OR a combination of the two														★					★														
Referred 2 agencies that have not previously engaged with the SGVCOG's energy efficiency efforts OR implemented energy efficiency marketing campaigns OR a combination of the two																																	
Completed 2 of the following: attended CEA meetings with facilities benchmarked on ESPM OR conducted at least 1 municipal audit OR participated in the SoCalGas Direct Install Program OR participated in one of the SoCalREN programs to install a gas project OR installed a gas project in 2020 or 2021																																	
PLATINUM LEVEL																																	
Attended 3 Energy Work Group meeting in 2021																																	
Attended 3 energy efficiency trainings OR provided presentations relating to energy efficiency OR a combination of the two																																	
Referred 3 agencies that have not previously engaged with the SGVCOG's energy efficiency efforts OR implemented energy efficiency marketing campaigns OR a combination of the two																																	
Completed 3 of the following: attended CEA meetings with facilities benchmarked on ESPM OR conducted at least 1 municipal audit OR participated in the SoCalGas Direct Install Program OR participated in one of the SoCalREN programs to install a gas project OR installed a gas project in 2020 or 2021																																	
LEGEND:																																	
★ = Completed																																	
• = In Progress																																	



AQMD
 Arcadia USD
 Azusa USD
 Claremont USD
 El Monte Union High SD
 Foothill Transit
 Monrovia USD
 Pasadena USD
 Pomona USD

2021 Energy Champion Award Progress: 4/27/21									
SILVER LEVEL									
Attended 1 Energy Work Group meeting in 2021						★	★	★	★
Attended 1 energy efficiency training OR provided a presentation relating to energy efficiency	★					★	★		
Referred 1 agency that has not previously engaged with the SGVCOG's energy efficiency efforts OR implemented an energy efficiency marketing campaign									
Completed 1 of the following: attended a CEA meeting with facilities benchmarked on ESPM OR conducted a municipal audit OR participated in the SoCalGas Direct Install Program OR participated in one of the SoCalREN programs to install a gas project OR installed a gas project in 2020 or 2021									
GOLD LEVEL									
Attended 2 Energy Work Group meeting in 2021									
Attended 2 energy efficiency trainings OR provided presentations relating to energy efficiency OR a combination of the two						★			
Referred 2 agencies that have not previously engaged with the SGVCOG's energy efficiency efforts OR implemented energy efficiency marketing campaigns OR a combination of the two									
Completed 2 of the following: attended CEA meetings with facilities benchmarked on ESPM OR conducted at least 1 municipal audit OR participated in the SoCalGas Direct Install Program OR participated in one of the SoCalREN programs to install a gas project OR installed a gas project in 2020 or 2021									
PLATINUM LEVEL									
Attended 3 Energy Work Group meeting in 2021									
Attended 3 energy efficiency trainings OR provided presentations relating to energy efficiency OR a combination of the two									
Referred 3 agencies that have not previously engaged with the SGVCOG's energy efficiency efforts OR implemented energy efficiency marketing campaigns OR a combination of the two									
Completed 3 of the following: attended CEA meetings with facilities benchmarked on ESPM OR conducted at least 1 municipal audit OR participated in the SoCalGas Direct Install Program OR participated in one of the SoCalREN programs to install a gas project OR installed a gas project in 2020 or 2021									
LEGEND:									
★ = Completed • = In Progress									

DATE: May 19, 2021

TO: Energy, Environment, and Natural Resources (EENR) Committee

FROM: Marisa Creter, Executive Director

RE: **AB 1201 (TING)**

RECOMMENDED ACTION

Recommend the Governing Board to support AB 1201 (Ting).

BACKGROUND


Introduced by Assemblymember Phil Ting (D-San Francisco) on February 18, 2021, AB 1201 would prohibit an individual from selling a plastic product that is labeled with the terms “compostable,” “home compostable,” or “soil biodegradable” unless the product meets specified standards and satisfies specified criteria. The bill would also authorize the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations for plastic product labeling to ensure that plastic products labeled “compostable” or “home compostable” are clearly distinguishable from non-compostable products upon quick inspection by consumers and solid waste processing facilities.

Specifically, AB 1201 prohibits the sale of a plastic product labeled with the terms “compostable,” “home compostable,” or “soil degradable” unless the product meets all of the following requirements:

- Achieves the appropriate American Society for Testing and Materials (ASTM) Test Method for compostability;
- Is certified by the Biodegradable Products Institute (BPI), or a third party approved by the Director of CalRecycle, for meeting compostability and toxicity standards;
- Is an allowable organic input under the requirements of the National Organic Program and the California Department of Food and Agriculture’s Organic Input Material Program;
- Does not include intentionally added perfluoroalkyl or polyfluoroalkyl (PFAS) substances; and,
- Is labeled in a manner that clearly distinguishes the product from a non-compostable or non-biodegradable product upon quick inspection by consumers and solid waste processing facilities and, where possible, that includes the word “compostable,” an approved third-party certification mark and the use of green or brown colors.

AB 1201 was recently passed by the Assembly Committee on Natural Resources and have been placed on suspense file by the Assembly Appropriations Committee. Copies of the bill’s language and analysis can be found in Attachments A and B, respectively.

SGVCOG Management Analyst, Alexander Fung, will provide a presentation on this item.

Prepared by: 
Alexander P. Fung
Management Analyst

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – AB 1201 Bill Language
Attachment B – AB 1201 Bill Analysis

AMENDED IN ASSEMBLY APRIL 5, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL**No. 1201**

**Introduced by Assembly Member ~~Ting~~ Members *Ting, Friedman,
Lorena Gonzalez, and Mathis***

February 18, 2021

An act to amend Section 42357 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1201, as amended, Ting. Solid waste: plastic products: labeling: compostability and biodegradability.

Existing law prohibits a person from selling a plastic product that is labeled as “compostable” or “home compostable” unless, at the time of sale, the plastic product meets a specified specification or has a specified certification, as provided. Existing law prohibits the sale of a plastic product that is labeled as “biodegradable,” “degradable,” or “decomposable,” and prohibits implying that a plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment, unless the plastic product meets one of several specified standards relating to environmental marketing claims.

Existing law authorizes the Director of Resources Recycling and Recovery to issue guidelines for determining whether a plastic product is not compliant with these labeling requirements, and whether a plastic product is designed, pigmented, or advertised in a manner that is misleading to consumers.

This bill would prohibit a person from selling a plastic product that is labeled with the term “compostable,” “home compostable,” or “soil biodegradable” unless the product meets specified standards and satisfies

specified criteria. The bill would authorize the Department of Resources Recycling and Recovery to adopt regulations for plastic product labeling to ensure that plastic products labeled “compostable” or “home compostable” are clearly distinguishable from noncompostable products upon quick inspection by consumers and solid waste processing facilities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42357 of the Public Resources Code is
2 amended to read:
3 42357. (a) (1) Except as provided in paragraph (3), a person
4 shall not sell a plastic product in this state that is labeled with the
5 term “compostable” or “home compostable” unless, at the time of
6 sale, the plastic product meets the applicable ASTM standard
7 specification, as specified in paragraph (1) of subdivision (b) of
8 Section 42356, or, if applicable, the plastic product has OK
9 compost HOME certification, as provided in paragraph (4).
10 (2) Compliance with only a section or a portion of a section of
11 an applicable ASTM standard specification does not constitute
12 compliance with paragraph (1).
13 (3) Notwithstanding paragraph (1), a person may sell a plastic
14 product in this state that is labeled with a qualified claim for a term
15 specified in paragraph (1), if the plastic product meets the relevant
16 standard adopted by the department pursuant to Section 42356.2.
17 (4) (A) A plastic product shall not be labeled with the term
18 “home compostable” unless the manufacturer of that plastic product
19 holds OK compost HOME certification with regard to that product,
20 except as provided in subparagraph (B) or (C).
21 (B) Notwithstanding paragraph (1), if the ASTM adopts a
22 standard specification for the term “home compostable” on or
23 before January 1, 2016, and the department determines that the
24 ASTM standard specification is at least equal to, or more stringent
25 than, the OK compost HOME certification, a plastic product
26 labeled with the term “home compostable” shall meet that ASTM
27 standard specification. The department may also take the actions
28 specified in Section 42356.1 with regard to an ASTM standard for
29 home compostability.

1 (C) If the department adopts a standard pursuant to Section
2 42356.2, a plastic product labeled with the term “home
3 compostable” shall meet that standard and not the standard
4 specified in subparagraph (A) or (B).

5 (b) Except as provided in subdivision (a) or (f), a person shall
6 not sell a plastic product in this state that is labeled with the term
7 “biodegradable,” “degradable,” or “decomposable,” or any form
8 of those terms, or in any way imply that the plastic product will
9 break down, fragment, biodegrade, or decompose in a landfill or
10 other environment.

11 (c) The director may issue guidelines, consistent with this
12 chapter, for determining whether a plastic product is not compliant
13 with the labeling requirements of this section, and whether a plastic
14 product is designed, pigmented, or advertised in a manner that is
15 misleading to consumers.

16 (d) A manufacturer or supplier, upon the request of a member
17 of the public, shall submit to that member, within 90 days of the
18 request, information and documentation demonstrating compliance
19 with this chapter, in a format that is easy to understand and
20 scientifically accurate.

21 (e) A product that is in compliance with this chapter shall not,
22 solely as a result of that compliance, be deemed to be in compliance
23 with any other applicable marketing requirement or guideline
24 established under state law or by the Federal Trade Commission.

25 (f) (1) The department may adopt the European Committee for
26 Standardization’s standard specification EN 17033:2018 entitled
27 “Plastics—Biodegradable mulch films for use in agriculture and
28 horticulture—Requirements and test methods” or may adopt a
29 standard that is equivalent to, or more stringent than, that standard,
30 as it read on January 1, 2020.

31 (2) A person may sell commercial agricultural mulch film
32 labeled with the term “soil biodegradable” only if the department
33 has adopted the standard specification, or an equivalent or more
34 stringent standard, pursuant to paragraph (1) and the commercial
35 agricultural mulch film is certified to meet both that specification
36 and the ASTM standard specification for compostability.

37 (3) For purposes of this subdivision, “commercial agricultural
38 mulch film” means film plastic that is used only as a technical tool
39 in commercial farming applications.

1 (g) (1) A person shall not sell a plastic product in this state that
2 is labeled with the term “compostable,” “home compostable,” or
3 “soil biodegradable” unless the product satisfies all of the
4 following:

5 (A) Meets the D6400 or D6868 ASTM Test Method for
6 compostability.

7 (B) Has certification from the Biodegradable Products Institute
8 or a third party, subject to paragraph (2), for meeting
9 compostability and toxicity standards.

10 (C) Is an allowable organic input under the requirements of the
11 National Organic Program and the Department of Food and
12 Agriculture’s Organic Input Material Program.

13 (D) Does not include intentionally added ~~perfluorinated~~
14 ~~compounds~~; *perfluoroalkyl or polyfluoroalkyl substances*.

15 (E) Is labeled in a manner that clearly distinguishes the product
16 from a noncompostable or nonbiodegradable product upon quick
17 inspection by consumers and solid waste processing ~~facilities~~;
18 *facilities, and, where possible, that includes the word*
19 *“compostable,” an approved third-party certification mark, and*
20 *the use of green or brown colors.*

21 (2) For purposes of subparagraph (B) of paragraph (1), the
22 director may approve a recognized third-party independent
23 verification body that has certification requirements that are
24 equivalent to, or more stringent than, those required by the
25 Biodegradable Products Institute.

26 (3) The department may adopt regulations for plastic product
27 labeling to ensure that plastic products labeled “compostable” or
28 “home compostable” are clearly distinguishable from
29 noncompostable products upon quick inspection by consumers
30 and solid waste processing facilities. The department, in adopting
31 regulations pursuant to this subdivision, may consider the plastic
32 product labeling requirements of other ~~states~~ *states, stakeholder*
33 *input, and industry-standard guidelines* to maximize consistency
34 with those requirements *and guidelines and that input* when
35 possible.

1
2 **REVISIONS:**
3 **Heading—Line 1.**
4

O

Date of Hearing: April 21, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 1201 (Ting) – As Amended April 5, 2021

Policy Committee: Natural Resources Vote: 10 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill establishes content and labeling requirements for compostable plastic.

Specifically, this bill:

- 1) Prohibits the sale of a plastic product labeled with the term “compostable,” “home compostable,” or “soil degradable” unless the product meets all of the following requirements:
 - a) Achieves the appropriate American Society for Testing and Materials (ASTM) Test Method for compostability.
 - b) Is certified by the Biodegradable Products Institute (BPI), or a third party approved by the Director of CalRecycle, for meeting compostability and toxicity standards.
 - c) Is an allowable organic input under the requirements of the National Organic Program and the Department of Food and Agriculture’s Organic Input Material Program.
 - d) Does not include intentionally added perfluoroalkyl or polyfluoroalkyl (PFAS) substances.
 - e) Is labeled in a manner that clearly distinguishes the product from a noncompostable or nonbiodegradable product upon quick inspection by consumers and solid waste processing facilities and, where possible, that includes the word “compostable,” an approved third-party certification mark and the use of green or brown colors.
- 2) Authorizes CalRecycle to adopt regulations to develop the content and labeling requirements, and in adopting regulations, consider the plastic product labeling requirements of other states, stakeholder input and industry standard guidelines.

FISCAL EFFECT:

- 1) The cost for CalRecycle to develop the content and labeling requirements depend on whether the department opts to develop guidelines or go through the rulemaking process. The development of guidelines is likely absorbable within existing resources, however, if CalRecycle chooses to develop regulations, costs are likely in the range of \$100,000 to \$200,000 over a one-year to two-year period (special fund).

- 2) If CalRecycle is responsible for the implementation and enforcement of the bill, about an additional \$125,000 per year would be necessary (special fund).

COMMENTS:

Rationale. California's labeling requirements for compostable plastic are designed to guarantee marketing claims are accurate and do not mislead consumers. Prior to the adoption of standards in 2004, misleading claims of biodegradability and compostability were common despite the fact plastic material did not break down in the environment and contaminated recyclable plastic waste when mixed.

The Legislature has enacted numerous bills intended to prevent misleading environmental marketing claims and ensure used materials are able to be properly managed. Efforts include banning the use of terms like "biodegradable" for plastic products and requiring plastics labeled "compostable" to meet widely accepted standards.

This bill is intended to remove the barriers faced by compost producers and enable products that are labeled compostable to truly be compostable. This bill will also prevent manufacturers from intentionally adding PFAS and other known harmful chemicals to food packaging that is compostable.

According to the author, "AB 1201 ensures that California's compost stream is safe from harmful chemicals and that what is labeled as compostable actually is compostable."

Analysis Prepared by: Jennifer Galehouse / APPR. / (916) 319-2081

DATE: May 19, 2021

TO: Energy, Environment, and Natural Resources (EENR) Committee

FROM: Marisa Creter, Executive Director

RE: **SB 289 (NEWMAN)**

RECOMMENDED ACTION

Recommend the Governing Board to support SB 289 (Newman)

BACKGROUND

Introduced by Senator Josh Newman (D-Fullerton) on February 1, 2021, SB 289 would establish a proper collection mechanism to reduce incidents of fires and illegal dumping of unwanted batteries, increase recycling, and substantially reduce local government costs for the end-of-life management of discarded batteries and battery-embedded products.

Specifically, SB 289 would make the Rechargeable Battery Recycling Act of 2006 and the Cell Phone Recycling Act of 2004 inoperative as of June 30, 2025 and would repeal those acts as of January 1, 2026. The bill would enact the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021, which would require producers, to either individually or through the creation of one or more stewardship organizations, to establish a stewardship program for their batteries and battery-embedded products.

The bill would also require a stewardship organization or producer to submit to the California Department of Resources Recycling and Recovery (CalRecycle) a stewardship plan for the collection, transportation, and recycling, as well as the safe and proper management, of batteries or battery-embedded products in California. The plan would include specified elements, including a collection system for batteries and battery-embedded products with a specified minimum distribution of collection sites and a funding mechanism to provide sufficient funding for implementation of the plan.

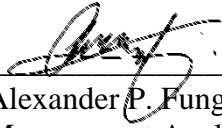
Additionally, SB 289 would require a stewardship organization or producer to be annually audited and submit a report and budget to CalRecycle and would require a stewardship organization, producer, manufacturer, distributor, retailer, importer, recycler, or collection site to, among other things, provide relevant records necessary to determine compliance. The bill would require a stewardship organization or producer to quarterly reimburse CalRecycle and any other relevant state agency for their respective reasonable regulatory costs that are directly related to implementation and enforcement. The bill would require CalRecycle and each state agency to deposit moneys into the Battery and Battery-Embedded Product Recycling Fund, which the bill would establish, and would authorize CalRecycle and any other relevant state agency to expend those moneys, upon appropriation by the Legislature, to administer and enforce the stewardship program.


REPORT

Furthermore, the bill would provide for enforcement of its provisions and impose an administrative civil penalty on a stewardship organization, producer, manufacturer, distributor, retailer, importer, recycler, or collection site in violation of the bill not to exceed \$10,000 per day, unless the violation is intentional, knowing, or reckless, then in that case not to exceed \$50,000 per day. SB 289 would require CalRecycle to deposit those moneys into the Battery and Battery-Embedded Product Recycling Penalty Account, which the bill would establish in the Fund, and would require CalRecycle to expend those moneys, upon appropriation by the Legislature, to administer and enforce the stewardship program.

SB 289 was passed by the Senate Committee on Environmental Quality and the Senate Judiciary Committee and was referred to the Senate Appropriations Committee for review. Copies of the bill's language and analysis can be found in Attachments A and B, respectively.

SGVCOG Management Analyst, Alexander Fung, will provide a presentation on this item.

Prepared by: 
Alexander P. Fung
Management Analyst

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – SB 289 Bill Language
Attachment B – SB 289 Bill Analysis

AMENDED IN SENATE APRIL 13, 2021

AMENDED IN SENATE APRIL 5, 2021

AMENDED IN SENATE MARCH 7, 2021

SENATE BILL

No. 289

Introduced by Senator Newman

(Principal coauthors: Assembly Members Berman and Mullin)

(Coauthor: Senator Becker)

February 1, 2021

An act to add Article 5 (commencing with Section 42457) to Chapter 8.4 and Article 7 (commencing with Section 42499.5) to Chapter 8.6 of, to add Chapter 7.5 (commencing with Section 42420) to, and to repeal Chapter 8.4 (commencing with Section 42451) and Chapter 8.6 (commencing with Section 42490) of, Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

SB 289, as amended, Newman. Recycling: batteries and battery-embedded products.

The Rechargeable Battery Recycling Act of 2006 requires every retailer, as defined, to have in place a system for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal. The act requires the system for the acceptance and collection of used rechargeable batteries to include, at a minimum, specified elements, including, among others, the take-back at no cost to the consumer of a used rechargeable battery of the type or brand that the retailer sold or previously sold.

The Cell Phone Recycling Act of 2004 prohibits the sale of a cell phone in this state to a consumer unless the retailer of that cell phone

has in place a take-back system for the acceptance and collection of used cell phones for reuse, recycling, or proper disposal.

This bill would make the Rechargeable Battery Recycling Act of 2006 and the Cell Phone Recycling Act of 2004 inoperative as of June 30, 2025, and would repeal those acts as of January 1, 2026. The bill would enact the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021, which would require producers, as defined, either individually or through the creation of one or more stewardship organizations, to establish a stewardship program for batteries and battery-embedded products. The bill would require a stewardship organization or producer, on or before June 30, ~~2024~~, 2025, to submit to the Department of Resources Recycling and Recovery a stewardship plan for the collection, transportation, and recycling, and the safe and proper management, of batteries or battery-embedded products in the state. The bill would require the plan to include specified elements, including consultation with an advisory body, which the bill would require the department to create, a collection system for batteries and battery-embedded products with a specified minimum distribution of collection sites, and a funding mechanism to provide sufficient funding for implementation of the plan. The bill would provide for review and approval of the stewardship plan by the department and any other state agency with relevant jurisdiction and would require the stewardship organization or producer to fully implement its stewardship program on or before June 30, ~~2025~~, 2026.

The bill would require a stewardship organization or producer to annually be audited and submit a report and budget to the department, as prescribed, and would require a stewardship organization, producer, manufacturer, distributor, retailer, importer, recycler, or collection site to, among other things, provide the department with relevant records necessary to determine compliance with the bill. The bill would require reports and records provided to the department pursuant to the bill to be provided under penalty of perjury, thereby creating a state-mandated local program by expanding the crime of perjury. The bill would restrict public access to certain information collected for the purpose of administering a stewardship program.

The bill would require the department, on or before July 1, ~~2025~~, 2026, and each year thereafter, to post on its internet website a list of producers, brands, and batteries and battery-embedded products that are in compliance with the bill. The bill would prohibit a retailer or distributor from selling, distributing, offering for sale, or importing a

battery or battery-embedded product in or into the state unless the producer of the battery or battery-embedded product is listed as in compliance on that list for that brand and battery or battery-embedded product, except as specified.

The bill would require a stewardship organization or producer to quarterly reimburse the department and any other relevant state agency for their respective reasonable regulatory costs that are directly related to implementing and enforcing the bill in relation to the stewardship organization's or producer's activities. The bill would require the department and each state agency to deposit those moneys into the Battery and Battery-Embedded Product Recycling Fund, which the bill would establish, and would authorize the department and any other relevant state agency to expend those moneys, upon appropriation by the Legislature, to administer and enforce the stewardship program.

The bill would provide for enforcement of its provisions, including authorizing the department to impose an administrative civil penalty on a stewardship organization, producer, manufacturer, distributor, retailer, importer, recycler, or collection site in violation of the bill not to exceed \$10,000 per day, unless the violation is intentional, knowing, or reckless, then in that case not to exceed \$50,000 per day. The bill would require the department to deposit those moneys into the Battery and Battery-Embedded Product Recycling Penalty Account, which the bill would establish in the fund, and would require the department to expend those moneys, upon appropriation by the Legislature, to administer and enforce the stewardship program. The bill would require the department, by January 1, ~~2023~~, 2024, *and in consultation with the Department of Toxic Substances Control*, to adopt regulations to implement the bill.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 7.5 (commencing with Section 42420)
2 is added to Part 3 of Division 30 of the Public Resources Code, to
3 read:

4
5 CHAPTER 7.5. BATTERY AND BATTERY-EMBEDDED PRODUCT
6 RECYCLING AND FIRE RISK REDUCTION ACT OF 2021

7
8 Article 1. General Provisions
9

10 42420. This chapter shall be known, and may be cited, as the
11 Battery and Battery-Embedded Product Recycling and Fire Risk
12 Reduction Act of 2021.

13 42420.2. (a) The Legislature finds and declares both of the
14 following:

15 (1) In order to reduce incidents of fires and illegal dumping,
16 increase recycling, and substantially reduce public agency costs
17 for the end-of-life management of discarded batteries and
18 battery-embedded products, the Battery and Battery-Embedded
19 Product Recycling and Fire Risk Reduction Act of 2021 is hereby
20 established to require producers of batteries and battery-embedded
21 products offered for sale or sold in this state to develop, finance,
22 and implement a convenient and cost-effective stewardship
23 program to recover and recycle batteries and battery-embedded
24 products.

25 (2) In order to promote a circular economy, all batteries and
26 battery-embedded products should enter a recycling process at end
27 of life, and the incorporation of the resulting material residuals
28 into new products should be pursued to the extent that it is
29 economically and technically feasible.

30 (b) Both of the following are the intent of the Legislature in
31 enacting this chapter:

32 (1) That consumers have the opportunity to drop off their waste
33 batteries and battery-embedded products free of charge, and that
34 the program established by this chapter leverages existing local
35 infrastructure.

1 (2) To prioritize the use of in-state processing facilities over the
2 use of out-of-state processing facilities to the extent economically
3 practical.

4 42420.4. For purposes of this chapter, the following definitions
5 apply:

6 (a) “Annual report” means the annual report required pursuant
7 to Section 42424.2.

8 (b) (1) “Battery” means a device consisting of one or more
9 electrically connected electrochemical cells that is designed to
10 receive, store, and deliver electric energy. A battery includes an
11 intact, unbroken battery from which the electrolyte has been
12 removed.

13 (2) A battery does not include any of the following:

14 (A) A lead-acid battery.

15 (B) A battery contained in a motor vehicle. Notwithstanding
16 any other law, this exclusion does not apply to a battery contained
17 in any of the following:

18 (i) A motorized scooter.

19 (ii) A motorized skateboard.

20 (iii) A motorized hoverboard.

21 (iv) A device intended to propel or move upon a highway only
22 one individual person or property.

23 (C) An industrial battery, as defined by the department.

24 (c) “Battery pack” means a set of batteries that are connected
25 together or encapsulated within an outer casing to form a complete
26 unit that the consumer is not intended to split up or open.

27 (d) “Battery-embedded product” means a product containing a
28 battery or battery pack that is not designed to be removed from
29 the product by the consumer. Battery-embedded product does not
30 include any of the following:

31 (1) A Class III medical device, as specified in Section 360c of
32 Title 21 of the United States Code.

33 (2) A Class II medical device, as specified in Section 360c of
34 Title 21 of the United States Code, that is not exempt from Section
35 360k of Title 21 of the United States Code.

36 (3) A covered electronic device, as defined in subdivision (e)
37 of Section 42463.

38 (4) An energy storage system, as defined in Section 2835 of the
39 Public Utilities Code.

1 (e) “Collection site” means a permanent or temporary location
2 at which batteries or battery-embedded products are collected and
3 prepared for transport in accordance with the requirements of this
4 chapter.

5 (f) “Consumer” means an owner of a battery or
6 battery-embedded product, including a person, business,
7 corporation, limited partnership, nonprofit organization, or
8 governmental entity, and includes the ultimate purchaser, owner,
9 or lessee of a battery or battery-embedded product.

10 (g) “Distributor” means a company that has a contractual
11 relationship with one or more producers to market and sell batteries
12 or battery-embedded products to retailers.

13 (h) “Electrochemical cell” means a system consisting of an
14 anode, a cathode, and an electrolyte, plus electrical or mechanical
15 connections needed to allow the cell to deliver or receive electric
16 energy.

17 (i) “Importer” means a person qualifying as an importer of
18 record for purposes of Section 1484(a)(2)(B) of Title 19 of the
19 United States Code with regard to the import of a battery or
20 battery-embedded product sold in or into the state that was
21 manufactured or assembled by a company outside the United
22 States. Importer includes a person importing a battery or
23 battery-embedded product sold in or into the state that was
24 manufactured or assembled by a company outside the state.

25 (j) “Lead-acid battery” has the same meaning as defined in
26 Section 42440.

27 (k) “Material recovery rate” means the ratio of the weight of a
28 specific material recovered from batteries received by a battery
29 recycler to the original weight of that material in the batteries
30 received by the battery recycler.

31 (l) “Motor vehicle” has the same meaning as defined in Section
32 415 of the Vehicle Code.

33 (m) (1) “Performance goal” means a metric proposed in a
34 stewardship plan to measure, on an annual basis, the performance
35 of that plan, taking into consideration technical feasibility and
36 economic practicality, in achieving a collection rate determined
37 by the department. “Performance goal” includes annual target
38 collection rates, material recovery rates, target recycling
39 efficiencies by recycling process, and goals for public awareness,
40 convenience, and accessibility.

1 (2) Using the most current science, monitoring, collection
2 technology, data collection, and other best management practices,
3 the department shall develop a performance goal that maximizes
4 the diversion of batteries from the waste stream and that minimizes
5 health and safety concerns.

6 (n) (1) (A) “Producer” means the person who manufactures
7 the battery or battery-embedded product and who sells, offers for
8 sale, or distributes the battery or battery-embedded product in or
9 into the state.

10 (B) If there is no person who is the producer of the battery or
11 battery-embedded product for purposes of subparagraph (A), the
12 producer of the battery or battery-embedded product is the person
13 who imports the battery or battery-embedded product in or into
14 the state for sale or distribution.

15 (C) If there is no person who is the producer for purposes of
16 subparagraphs (A) and (B), the producer is the person who sells
17 the battery or battery-embedded product in or into the state.

18 (2) A producer does not include a person who annually sells,
19 offers for sale, distributes, or imports in or into the state batteries
20 or battery-embedded products with a total annual retail value of
21 less than ____ dollars (\$____) or ____ units.

22 (o) “Recycler” includes both of the following:

23 (1) A person who engages in the manual or mechanical
24 separation of batteries or battery-embedded products to recover
25 components and commodities contained in the batteries or
26 battery-embedded products for the purpose of recycling.

27 (2) A person who changes the physical or chemical composition
28 of batteries or battery-embedded products, in accordance with the
29 requirements of Chapter 6.5 (commencing with Section 25100) of
30 Division 20 of the Health and Safety Code and the regulations
31 adopted pursuant to that chapter, by deconstructing, reducing the
32 size, crushing, cutting, sawing, compacting, shredding, or refining
33 for purposes of segregating and recovering or recycling
34 components, and who arranges for the transport of those
35 components to an end user.

36 (p) “Recycling” means using, reusing, or reclaiming a recyclable
37 material.

38 (q) “Recycling efficiency rate” means the ratio of the weight of
39 resources recovered from batteries received by a battery recycler
40 to the weight of batteries received by the battery recycler.

1 (r) “Retailer” means a person who sells batteries or
2 battery-embedded products in or into the state to a person through
3 any means, including, but not limited to, sales outlets, catalogs,
4 the telephone, the internet, or any electronic means. Retailer does
5 not include a person selling batteries or battery-embedded products
6 with a total annual retail value of less than ____ dollars (\$____)
7 or ____ units.

8 (s) “Sale” or “sell” means the transfer of title of batteries or
9 battery-embedded products for consideration, including by a
10 manufacturer, a distributor, or a retailer, for eventual consumption
11 to a consumer in the state. “Sale” or “sell” includes both of the
12 following:

13 (1) Remote sales conducted through sales outlets, catalogs, the
14 internet, or any electronic means.

15 (2) A long-term lease of not less than 12 months.

16 (t) “Stewardship organization” means an organization exempt
17 from taxation under Section 501(c)(3) of the federal Internal
18 Revenue Code of 1986 (26 U.S.C. Sec. 501(c)(3)) that is
19 established by a group of producers in accordance with Section
20 42421 to develop, implement, and administer a stewardship
21 program.

22 (u) “Stewardship plan” or “plan” means the plan for the
23 collection, transportation, and recycling, and the safe and proper
24 management, of batteries or battery-embedded products that is
25 developed by a stewardship organization or producer pursuant to
26 this chapter.

27 (v) “Stewardship program” means a program established by a
28 producer or stewardship organization for the free and convenient
29 collection, transportation, and recycling, and the safe and proper
30 management, of batteries or battery-embedded products pursuant
31 to a stewardship plan approved by the department.

32

33 Article 2. Producers and Stewardship Organizations for Batteries
34 and Battery-Embedded Products

35

36 42421. (a) Producers may establish one or more stewardship
37 organizations composed of producers to develop, implement, and
38 administer the battery and battery-embedded product recycling
39 program established pursuant to this chapter.

1 (b) (1) A producer shall comply with this chapter either
2 individually or through a stewardship organization established
3 pursuant to subdivision (a).

4 (2) A producer shall not sell, distribute, offer for sale, or import
5 a battery or battery-embedded product in or into this state unless
6 the producer is in compliance with this chapter.

7 (c) Each producer covered under a stewardship organization
8 shall register with that stewardship organization.

9 (d) To obtain a determination that a person is not a producer
10 under this chapter, the person shall request an exemption through
11 the form and manner determined by the department and provide
12 the necessary data required for the department to make this
13 determination.

14
15 Article 3. Stewardship Plan for Batteries and Battery-Embedded
16 Products
17

18 42422. No later than April 1, 2022, a producer shall *register*
19 *with the department and shall provide to the department* a list of
20 batteries or battery-embedded products that it sells or offers for
21 sale in the ~~state to the department.~~ *state.*

22 42422.1. On or before June 30, ~~2024,~~ 2025, a producer, or a
23 stewardship organization on behalf of a group of producers, shall
24 develop and submit to the department a stewardship plan for the
25 collection, transportation, and recycling, and the safe and proper
26 management, of batteries or battery-embedded products in the state
27 in an economically efficient and practical manner. The stewardship
28 plan shall include all of the following goals and elements:

29 (a) The names of producers, distributors, importers, brands, and
30 batteries and battery-embedded products covered under the
31 stewardship plan.

32 (b) A consultation process with the advisory body created
33 pursuant to subdivision (b) of Section 42422.4 to receive advice
34 on the development and implementation of the plan.

35 (c) A free and convenient collection system for batteries or
36 battery-embedded products that achieves a collection rate
37 determined by the department. The system shall include all of the
38 following:

39 (1) (A) A minimum distribution of collection sites to be
40 achieved collectively statewide to appropriately serve the

1 population distribution in a county, with no fewer than five
2 collection sites per county and no fewer than one collection site
3 per population of 10,000.

4 (B) The department may adjust the minimum required collection
5 sites to ensure that consumers have sufficient convenient access
6 to collection sites.

7 (2) A reasonable geographic spread of collection sites, including
8 an explanation of the distribution.

9 (3) A retailer, where feasible, shall serve as an authorized
10 collector as part of a stewardship program in the county in which
11 it is located. If the minimum thresholds described in paragraphs
12 (1) and (2) are not met in each county in which a retail chain has
13 store locations, the retail chain shall have at least one location or
14 ____ percent of its store locations, whichever is greater, in that
15 county serve as authorized collectors in a stewardship program.

16 (4) (A) A producer or stewardship organization shall include
17 as a collection site under its stewardship program any entity that
18 offers in writing to participate in the stewardship program in return
19 for reasonable compensation to the entity pursuant to paragraphs
20 (5) and (6), even if the minimum thresholds described in paragraphs
21 (1) and (2) have been achieved.

22 (B) A producer or stewardship organization shall include the
23 offering entity as a collection site in the program within 90 days
24 of receiving the written offer to participate. The producer or
25 stewardship organization shall not be required to respond to offers
26 pursuant to this paragraph until its stewardship plan has been
27 approved by the department.

28 (5) A producer or stewardship organization shall allow a
29 consumer to drop off, at no charge, batteries or battery-embedded
30 products at a collection site and shall provide for the payment to
31 a collection site that accepts batteries or battery-embedded products
32 in an amount determined by the collection site and producer or
33 stewardship organization that is reasonable for accepting, handling,
34 collecting, storing, and transporting batteries or battery-embedded
35 products.

36 (6) A producer or stewardship organization shall reimburse
37 collection sites for all actual costs of collection and compliant
38 management of batteries and battery-embedded products related
39 to collection sites providing free battery and battery-embedded
40 product dropoff services to consumers, including equipment,

1 training, storage and floor space costs, signage, certifications and
2 safety inspections, education materials and programs, personnel,
3 or other costs associated with implementing this section.

4 (7) A producer or stewardship organization may suspend or
5 terminate a collection site or service that does not adhere to the
6 collection site criteria in an approved plan.

7 (8) A collection site shall be staffed and operated to ensure that
8 batteries or battery-embedded products are safely collected and
9 handled.

10 (d) (1) The establishment and administration of a means for
11 fully funding the stewardship program in a manner that equitably
12 distributes the stewardship program's costs.

13 (2) The funding mechanism shall provide sufficient funding for
14 the producer or stewardship organization to implement the plan,
15 including the administrative, operational, and capital costs of the
16 plan and the department's and any other relevant state agency's
17 administrative costs pursuant to Section 42423.4.

18 (e) (1) A description of how batteries and battery-embedded
19 products will not be landfilled and how all discarded batteries and
20 battery-embedded products will enter a recycling process.

21 (2) A description of how discarded battery residual materials
22 and battery-embedded product residual materials will be, to the
23 extent economically and technically feasible, recycled.

24 (f) A program performance measurement to collect program
25 data for the purpose of the annual report, which shall include all
26 of the following:

27 (1) Data and the method of analysis necessary for demonstrating
28 how the stewardship program's performance goals will be achieved
29 and measured.

30 (2) A methodology for all of the following:

31 (A) Determining the amount of batteries or battery-embedded
32 products sold in the state by the stewardship organization or
33 producer operating the stewardship program.

34 (B) Determining the amount of discarded batteries or
35 battery-embedded products available for collection in the state by
36 the stewardship organization or producer operating the stewardship
37 program.

38 (C) Quantifying the number of batteries or battery-embedded
39 products collected and recycled in the state by the stewardship
40 organization or producer operating the stewardship program.

- 1 (3) A methodology for determining the amount of batteries or
2 battery-embedded products sold in the state by each producer
3 registered with the stewardship organization, if applicable.
- 4 (g) Coordination with, and a description of methods used to
5 coordinate activities with, all of the following, with regard to the
6 proper management or recycling of discarded batteries or
7 battery-embedded products, for purposes of providing the efficient
8 delivery of services and avoiding unnecessary duplication of effort
9 and expense:
- 10 (1) Other stewardship programs.
- 11 (2) Existing battery or battery-embedded product collection and
12 recycling programs, including electronic waste recyclers and
13 dismantlers.
- 14 (3) Other relevant parties, as appropriate.
- 15 (h) Entering into contracts or agreements, which may include
16 contracts and agreements with existing nonprofit or for-profit
17 recyclers, that are necessary and proper for the stewardship
18 organization or producer to carry out its duties in accordance with
19 this chapter.
- 20 (i) Developing strategies, in consultation with the California
21 Environmental Protection Agency's Environmental Justice Task
22 Force and other relevant parties, for collecting batteries or
23 battery-embedded products for recycling in areas and communities
24 that face unique challenges associated with proper waste
25 management, such as poverty, language barriers, and illegal
26 disposal.
- 27 (j) Providing outreach and education programs to consumers,
28 manufacturers, distributors, and retailers to promote the collection
29 and recycling of batteries or battery-embedded products and options
30 available to consumers for the free collection of batteries or
31 battery-embedded products. The programs shall maximize the
32 goals to remove batteries from the waste stream, keep facilities
33 safe, and improve the recycling market. Consumer-facing programs
34 shall support all Californian communities, and may deploy
35 community-based organizations to support regions with low rates
36 of recycling.
- 37 (k) Goals for public awareness, including the implementation
38 of annual consumer awareness studies.
- 39 (l) Developing strategies in coordination with other stewardship
40 programs on proper labeling of batteries to ensure proper collection

1 and recycling, including, but not limited to, a uniform color, design,
2 and labeling scheme for batteries.

3 (m) A contingency plan in the event the stewardship plan
4 expires, is disapproved, or is revoked. The contingency plan shall
5 describe how the plan objectives can be carried out in the absence
6 of a plan, either by the stewardship organization or producer, or
7 through an entity such as an escrow company.

8 (n) Any other information requested by the department that is
9 reasonably related to compliance with the plan and that the
10 producer or stewardship organization can reasonably compile.

11 42422.2. (a) During the 2027 calendar year, and at least once
12 every five years thereafter, a producer or stewardship organization
13 shall review the stewardship plan and determine whether revisions
14 to the plan are necessary.

15 (b) If a producer or stewardship organization determines
16 revisions to the plan are necessary, it shall submit a revised plan,
17 subject to the approval process in Section 42422.6.

18 (c) If a producer or stewardship organization determines that
19 no revisions to the plan are necessary, it shall send a letter to the
20 department explaining that the producer or stewardship
21 organization has reviewed the plan and determined no revisions
22 are needed. The department may disapprove the producer's or
23 stewardship organization's determination within 30 days of that
24 determination if the department concludes that the producer or
25 organization cannot implement the objectives of this chapter
26 without revising the plan.

27 42422.4. (a) In preparing the stewardship plan pursuant to
28 Section 42422.1, and any updates to the plan pursuant to Section
29 42422.2, the producer or stewardship organization shall consult
30 with interested stakeholders, which shall include, but not be limited
31 to, local government representatives, recyclers, retailers,
32 distributors, household hazardous waste industry representatives,
33 and solid waste industry representatives.

34 (b) (1) The department shall create an advisory body for battery
35 and battery-embedded product stewardship that includes, but is
36 not limited to, representatives from local governments, recyclers,
37 retailers, the household hazardous waste industry, nongovernmental
38 organizations, environmental organizations, community-based
39 justice and public health organizations, consumer advocates, and
40 the solid waste industry.

1 (2) Participation on the advisory body shall be voluntary.
 2 (3) The advisory body is not a state body for purposes of Section
 3 11121 of the Government Code.

4 42422.6. (a) (1) At least 90 days before submitting a
 5 stewardship plan to the department, a producer or stewardship
 6 organization shall submit its proposed stewardship plan to any
 7 applicable state agencies with areas of authority relative to the
 8 stewardship plan.

9 (2) A state agency that receives a plan shall review the plan for
 10 compliance with state and federal laws and regulations related to
 11 the agency’s respective authority. The agency shall determine
 12 compliance or noncompliance with those laws and regulations and
 13 provide to the producer or stewardship organization that
 14 determination and an explanation for any finding of
 15 noncompliance, within 90 days of receipt of the plan.

16 (3) A producer or stewardship organization may submit an
 17 updated proposed plan to a state agency that issued a determination
 18 of noncompliance to attempt to obtain a determination of
 19 compliance. A producer or stewardship organization shall submit
 20 any determination received from an agency when it submits its
 21 stewardship plan to the department.

22 (4) If, 90 days after submitting a plan to a state agency, a
 23 producer or stewardship organization has not received a response
 24 from the state agency, the producer or stewardship organization
 25 may submit a certification to the department that the stewardship
 26 plan is consistent with all other applicable laws and regulations.

27 (b) The department may consult with, or submit a stewardship
 28 plan for review to, another state agency it determines is necessary
 29 to determine the completeness of the stewardship plan or for
 30 making a determination on the approval of the stewardship plan
 31 or an amendment to the stewardship plan. The duration of time
 32 that the department takes to review a stewardship plan pursuant
 33 to this subdivision shall not count toward the 90-day time limit
 34 specified in subdivision (c).

35 (c) The department shall review the stewardship plan for
 36 compliance with this chapter and shall approve, disapprove, or
 37 conditionally approve the plan within 90 days of receipt of the
 38 plan.

39 (d) If the department disapproves the plan pursuant to
 40 subdivision (c), the department shall explain, in writing, how the

1 plan does not comply with this chapter, and the producer or
2 stewardship organization shall resubmit a plan to the department.
3 If the department finds that the plan resubmitted by the producer
4 or stewardship organization does not comply with the requirements
5 of this chapter, the producer or stewardship organization shall not
6 be deemed in compliance with this chapter until the producer or
7 stewardship organization submits a plan that the department finds
8 complies with the requirements of this chapter.

9 (e) On or before December 31, ~~2024~~, 2025, a producer or
10 stewardship organization on behalf of a group of producers shall
11 have a complete stewardship plan approved by the department.

12 (f) The approved plan shall be a public record, except that
13 financial, production, or sales data reported to the department by
14 the producer or stewardship organization is not a public record for
15 purposes of the California Public Records Act (Chapter 3.5
16 (commencing with Section 6250) of Division 7 of Title 1 of the
17 Government Code) and shall not be open to public inspection. The
18 department may release financial, production, or sales data in
19 summary form only so the information cannot be attributable to a
20 specific producer or distributor or to any other entity.

21 42422.8. (a) On or before June 30, ~~2025~~, 2026, a producer or
22 stewardship organization shall fully implement its stewardship
23 program.

24 (b) All handling, collection, and transport of batteries or
25 battery-embedded products undertaken as part of a stewardship
26 program under this chapter shall comply with all applicable state
27 and federal laws.

28

29

Article 4. Financial Provisions

30

31 42423. (a) On or before June 30, ~~2024~~, 2025, and on or before
32 June 30 of each year thereafter, a stewardship organization or
33 producer shall prepare and submit to the department a proposed
34 stewardship program budget for the next five calendar years that
35 includes all of the following:

36 (1) Anticipated revenues and costs of implementing the
37 stewardship program, including related programs, projects,
38 contracts, and administrative expenses. Administrative expenses
39 shall include the department's and other state agencies' reasonable
40 regulatory costs pursuant to Sections 42422.6 and 42423.4. For

1 purposes of this paragraph, stewardship program implementation
2 begins once the department approves a stewardship organization’s
3 or producer’s stewardship plan.

4 (2) A recommended funding level sufficient to cover the plan’s
5 budgeted costs and to operate the stewardship program in a prudent
6 and responsible manner over a multiyear period. For purposes of
7 this paragraph, stewardship program operation begins once the
8 department approves a stewardship organization’s or producer’s
9 stewardship plan.

10 (3) Any additional information that the department deems
11 necessary to determine whether the budget meets the requirements
12 of this chapter.

13 (b) A producer or stewardship organization shall not expend
14 revenue from the stewardship program for either of the following
15 purposes:

16 (1) To pay an administrative civil penalty pursuant to Section
17 42425.2.

18 (2) To pay costs associated with litigation between the producer
19 or organization and the state.

20 42423.2. (a) Within 90 days of receipt, the department shall
21 conditionally approve, approve, or disapprove a stewardship
22 program budget. If the department fails to act or does not
23 disapprove a final stewardship program budget, the budget shall
24 be deemed approved.

25 (b) (1) If the department conditionally approves or disapproves
26 the budget, the stewardship organization or producer shall resubmit
27 a revised budget addressing the department’s written reasons for
28 the department’s decision within 30 days of the conditional
29 approval or disapproval.

30 (2) The department, within 60 days from the date the
31 stewardship organization or producer resubmits a revised budget,
32 shall approve or disapprove a final stewardship program budget.
33 If the department fails to act or does not disapprove a final
34 stewardship program budget within those 60 days, the budget shall
35 be deemed approved.

36 (c) If the department disapproves a revised budget submitted
37 pursuant to paragraph (1) of subdivision (b), the producer or
38 stewardship organization may submit only one additional revised
39 budget, subject to review in accordance with paragraph (2) of
40 subdivision (b).

1 (d) Until a budget has been approved or deemed approved
2 pursuant to this section, a stewardship organization or producer
3 shall make expenditures consistent with the most recent approved
4 budget until a new budget has been approved or deemed approved
5 by the department.

6 42423.4. (a) The department and state agencies with
7 jurisdiction relevant to this chapter shall notify each stewardship
8 organization, and each producer that is not part of a stewardship
9 organization, of their respective reasonable regulatory costs that
10 are directly related to implementing and enforcing this chapter in
11 relation to the stewardship organization's or producer's activities.
12 This may include the direct costs associated with regulatory
13 development before submission of the stewardship plan pursuant
14 to Section 42422.1.

15 (b) On or before August 31, ~~2024~~, 2025, and once every three
16 months thereafter, producers and stewardship organizations shall
17 reimburse the department and any other state agency for incurred
18 costs as described in subdivision (a). The reimbursement shall not
19 exceed the department's or other state agency's full reasonable
20 regulatory costs to implement and enforce this chapter.

21 (c) The department and each state agency with jurisdiction
22 relevant to this chapter shall deposit all moneys submitted for
23 reimbursement costs by a stewardship organization or producer
24 pursuant to this section into the Battery and Battery-Embedded
25 Product Recycling Fund, which is hereby established in the State
26 Treasury. Upon appropriation by the Legislature, moneys in the
27 fund shall be expended by the department and any other state
28 agency with jurisdiction relevant to this chapter to administer and
29 enforce this chapter, as well as to reimburse any outstanding loans
30 made from other funds used to finance startup costs of the
31 department's and any other state agency's activities pursuant to
32 this chapter. The moneys collected pursuant to this section shall
33 not be expended for any other purpose.

34 42423.6. (a) A stewardship organization or producer operating
35 a stewardship program shall not maintain total program reserves
36 exceeding 60 percent of its annual operating expenses, consistent
37 with the requirements of the Financial Accounting Standards
38 Board's Accounting Standards Update 2016-14, Not-for-Profit
39 Entities (Topic 958), and any future updates to that standard.

1 (b) The department, in approving the annual stewardship
 2 program budget, may authorize the total reserves to be increased
 3 to up to 75 percent of the stewardship organization’s or producer’s
 4 annual operating expenses if the department determines the increase
 5 is necessary to implement the requirements of this chapter.

6 (c) If a stewardship organization’s or producer’s reserves exceed
 7 the amount specified in subdivision (a) or (b), the department may
 8 require the organization or producer to increase spending on
 9 implementing the requirements of this chapter.

10
 11 Article 5. Records, Audits, and Reports for Batteries and
 12 Battery-Embedded Products
 13

14 42424. (a) A stewardship organization or producer shall keep
 15 minutes, books, and records that clearly reflect the activities and
 16 transactions of the stewardship organization or producer.

17 (b) The accounting books of the stewardship organization or
 18 producer shall be audited at the stewardship organization’s or
 19 producer’s expense by an independent certified public accountant
 20 retained by the stewardship organization or producer at least once
 21 each calendar year, commencing with the 2024 calendar year.

22 (c) The stewardship organization or producer shall arrange for
 23 the audit to be delivered to the department with the annual report.
 24 The department shall review the audit for compliance with this
 25 chapter and consistency with the stewardship plan. The department
 26 shall notify the stewardship organization or producer of any
 27 compliance issues or inconsistencies.

28 (d) The department may conduct its own audit if it determines
 29 that an audit is necessary to enforce the requirements of this chapter
 30 and that the audit conducted pursuant to subdivision (b) is not
 31 adequate for this purpose. The stewardship organization or producer
 32 may obtain copies of the audit upon request.

33 (e) The department shall not disclose any confidential
 34 proprietary information in an audit conducted pursuant to this
 35 section.

36 42424.2. On or before June 30, ~~2024~~, 2025, and on or before
 37 June 30 of each year thereafter, a stewardship organization, or
 38 producer that is not part of a stewardship organization, shall submit
 39 to the department, in the form and manner determined by the
 40 department, and make publicly available on its internet website,

1 an annual report that includes, for the preceding calendar year, all
2 of the following:

3 (a) The stewardship organization's or producer's costs and
4 revenues.

5 (b) The quantity of batteries and battery-embedded products
6 sold in the state by the producers in the stewardship program and
7 the discarded batteries or battery-embedded products collected for
8 recycling in the stewardship program.

9 (c) A list of the stewardship program's collection sites, by name,
10 location, and type.

11 (d) The total weight of each battery chemistry type that was
12 collected.

13 (e) A list of each battery recycling facility used by the
14 stewardship program, by name and location.

15 (f) A list of each battery-embedded product recycling facility
16 used by the stewardship program, by name and location.

17 (g) An updated list of the names and locations of producers,
18 manufacturers, distributors, importers, brands, and batteries and
19 battery-embedded products covered under the stewardship plan.

20 (h) The total weight of battery-embedded products recycled in
21 the state during the preceding calendar year, including any
22 conversion factor used to determine the number of
23 battery-embedded products recovered.

24 (i) The recycling efficiency rate of each battery chemistry type
25 that was recycled.

26 (j) The material recovery rate of each individual battery material.

27 (k) The total weight of residual materials from battery-embedded
28 products.

29 (l) The uses for the recycled residual materials.

30 (m) The weight of residual materials that were not recycled,
31 subject to paragraph (2) of subdivision (e) of Section 42422.1.

32 (n) A description of methods used to collect, transport, and
33 process batteries or battery-embedded products, including any
34 conversion factor used to determine the number of batteries or
35 battery-embedded products recovered.

36 (o) A list of any contracts or agreements, which may include
37 contracts and agreements with existing nonprofit or for-profit
38 recyclers, that are necessary and proper for the stewardship
39 organization or producer to carry out its duties under this chapter.

1 (p) A description of outreach efforts and education to consumers,
2 manufacturers, distributors, and retailers for the purpose of
3 promoting the collection and recycling of batteries or
4 battery-embedded products.

5 (q) (1) A report on coordination activities with other
6 stewardship programs, including coordinating existing battery or
7 battery-embedded product collection and recycling programs, and
8 with other relevant parties, as appropriate, with regard to the proper
9 management or recycling of discarded batteries or
10 battery-embedded products, for purposes of providing the efficient
11 delivery of services and avoiding unnecessary duplication of effort
12 and expense.

13 (2) A description of strategies in coordination with other
14 stewardship programs on proper labeling of batteries to ensure
15 proper collection and recycling.

16 (r) (1) Findings from an annual consumer awareness study and
17 examples of educational materials that were provided to consumers
18 in the first year of the stewardship program and any changes to
19 those materials in subsequent years, as well as other mechanisms,
20 including advertising of the program, to increase consumer
21 awareness.

22 (2) A description of any consultation with the California
23 Environmental Protection Agency’s Environmental Justice Task
24 Force and other relevant parties for collecting batteries or
25 battery-embedded products for recycling in areas and communities
26 that face unique challenges.

27 (s) A demonstration of efforts to comply with collection goals
28 established pursuant to Section 42422.1.

29 (t) (1) A report on activities the stewardship organization or
30 producer has undertaken in relation to all of the following:

- 31 (A) Meeting performance goals.
- 32 (B) Making progress on meeting performance goals.
- 33 (C) Making progress on planned efforts to meet performance
34 goals.

35 (2) Factors to be considered for paragraph (1) may include, but
36 are not limited to, availability of take-back options and no-cost
37 local curbside collections services, proximity to recyclers and
38 no-cost collection points and events, and the state of current
39 recycling technology.

1 (u) A report on activities, which the stewardship organization
2 or producer shall undertake, to prioritize, to the extent economically
3 practical, the use of in-state processing facilities over out-of-state
4 processing facilities. If the stewardship organization or producer
5 decides to use out-of-state processing facilities, the stewardship
6 organization or producer shall provide an explanation of that
7 decision.

8 (v) If the producer or stewardship organization determines
9 during a particular year that any of the activities undertaken to
10 implement subdivision (t) were unsuccessful, the stewardship
11 organization or producer shall identify the problems with the
12 current activities, and report on the new activities undertaken and
13 progress made, in the following year's annual report.

14 (w) A hard copy of, or an electronic reference to, any report
15 completed by the stewardship organization or producer during the
16 period covered by the annual report and a brief explanation of how
17 the stewardship organization or producer anticipates the activities
18 may benefit the stewardship program. The stewardship organization
19 or producer shall make these reports publicly available free of
20 charge. If the report contains trade secret or confidential
21 information protected under existing law, the stewardship
22 organization or producer shall only be required to provide a
23 description of the information and its relevance to the stewardship
24 program that omits any of the trade secret or confidential
25 information.

26 (x) The progress toward attainment of the goals included in the
27 stewardship organization's or producer's stewardship plan.

28 (y) Any modification or revision to the stewardship plan,
29 including those required pursuant to Section 42422.2, which are
30 subject to review under Section 42422.6, necessary to achieve the
31 goals established pursuant to Section 42422.1.

32 (z) Any other information relevant to compliance with the
33 approved stewardship plan.

34 42424.4. (a) No later than 90 days after the date the department
35 receives the annual report, the department shall notify the
36 stewardship organization or producer of any deficiencies in the
37 annual report. No later than 60 days after receiving this notice
38 from the department, the stewardship organization or producer
39 shall provide additional information, modifications, or corrections
40 in response to the department's notification.

1 (b) Any proposed activities in the annual report shall be
2 evaluated by the department for progress and shall be taken into
3 consideration when approving, disapproving, or conditionally
4 approving the report.

5 (c) Within 90 days of receipt of an annual report deemed
6 complete, the department shall review the report for compliance
7 with this chapter and shall approve, disapprove, or conditionally
8 approve the annual report. If the department fails to act within 90
9 days of receipt of the report, the report shall be deemed approved.

10 (d) (1) If the department conditionally approves or disapproves
11 the annual report, the stewardship organization or producer shall
12 resubmit a revised annual report addressing the department's
13 written reasons for its decision within 30 days of the conditional
14 approval or disapproval.

15 (2) The department, within 60 days from the date a stewardship
16 organization or producer resubmits a revised annual report, shall
17 approve or disapprove a final annual report. If the department fails
18 to act or does not disapprove a final annual report within those 60
19 days, the annual report shall be deemed approved.

20 (e) If the department disapproves a revised annual report
21 submitted pursuant to paragraph (1) of subdivision (d), the
22 stewardship organization or producer may submit only one
23 additional revised annual report, subject to review in accordance
24 with paragraph (2) of subdivision (d).

25

26 Article 6. Enforcement

27

28 42425. (a) On or before July 1, ~~2025~~, 2026, and on or before
29 July 1 of each year thereafter, the department shall post on its
30 internet website a list of producers that are in compliance with this
31 chapter. The department shall list, as appropriate, the reported
32 brands and names of batteries and battery-embedded products for
33 each producer.

34 (b) A producer that is not listed on the department's internet
35 website pursuant to this section that demonstrates compliance with
36 this chapter before the next post is required pursuant to subdivision
37 (a) may request a certification letter from the department stating
38 that the producer, brand, or battery or battery-embedded product
39 is in compliance. A producer that receives this letter shall be
40 deemed listed as compliant on the department's internet website.

1 (c) (1) A retailer or distributor shall monitor the department's
2 internet website to determine if a producer, brand, or battery or
3 battery-embedded product is in compliance with this chapter for
4 that brand or battery or battery-embedded product.

5 (2) A retailer or distributor shall not sell, distribute, offer for
6 sale, or import a battery or battery-embedded product in or into
7 the state unless the producer of the battery or battery-embedded
8 product is listed as in compliance pursuant to subdivision (a) for
9 that brand and battery or battery-embedded product.

10 (d) Notwithstanding subdivision (c), both of the following apply:

11 (1) A retailer or distributor may sell or distribute a battery or
12 battery-embedded product if, on the date the retailer or distributor
13 ordered or purchased the battery or battery-embedded product, or
14 within 120 calendar days before or after that date, the producer,
15 brand, or battery or battery-embedded product was listed as
16 compliant on the department's internet website.

17 (2) A retailer or distributor may, for any existing inventory in
18 stock before the initial list was posted by the department pursuant
19 to subdivision (a), sell or distribute that inventory.

20 (e) If the department determines a producer is not in compliance
21 with this chapter, the department shall remove the producer, along
22 with its brands and batteries or battery-embedded products, from
23 the department's internet website, as specified in subdivision (a).
24 The producer shall not sell a battery or battery-embedded product
25 in the state until the department determines the producer is in
26 compliance with this chapter.

27 42425.2. (a) The department may impose an administrative
28 civil penalty on a producer, stewardship organization,
29 manufacturer, distributor, retailer, importer, recycler, or collection
30 site that is in violation of this chapter. The amount of the
31 administrative civil penalty shall not exceed ten thousand dollars
32 (\$10,000) per day, but, if the violation is intentional, knowing, or
33 reckless, the department may impose an administrative civil penalty
34 of not more than fifty thousand dollars (\$50,000) per day.

35 (b) The department shall not impose a penalty pursuant to this
36 section on a stewardship organization or producer operating a
37 stewardship program for a failure to comply with this chapter if
38 the organization or producer demonstrates it received false or
39 misleading information from a member of the organization, as

1 applicable, or other party that was the direct cause of its failure to
2 comply.

3 (c) The department shall deposit all penalties collected pursuant
4 to this section into the Battery and Battery-Embedded Product
5 Recycling Penalty Account, which is hereby created in the Battery
6 and Battery-Embedded Product Recycling Fund. Upon
7 appropriation by the Legislature, moneys in the account shall be
8 expended by the department to administer and enforce this chapter.

9 42425.4. (a) Upon a written finding that a producer,
10 stewardship organization, manufacturer, distributor, retailer,
11 importer, recycler, or collection site has not met a material
12 requirement of this chapter, in addition to any other penalties
13 authorized under this chapter, the department may, after affording
14 the entity a reasonable opportunity to respond to, or rebut, the
15 finding, take any of the following actions to ensure compliance
16 with the requirements of this chapter:

17 (1) Revoke the stewardship organization’s or producer’s
18 stewardship plan approval or require the stewardship organization
19 or producer to resubmit the plan.

20 (2) Remove the producer, along with its brands and batteries or
21 battery-embedded products, from the department’s list of compliant
22 producers, as specified in Section 42425.

23 (3) Impose additional reporting requirements relating to
24 compliance with the material requirement identified by the
25 department.

26 (b) If a stewardship plan is revoked pursuant to paragraph (1)
27 of subdivision (a) or terminated by the stewardship organization
28 or producer that submitted the plan, a producer no longer subject
29 to that plan may, without being subject to administrative civil
30 penalties pursuant to Section 42425.2, sell or offer for sale batteries
31 or battery-embedded products in the state for a period of up to one
32 year after the stewardship plan was terminated or was revoked if
33 the producer continues to operate under the most recent approved
34 stewardship plan to which the producer was subject.

35 42425.6. (a) A producer, stewardship organization,
36 manufacturer, distributor, retailer, importer, recycler, or collection
37 site shall do both of the following:

38 (1) Upon request, provide the department with reasonable and
39 timely access, as determined by the department and as authorized
40 pursuant to Title 13 (commencing with Section 1822.50) of Part

1 3 of the Code of Civil Procedure, to its facilities and operations,
2 as necessary to determine compliance with this chapter.

3 (2) Upon request, provide the department with relevant records
4 necessary to determine compliance with this chapter.

5 (b) The records required by this chapter shall be maintained and
6 accessible for three years. All reports and records provided to the
7 department pursuant to this chapter shall be provided under penalty
8 of perjury.

9 (c) The department may take disciplinary action against a
10 producer, stewardship organization, manufacturer, distributor,
11 retailer, importer, recycler, or collection site that fails to provide
12 the department with the access required pursuant to this section,
13 including, but not limited to, imposing administrative civil penalties
14 pursuant to Section 42425.2 and posting an immediate notice on
15 the department's internet website pursuant to Section 42425 that
16 the producer, along with its brands and batteries or
17 battery-embedded products, is no longer in compliance with this
18 chapter.

19 42425.8. ~~The department~~ *department, in consultation with the*
20 *Department of Toxic Substances Control*, shall adopt regulations
21 for the implementation of this chapter by January 1, ~~2023~~. 2024.

22

23 Article 7. Antitrust Immunity

24

25 42426. (a) Except as provided in subdivision (c), an action
26 specified in subdivision (b) that is taken by a stewardship
27 organization or producer that relates to any of the following is not
28 a violation of the Cartwright Act (Chapter 2 (commencing with
29 Section 16700) of Part 2 of Division 7 of the Business and
30 Professions Code), the Unfair Practices Act (Chapter 4
31 (commencing with Section 17000) of Part 2 of Division 7 of the
32 Business and Professions Code), or the Unfair Competition Law
33 (Chapter 5 (commencing with Section 17200) of Part 2 of Division
34 7 of the Business and Professions Code).

35 (b) Subdivision (a) applies to all of the following actions taken
36 by a stewardship organization or producer:

37 (1) The creation, implementation, or management of a
38 stewardship plan approved or conditionally approved by the
39 department pursuant to Article 3 (commencing with Section 42422)
40 and the determination of the types or quantities of batteries or

1 battery-embedded products recycled or otherwise managed
2 pursuant to a stewardship plan.

3 (2) The determination of the cost and structure of an approved
4 stewardship plan.

5 (3) The establishment, administration, collection, or
6 disbursement of a charge associated with funding the
7 implementation of this chapter.

8 (c) Subdivision (a) does not apply to an agreement that does
9 any of the following:

10 (1) Fixes a price of or for batteries or battery-embedded
11 products, except for an agreement related to costs or charges
12 associated with participation in a stewardship plan approved or
13 conditionally approved by the department and otherwise in
14 accordance with this chapter.

15 (2) Fixes the output or production of batteries or
16 battery-embedded products.

17 (3) Restricts the geographic area in which, or customers to
18 whom, batteries or battery-embedded products will be sold.

19 SEC. 2. Article 5 (commencing with Section 42457) is added
20 to Chapter 8.4 of Part 3 of Division 30 of the Public Resources
21 Code, to read:

22
23 Article 5. Repeal

24
25 42457. This chapter shall become inoperative on June 30, 2025,
26 and, as of January 1, 2026, is repealed.

27 SEC. 3. Article 7 (commencing with Section 42499.5) is added
28 to Chapter 8.6 of Part 3 of Division 30 of the Public Resources
29 Code, to read:

30
31 Article 7. Repeal

32
33 42499.5. This chapter shall become inoperative on June 30,
34 2025, and, as of January 1, 2026, is repealed.

35 SEC. 4. The Legislature finds and declares that Section 1 of
36 this act, which adds Chapter 7.5 (commencing with Section 42420)
37 to Part 3 of Division 30 of the Public Resources Code, imposes a
38 limitation on the public’s right of access to the meetings of public
39 bodies or the writings of public officials and agencies within the
40 meaning of Section 3 of Article I of the California Constitution.

1 Pursuant to that constitutional provision, the Legislature makes
2 the following findings to demonstrate the interest protected by this
3 limitation and the need for protecting that interest:

4 In order to ensure that the competitive market in the state for the
5 manufacture and sale of batteries and battery-embedded products
6 is not compromised, it is necessary that financial, production, and
7 sales data and confidential proprietary information collected for
8 the purpose of administering a stewardship program be
9 confidential.

10 SEC. 5. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.

O

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

SB 289 (Newman)
 Version: April 13, 2021
 Hearing Date: April 27, 2021
 Fiscal: Yes
 Urgency: No
 CK

SUBJECT

Recycling: batteries and battery-embedded products

DIGEST

This bill requires producers of batteries and battery-embedded products to establish a stewardship program for the collection, transportation, and recycling, and the safe and proper management of batteries or battery-embedded products in California.

EXECUTIVE SUMMARY

The South Bayside Waste Management Authority, or RethinkWaste, is a joint powers authority of 12 public agencies in San Mateo County, and a sponsor of this bill. In 2016, a four-alarm fire broke out in RethinkWaste's Shoreway Environmental Center material recovery facility causing millions of dollars in damage and forcing the facility to shut down for four months. The likely cause was a rechargeable battery that made its way into the plant's recyclable material. The threat of fires and resulting damage from certain batteries, and in particular, Lithium batteries, is widespread, with fires abounding at not only waste facilities, but on airplanes and airports as well as in consumers' homes.¹

Despite laws regulating the disposal of such batteries, many end up in waste facilities and recycling centers. One issue is the lack of accessible options for properly recycling or disposing of these batteries. This bill turns to the extended producer responsibility

¹ See Jillian Mock, *Recycling Plants Are Catching On Fire, And Lithium-Ion Batteries Are To Blame* (February 28, 2020) The Verge, <https://www.theverge.com/2020/2/28/21156477/recycling-plants-fire-batteries-rechargeable-smartphone-lithium-ion>; *Battery Incident Chart* (March 31, 2021) Federal Aviation Administration, https://www.faa.gov/hazmat/resources/lithium_batteries/media/Battery_incident_chart.pdf; Alana Semuels, *When your Amazon Purchase Explodes* (April 30, 2019) The Atlantic, <https://www.theatlantic.com/technology/archive/2019/04/lithium-ion-batteries-a-mazon-are-exploding/587005/>.

model and requires producers of batteries and battery-embedded products to develop, finance, and implement stewardship programs to recover and recycle these batteries. The programs will be overseen and regulated by the California Department of Resources Recycling and Recovery (CalRecycle).

This bill is co-sponsored by California Product Stewardship Council, Californians Against Waste, and RethinkWaste. It is supported by various waste management and sanitation groups and local jurisdictions. It is opposed by various industry groups, including the Rechargeable Battery Association, manufacturing associations, the California Chamber of Commerce, and insurance groups. This bill passed out of the Senate Environmental Quality Committee on a 5 to 2 vote.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Rechargeable Battery Recycling Act of 2006 with the goal of enacting a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of previously used rechargeable batteries. (Pub. Resources Code § 42451 et seq.) The act requires every retailer to have in place a system for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal. The act does not apply to a retailer for the sale of rechargeable batteries that are contained in or packaged with a battery-operated device. (Pub. Resources Code § 42453.)
- 2) Establishes the Cell Phone Recycling Act of 2004 with the stated goal of enacting a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of used cell phones. The act's further purpose is to establish a program that is convenient for consumers and the public to return, recycle, and ensure the safe and environmentally sound disposal of used cell phones, and providing a system that does not charge when a cell phone is returned. (Pub. Resources Code § 42490 et seq.) The act requires every retailer of cell phones sold in California to have in place a system for the acceptance and collection of used cell phones for reuse, recycling, or proper disposal. (Pub. Resources Code § 42494.)
- 3) Establishes the Electronic Waste Recycling Act of 2003 with the goal of enacting a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of covered electronic devices, and to provide incentives to design electronic devices that are less toxic, more recyclable, and that use recycled materials. (Pub. Resources Code § 42460 et seq.) "Covered device" is defined as a video display device containing a screen greater than four inches, measured diagonally.

- 4) Establishes the Hazardous Waste Control Law with the goal of establishing regulations and incentives which ensure that the generators of hazardous waste employ technology and management practices for the safe handling, treatment, recycling, and destruction of their hazardous wastes prior to disposal. (Health & Saf. Code § 25100 et seq.)
- 5) Establishes the California Integrated Waste Management Act of 1989 in order to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient and cost-effective manner to conserve water, energy and other natural resources, to protect the environment, to improve regulation of existing solid waste landfills, to ensure that new solid waste landfills are environmentally sound, to improve permitting procedures for solid waste management facilities, and to specify the responsibilities of local governments to develop and implement integrated waste management programs. (Pub. Resources Code § 40050.)
- 6) Establishes the California Public Records Act and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 6250 et seq.)

This bill:

- 1) Establishes the Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021.
- 2) Requires manufacturers of battery or battery-embedded products who sell, offer for sale, or distribute the battery or battery-embedded product in or into the state ("producers") to register with CalRecycle and to provide it a list of batteries or battery-embedded products that they sell or offer for sale in the state no later than April 1, 2022.
- 3) Defines a "battery-embedded product" as a product containing a battery or battery pack that is not designed to be removed from the product by the consumer. It specifically excludes various items, including certain medical devices and "covered electronic devices" regulated pursuant to the Electronic Waste Recycling Act.
- 4) Requires a producer, on or before June 30, 2025, or a stewardship organization on behalf of a group of producers, to develop and submit to CalRecycle a stewardship plan for the collection, transportation, and recycling, and the safe and proper management, of batteries or battery-embedded products in the state in an economically efficient and practical manner. The stewardship plan is required to cover a detailed list of elements and goals.

- 5) Requires a plan to provide for a free and convenient collection system for batteries or battery-embedded products that achieves a collection rate determined by CalRecycle. The system must be balanced geographically and based on population density. It must require a retailer, where feasible, to serve as an authorized collector as part of a stewardship program, as specified. A “retailer” is a person who sells batteries or battery-embedded products in or into the state to a person through any means. A producer or stewardship organization must also include as a collection site any entity that offers in writing to participate in the stewardship program in return for reasonable compensation.
- 6) Requires, through the stewardship plan, a producer or stewardship organization to allow a consumer to drop off, at no charge, batteries or battery-embedded products at a collection site and to provide for the payment to a collection site that accepts batteries or battery-embedded products in an amount determined by the collection site and producer or stewardship organization that is reasonable for accepting, handling, collecting, storing, and transporting batteries or battery-embedded products.
- 7) Provides that the plan must require collection sites to be staffed and operated to ensure that batteries or battery-embedded products are safely collected and handled.
- 8) Provides that the stewardship plan must include a description of how batteries and battery-embedded products will not be landfilled, how all discarded batteries and battery-embedded products will enter a recycling process. It must also include a description of how discarded battery residual materials and battery-embedded product residual materials will be, to the extent economically and technically feasible, recycled.
- 9) Requires producers to first submit the stewardship plan to any applicable state agencies with areas of authority relative to the plan. Each respective state agency is required to make a legal determination of the plan’s compliance with state and federal laws and regulations related to the agency’s respective authority and provide it to the producer, with an explanation for any finding of noncompliance. If there is no response after 90 days, the producer may submit it as consistent with all other applicable laws and regulations.
- 10) Requires producers or stewardship organizations on their behalf to have a plan approved by December 31, 2025, and to fully implement the plan by June 30, 2026.
- 11) Provides that the approved plan is a public record, except that financial, production, or sales data reported to the department by the producer or stewardship organization, is not a public record for purposes of the California

Public Records Act and shall not be open to public inspection. CalRecycle may release financial, production, or sales data in summary form only so the information cannot be attributable to a specific producer or distributor or to any other entity.

- 12) Requires producers or stewardship programs to prepare and submit proposed five-year budgets each year.
- 13) Prohibits a producer or stewardship organization from expending revenue from the stewardship program to pay an administrative civil penalty or to pay costs associated with litigation between the producer or organization and the state.
- 14) Requires a producer or stewardship organization to keep records of its activities and transactions and to annually audit such records. CalRecycle is authorized to conduct its own audit if it determines it is necessary. It is prohibited from disclosing any confidential proprietary information in an audit.
- 15) Requires an annual report to be produced and made publicly available. It must include a report on the activities the producer undertook to prioritize in-state processing facilities over out-of-state processing facilities.
- 16) Requires CalRecycle, on or before July 1, 2026, and on or before July 1 of each year thereafter, to post on its internet website a list of producers that are in compliance with this act, as provided. It must list the reported brands and names of batteries and battery-embedded products for each producer.
- 17) Requires a retailer or distributor to monitor the website to determine if a producer, brand, or battery or battery-embedded product is in compliance with the act for that brand or battery or battery-embedded product. The act prohibits a retailer or distributor from selling, distributing, offering for sale, or importing a battery or battery-embedded product in or into the state unless the producer of the battery or battery-embedded product is listed as in compliance for that brand and battery or battery-embedded product, as provided.
- 18) Prohibits a producer from selling a battery or battery-embedded product in California until CalRecycle determines the producer is in compliance.
- 19) Authorizes CalRecycle to impose an administrative civil penalty on a producer, stewardship organization, manufacturer, distributor, retailer, importer, recycler, or collection site that is in violation of this act, except as provided. The amount of the administrative civil penalty shall not exceed \$10,000 per day, but, if the violation is intentional, knowing, or reckless, it may impose an administrative civil penalty of not more than \$50,000 per day.

- 20) Authorizes CalRecycle, if it makes a finding that a material requirement of the act has not been met and provides a reasonable opportunity to respond to, or rebut, the finding, to take the following actions:
 - a. revoke the stewardship organization's or producer's stewardship plan approval or require the stewardship organization or producer to resubmit the plan;
 - b. remove the producer, along with its brands and batteries or battery-embedded products, from CalRecycle's list of compliant producers; and
 - c. impose additional reporting requirements relating to compliance with the material requirement identified by the department.
- 21) Requires a producer, stewardship organization, manufacturer, distributor, retailer, importer, recycler, or collection site to provide CalRecycle with reasonable and timely access to its facilities and operations, as authorized pursuant to the inspection warrant provisions of the Code of Civil Procedure.
- 22) Provides that the records required by the bill must be maintained and accessible for three years. All reports and records provided to CalRecycle shall be provided under penalty of perjury.
- 23) Authorizes CalRecycle may take disciplinary action against a producer, stewardship organization, manufacturer, distributor, retailer, importer, recycler, or collection site that fails to provide the department with the access required pursuant to this section, including, but not limited to, imposing administrative civil penalties and posting an immediate notice on its website that the producer, along with its brands and batteries or battery-embedded products, is no longer in compliance with this chapter.
- 24) Exempts certain actions taken by a stewardship organization or producer from the Cartwright Act, Business and Professions Code Section 16700 et seq., the Unfair Practices Act, Business and Professions Code Section 17000 et seq., and the Unfair Competition Law, Business and Professions Code Section 17200 et seq.
- 25) Repeals the Rechargeable Battery Recycling Act and the Cell Phone Recycling Act as of June 30, 2025.

COMMENTS

1. Attempts to address the problem of battery waste

As discussed above, batteries contain dangerous materials and can create serious safety concerns. As a result, they cannot be simply thrown out or placed in the recycling bin. According to CalRecycle:

Batteries are considered hazardous waste in California when they are discarded. This includes AAA, AA, C, D, button cell, 9-volt, and all other batteries, both rechargeable and single-use. All batteries must be recycled or taken to a household hazardous waste disposal facility, a universal waste handler (e.g., storage facility or broker), or an authorized recycling facility.

Batteries are considered hazardous because of the metals and/or other toxic or corrosive materials they contain. Batteries are potentially a valuable source of recyclable metal.

According to a report titled Household Universal Waste Generation in California, 507,259,000 batteries were sold in California in 2001. According to the report, only 0.55 percent of these batteries were recycled.²

These abysmal numbers are despite several regulatory schemes intended to address the problem. The Rechargeable Battery Recycling Act was enacted with the goal of establishing a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of previously used rechargeable batteries. (Pub. Resources Code § 42451 et seq.) Most portable electronic devices used by most Californians every day contain such batteries. The act requires every retailer to have in place a system for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal. However, the act does not apply to retailers that sell such batteries contained within or packaged with a battery-operated device. (Pub. Resources Code § 42453.)

California also established the Cell Phone Recycling Act with the stated goal of enacting a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of used cell phones. The goal was to establish a program convenient for consumers and the public to return, recycle, and ensure the safe and environmentally sound disposal of used cell phones, and to provide a system that does not charge a fee when a cell phone is returned. (Pub. Resources Code § 42490 et seq.) The act requires every retailer of cell phones sold in California to have in place a system for the acceptance and collection of used cell phones for reuse, recycling, or proper disposal. (Pub. Resources Code § 42494.) However, the bill applies only to this one device. Similarly, the Electronic Waste Recycling Act also fosters the proper and legal disposal of “covered electronic devices,” however, this only includes certain video display devices. (Pub. Resources Code § 42460 et seq.)

² Batteries (March 9, 2020) CalRecycle, <https://www.calrecycle.ca.gov/reducewaste/batteries#:~:text=materials%20they%20contain,-Batteries%20are%20potentially%20a%20valuable%20source%20of%20recyclable%20metal,or%20an%20authorized%20recycling%20facility.>

2. Addressing the problem through extended producer responsibility

This bill takes another step at addressing this issue at a more holistic level by establishing an extended producer responsibility model:

Extended Producer Responsibility (EPR), also known as Product Stewardship, is a strategy to place a shared responsibility for end-of-life product management on producers, and other entities involved in the product chain, instead of the general public; while encouraging product design changes that minimize negative impacts on human health and the environment at every stage of the product's lifecycle. This allows the costs of processing and disposal to be incorporated into the total cost of a product. It places primary responsibility on the producer, or brand owner, who makes design and marketing decisions. It also creates a setting for markets to emerge that truly reflect the environmental impacts of a product, and to which producers and consumers respond.³

California has already statutorily established EPR programs in various industries, including paint, carpet, mattresses, pharmaceuticals and sharps, mercury thermostats, and pesticide containers. The author makes the case for extending this to batteries and battery-embedded products:

Because of the hazardous metals and corrosive materials that batteries contain, California classifies batteries as hazardous waste and bans them from solid waste landfills. When improperly discarded, lithium-ion (Li-ion) batteries in particular pose serious fire, health and safety hazards.

Unfortunately, because of a combination of increased consumption and a lack of convenient disposal options, higher levels of toxic batteries are entering the waste stream. Among other negative consequences, this has resulted in an alarming number of material recovery facilities, waste collection trucks, and landfills experiencing fires caused by improperly disposed of Li-ion batteries. These fires endanger the lives of workers and pollute the atmosphere and surrounding areas, while causing expensive damage to city and county waste collection vehicles, equipment and facilities.

SB 289 would require free collection bins for most loose and product-embedded batteries at convenient retail locations across the state, to provide an easily accessed channel for consumers to safely place batteries

³ *Product Stewardship and Extended Producer Responsibility (EPR)* (September 14, 2020) CalRecycle, [https://www.calrecycle.ca.gov/epr#:~:text=Extended%20Producer%20Responsibility%20\(EPR\)%2C,design%20changes%20that%20minimize%20negative](https://www.calrecycle.ca.gov/epr#:~:text=Extended%20Producer%20Responsibility%20(EPR)%2C,design%20changes%20that%20minimize%20negative).

into the bins for proper disposal rather than simply discarding them into the garbage, as is commonplace. SB 289 would also encourage manufacturers to be more responsible for the life cycle of their products by creating a producer-run program. Lastly, the bill would create a consumer outreach and education campaign to encourage the proper disposal of all batteries.

The bill addresses the issues identified with other laws by applying to not only rechargeable batteries or cell phones, but all batteries and battery-embedded products. The bill carves out the “covered devices” regulated by the Electronic Waste Recycling Act, but eventually repeals the Rechargeable Battery Act and the Cell Phone Recycling Act. Battery-embedded products include products containing a battery or battery pack that is not designed to be removed by the consumer. It excludes energy storage systems, certain medical devices, car batteries, and “industrial batteries,” which will be defined by CalRecycle. The Rechargeable Battery Association urges some further clarity here, as well as elsewhere throughout the bill. They specifically seek clarity on what is encompassed by “industrial battery” and point out that the exemption for medical devices is broader here than in a similar stewardship program established in the District of Columbia.⁴ The concern is that the larger these exemptions the smaller the pool of producers that will absorb the costs associated with recovering and recycling batteries and products.

The bill will likely lead to collection bins being found in numerous retail locations throughout the state, addressing the current concerns with the dearth of accessible locations to properly dispose of batteries and battery-embedded products. The author asserts that the lack of convenient disposal options combined with increased consumption has led to higher levels of toxic batteries and products improperly entering the waste stream.

The bill requires producers or a stewardship organization on behalf of a group of producers to submit a stewardship plan laying out how they will accomplish the requirements of the bill and provide for the collection, transportation, and recycling, and the safe and proper management, of batteries or battery-embedded products in the state in an economically efficient and practical manner. The plan must be submitted by June 30, 2025, and fully implemented by June 30, 2026.

The stewardship plan is required to include a thorough set of details ranging from its plan to establish the requisite amount and spread of collection sites, to its outreach campaign, to performance metrics, to a description of how their materials will avoid landfills and properly enter the recycling process. Producers and stewardship organizations are also required to provide CalRecycle a list of batteries and battery-embedded products that it sells or offers for sale in California by April 1, 2022.

⁴ See D.C. Code § 8-771.01.

Local jurisdictions have struggled with the issue and are supportive of this approach to the problem. In a joint letter of support, the Rural County Representatives of California, the League of California Cities, and the California State Association of Counties state:

While the solid waste industry works to avoid the risks posed by lithium-ion batteries, the problem requires a broader solution. Given that local governments are already strained with implementing other aspects of solid waste recycling and disposal programs, we believe that the product manufacturers are best suited to perform the surveys, accounting, and collection responsibilities envisioned in SB 289. SB 289 appropriately requires manufacturers and retailers to take more responsibility for avoiding the inherent risks associated with the improper disposal of the products they create.

However, a broad coalition of industry associations, including manufacturers, insurance companies, and retailers, as well as the Rechargeable Battery Association, oppose the bill. In a joint letter of opposition, they write:

Notwithstanding its title, SB 289 would fail to provide a workable solution to concerns with the initiation of fires in municipal recycling programs or materials recovery facilities. It also would repeal California's successfully-operating Rechargeable Battery Act of 2006 and the Cell Phone Recycling Act of 2004.

In their place, SB 289 would impose a complex, ill-conceived system that would substantially increase the cost of vital products to California consumers, impose huge burdens on California regulatory agencies, and subject the makers of batteries and battery-embedded products, product distributors and retailers to exceedingly complex rules, very substantial fees and potentially draconian fines.

All of the signatories to this letter are sensitive to the fire risks associated with lithium-ion batteries put into recycling and waste streams. But a targeted, thoughtful legislative solution to those concerns would make far more sense than SB 289's flawed, complex, and fundamentally unworkable approach.

3. Oversight and Enforcement

CalRecycle maintains paramount authority over the programs and ultimately reviews the stewardship plans and required annual reports. However, the bill also requires stewardship plans to first be submitted to "any applicable state agencies with areas of authority relative to the stewardship plan." Each agency is then required to review the plan for compliance with state and federal laws and regulations related to their specific

authority. The producers and stewardship organizations are required to reimburse all state agencies with jurisdiction relevant to the program of their reasonable regulatory costs.

In addition to annual reports that must be submitted to and approved by CalRecycle, these entities must keep specified records reflecting their activities and transactions. They must pay for an annual audit of their records. For its part, CalRecycle may conduct its own audit in order to enforce this law. The bill also makes clear that CalRecycle has the authority to secure inspection warrants to inspect the facilities and operations of producers, stewardship organizations, manufacturer, distributors, retailers, importers, recyclers, or collection sites. These entities must also provide CalRecycle, upon their request, with all relevant records necessary to ensure compliance. Records required by the bill must be maintained and made accessible for three years. All reports and records provided to CalRecycle are provided under penalty of perjury, subjecting whoever sends them to potential criminal liability. CalRecycle is authorized to take disciplinary action for failure to comply with these provisions.

The central mechanism for enforcing this bill and ensuring compliance is a list of producers that are in compliance that CalRecycle is required to post on its website. Retailers and distributors are required to monitor this list and are prohibited from selling, distributing, offering for sale, or importing a battery or battery-embedded product unless the producer of it is listed as in compliance with respect to that brand or product, as provided. CalRecycle must remove producers if they are subsequently found out of compliance.

CalRecycle is also authorized to impose administrative penalties on these entities for violations of up to \$10,000 per day, and up to \$50,000 per day for intentional, knowing, or reckless violations. Producers and stewardship organizations are prohibited from using revenues from the stewardship program to pay for these penalties or any costs associated with litigation between it and the state. Concerns have been raised from opposition that these penalties are excessive, especially in light of what they consider ambiguous terms and obligations laid out on the bill. The Rechargeable Battery Association also argues that compliance is required with respect to certain provisions, such as registering batteries and battery-embedded products as of April 1, 2022, but regulations are not to be promulgated until January 1, 2024. It argues civil penalties should not be authorized until more clarity through the regulatory process is provided.

4. The Dormant Commerce Clause

The United States Constitution's commerce clause provides that Congress has paramount authority to regulate commerce with "foreign Nations, and among the several States." (U.S. Const. Art. I, § 8, Cl 3.) However, inherent in this clause is a limitation on the states' ability to engage in conduct that unduly burdens interstate commerce. This latter principle is referred to as the dormant commerce clause:

“It has long been accepted that the Commerce Clause not only grants Congress the authority to regulate commerce among the States, but also directly limits the power of the States to discriminate against interstate commerce.” *New Energy Co. of Indiana v. Limbach*, 486 U.S. 269, 273, 100 L. Ed. 2d 302, 108 S. Ct. 1803 (1988). This limitation on state power is the so-called “dormant commerce clause.” It “prohibits economic protectionism - that is, regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors.” *Id.* at 273-74.⁵

The United States Supreme Court has further explained:

As we have long recognized, the "negative" or "dormant" aspect of the Commerce Clause prohibits States from "advancing their own commercial interests by curtailing the movement of articles of commerce, either into or out of the state." *H. P. Hood & Sons, Inc. v. Du Mond*, 336 U.S. 525, 535, 93 L. Ed. 865, 69 S. Ct. 657 (1949). A state statute that clearly discriminates against interstate commerce is therefore unconstitutional "unless the discrimination is demonstrably justified by a valid factor unrelated to economic protectionism." *New Energy Co. of Ind. v. Limbach*, 486 U.S. 269, 274, 100 L. Ed. 2d 302, 108 S. Ct. 1803 (1988).⁶

In several sections of the bill, there is reference to a preference for in-state processing facilities over out-of-state facilities. For instance, the bill explicitly states that it is the intent of the Legislature to “prioritize the use of in-state processing facilities over the use of out-of-state processing facilities to the extent economically practical.” In addition, one required element of the annual report is as follows:

A report on activities, which the stewardship organization or producer shall undertake, to prioritize, to the extent economically practical, the use of in-state processing facilities over out-of-state processing facilities. If the stewardship organization or producer decides to use out-of-state processing facilities, the stewardship organization or producer shall provide an explanation of that decision.

Interestingly enough, a significant portion of the dormant commerce clause jurisprudence out of the United States Supreme Court has dealt with issues of waste processing. In *Philadelphia v. New Jersey*, 437 U.S. 617, 618 (1978), the Supreme Court held that a New Jersey law prohibiting the importation of most solid or liquid waste originating or collected outside the state violated the commerce clause. In *Fort Gratiot Sanitary Landfill v. Michigan Dep't of Natural Resources* (1992) 504 U.S. 353, 355, the court

⁵ *Big Country Foods, Inc. v. Board of Educ. of Anchorage School Dist.* (9th Cir. 1992) 952 F.2d 1173, 1177.

⁶ *Fort Gratiot Sanitary Landfill v. Michigan Dep't of Natural Resources* (1992) 504 U.S. 353, 359.

again struck down a similar law in Michigan that prohibited private landfill operators from accepting solid waste that originated outside the county in which their facilities were located. These cases do not just involve limitations on waste coming into the state.

In *C & A Carbone v. Town of Clarkstown* (1994) 511 U.S. 383, 386, the United States Supreme Court held a local ordinance in a New York town violated the commerce clause. The “flow control ordinance” required all solid waste to be processed at a specific transfer station before leaving the municipality. The court found that the ordinance had the same design and effect as other laws that were struck down. The law hoarded solid waste, and the demand to get rid of it, for the benefit of a preferred processing facility. The flow control ordinance was found to “squelch[] competition in the waste-processing service altogether, leaving no room for investment from outside.”

Discrimination against interstate commerce in favor of local business or investment is per se invalid, save in a narrow class of cases in which the municipality can demonstrate, under rigorous scrutiny, that it has no other means to advance a legitimate local interest. *Maine v. Taylor*, 477 U.S. 131 (1986) (upholding Maine's ban on the import of baitfish because Maine had no other way to prevent the spread of parasites and the adulteration of its native fish species). A number of amici contend that the flow control ordinance fits into this narrow class. They suggest that as landfill space diminishes and environmental cleanup costs escalate, measures like flow control become necessary to ensure the safe handling and proper treatment of solid waste.

The teaching of our cases is that these arguments must be rejected absent the clearest showing that the unobstructed flow of interstate commerce itself is unable to solve the local problem. The Commerce Clause presumes a national market free from local legislation that discriminates in favor of local interests.⁷

While there is no strict requirement in this bill that only in-state facilities be used, there is clearly an intent to advance intra-state interests at the detriment of out-of-state interests.⁸ Producers and stewardship organizations are required to provide additional justification to the state agency in charge, CalRecycle, if in-state facilities are not used, and that state agency has the power to approve or disapprove of that report. The author may wish to consider the potential susceptibility to such a constitutional challenge as the bill moves forward.

⁷ *C & A Carbone v. Town of Clarkstown*, 511 U.S. at 392-393.

⁸ States are granted the ability to discriminate in favor of in-state interests when they are acting as market participants. However, this doctrine is unlikely to apply in these circumstances. See *Big Country Foods, Inc. v. Board of Educ. of Anchorage School Dist.* (9th Cir. 1992) 952 F.2d 1173, 1178.

5. Access to records

The bill also provides that while an approved stewardship plan is a public record, financial, production, or sales data reported to CalRecycle by the producer or stewardship organization is not a public record for purposes of the California Public Records Act and is not open to public inspection. It authorizes CalRecycle to release this data in summary form only, so it cannot be attributable to a specific entity. As this imposes a limitation on the public's right of access to this information, the bill provides the following justification: "In order to ensure that the competitive market in the state for the manufacture and sale of batteries and battery-embedded products is not compromised, it is necessary that financial, production, and sales data and confidential proprietary information collected for the purpose of administering a stewardship program be confidential."

The bill also prohibits CalRecycle from disclosing any confidential proprietary information contained in audits. Producers and stewardship organizations are required to make their annual reports publicly available free of charge, but if the report contains trade secret or confidential information protected under existing law, they need only provide a description of the information and its relevance to the stewardship program omitting any of the trade secret or confidential information.

6. Antitrust immunity

As with most of the EPR schemes provided for in California law, this bill includes express exemptions from various laws regulating anticompetitive behavior and unfair competition and practices. The bill provides that certain activities engaged in by producers and stewardship organizations, including the creation, implementation, management, cost assessments, and structuring of a stewardship plan and the establishment, administration, collection, or disbursement of a charge associated with funding the implementation of this bill are categorically exempt from being considered violations of the Cartwright Act (California's primary antitrust law), the Unfair Practices Act, or the Unfair Competition Law.

The author and sponsors explain the need for these provisions:

Extended Producer Responsibility (EPR), also known as Product Stewardship, is a strategy to place a shared responsibility for end-of-life product management on producers, and other entities involved in the product chain, instead of the general public. As part of this model, producers may come together to form a stewardship organization, which allows them to fulfill their mandated obligations as a collective entity. In order to allow for producers to create a stewardship organization, this legislation includes targeted antitrust immunity. The producers' antitrust immunity is limited to collaboration regarding the creation,

implementation, cost, fees, structure, and management of a stewardship plan. SB 289 will specifically ban producers from coordinating on product prices, output, production, or the geographic region of sale.

Concerns have been raised about the monopolistic possibilities inherent in EPR programs and strong government oversight is critical to ensure this regulatory scheme is operated in an evenhanded manner and results in the ambitious goals it sets out to accomplish. These laws are extremely important to ensuring consumers are protected and free and fair competition is fostered. Mitigating these concerns to an extent, the bill specifically provides that the exemptions do not apply to an agreement that does the following:

- fixes a price of or for batteries or battery-embedded products, except for an agreement related to costs or charges associated with participation in a stewardship plan approved or conditionally approved by the department and otherwise in accordance with this chapter;
- fixes the output or production of batteries or battery-embedded products; or
- restricts the geographic area in which, or customers to whom, batteries or battery-embedded products will be sold.

This language is also similar to that found in the other EPR programs.

SUPPORT

California Product Stewardship Council (co-sponsor)

Californians Against Waste (co-sponsor)

RethinkWaste (co-sponsor)

Alliance of Nurses for Healthy Environments

California Chapters of the Solid Waste Association of North America's Legislative Task Force

California League of Conservation Voters

California Resource Recovery Association

California State Association of Counties

Central Contra Costa Sanitary District

City of Roseville

Clean Water Action

Council of California Goodwill Industries

County of Marin

Del Norte Solid Waste Management Authority

Ecology Action

Friends Committee on Legislation of California

Greeneducation.us

League of California Cities

Los Angeles County Chief Executive Office

Los Angeles County Sanitation Districts
Los Angeles County Solid Waste Management Committee/integrated Waste
Management Task Force
Alameda County Supervisor Nate Miley
Product Stewardship Institute
Public Risk Innovation, Solutions, and Management
Recology
Refill Madness
Republic Services
Resource Recovery Coalition of California
Rural County Representatives of California
San Francisco Department of the Environment
Save Our Shores
Sierra Club California
Solana Center for Environmental Innovation
Upper Valley Waste Management Agency
Zero Waste Company
Zero Waste Sonoma

OPPOSITION

American Property Casualty Insurance Association
Association of Home Appliance Manufacturers
California Chamber of Commerce
California Manufacturers & Technology Association
Consumer Technology Association
National Association of Mutual Insurance Companies
National Electrical Manufacturers Association
Outdoor Power Equipment Institute
Personal Insurance Federation of California
Power Tool Institute
PRBA - the Rechargeable Battery Association
Security Industry Association
The Toy Association

RELATED LEGISLATION

Pending Legislation:

SB 244 (Archuleta, 2021) requires CalRecycle, in consultation with the Department of Toxic Substances Control, to develop guidance for the proper handling and disposal of lithium-ion batteries and requires the Department of Forestry and Fire Protection to develop protocols and training for the detection, safe-handling, and suppression of fires started from discarded lithium-ion batteries in the waste-handling system to be adopted

by solid waste enterprises. The bill also prohibits a person from knowingly disposing of a lithium-ion battery in the garbage or recycling streams, unless the container or receptacle is designated for the collection of batteries for recycling. This bill is currently in the Senate Natural Resources and Water Committee.

AB 735 (Smith, 2021) authorizes the Department of Toxic Substances Control, for purposes of the Rechargeable Battery Recycling Act, to post on its website the estimated amount, by weight, of each type of rechargeable batteries returned for recycling in prior years, in addition to the existing requirement that the information be posted for the previous calendar year. This bill is currently in the Assembly Environmental Safety and Toxic Materials Committee.

Prior Legislation:

AB 1509 (Mullin, 2019) would have established the Lithium-Ion Battery Recycling Program within CalRecycle that requires manufacturers of lithium-ion batteries to provide convenient collection, transportation, and disposal of lithium-ion batteries. This bill died in the Senate Environmental Quality Committee.

SB 212 (Jackson, Ch. 1004, Stats. 2018) established the pharmaceutical and sharps waste stewardship law.

AB 1343 (Huffman, Ch. 420, Stats. 2010) established the architectural paint stewardship program.

AB 2398 (Pérez, Ch. 681, Stats. 2010) established the carpet stewardship law.

PRIOR VOTES:

Senate Environmental Quality Committee (Ayes 5, Noes 2)

REPORT

DATE: May 19, 2021

TO: Energy, Environment, and Natural Resources (EENR) Committee

FROM: Marisa Creter, Executive Director

RE: **REVISED REGIONAL PARK AND OPEN SPACE DISTRICT REIMBURSEMENT GUIDELINES**

RECOMMENDED ACTION

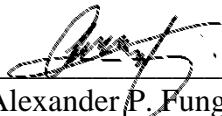
For information only.

BACKGROUND

The Los Angeles County Regional Park and Open Space District (RPOSD) is responsible for implementing and administering the Los Angeles County Safe, Clean Neighborhood Parks and Beaches Measure of 2016, commonly known as Measure A. Recently, the District updated the Measure A Grants Administration Manual (GAM), which include specific revisions that will be implemented commencing July 1, 2021.

A summary highlighting changes to the Measure A GAM can be found in Attachment A. Additionally, the revised edition of the GAM can be found on the RPOSD website at <https://rposd.lacounty.gov/measure-a-grants-administration-manual/#1572918278933-cc9aab87-d37b>.

RPOSD District Administrator, Christina Angeles, will provide a presentation on this item.

Prepared by: 
Alexander P. Fung
Management Analyst

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – Measure A GAM Update Summary



LOS ANGELES COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT

1000 S. Fremont Avenue
Unit #40 Building A-9 East
Ground Floor
Alhambra, CA 91803
(626) 588-5060

RPOSD.LACounty.gov
info@RPOSD.LACounty.gov

Measure A Grant Administration Manual - April 2021 Edition Update Summary Published: March 31, 2021

Grant Programs

Community Outreach and Engagement – GAM Section 3.3.2 Minimum Outreach and Engagement Requirements

Policy Update: Add the following language to the GAM Section:



3.3.2 Minimum Outreach and Engagement Requirements

The applicant has the responsibility to ensure that all funds expended for Community Engagement are spent appropriately. The applicant must use an accepted accounting system and maintain satisfactory financial accounts, documents, and records of the expenditures of fund used for Community Engagement purposes and make them available to the Regional Park and Open Space District for auditing and inspection at reasonable times for the purpose of verifying appropriateness and validity of the expenditures. The applicant must retain such financial accounts, documents and records for five (5) years following the completion of the project.

Overhead/Indirect Costs – GAM Section 3.4.4 Grant Administration

Policy Update: Allow overhead/indirect costs for Measure A Grant Programs with a 12% cap. *(Implementation commencing on July 1, 2021)*

Overhead/Indirect Costs: Reimbursement of overhead and indirect costs shall not exceed 12% of the grant total and shall require documentation of actual expenses. Overhead/indirect costs are costs not usually identified specifically with the grant, contract, or activity, but are necessary for the general operation of the grantee/organization. Overhead/Indirect may include, but not be limited to:

- o Personnel
- o Accounting
- o Administrative Costs
- o Communication Expenses
- o Employee Services
- o Indirect Services and Supplies
- o Management Oversight of Funded Activities
- o Contracting
- o Compliance
- o Data and Performance Reporting
- o Fiscal Services

Mileage /Parking Reimbursement – GAM Section 3.4.4 Grant Administration

Policy Update: Allow mileage reimbursement based on the County’s Mileage Reimbursement Guidelines. *(Implementation commencing on July 1, 2021)*

Transportation/Travel Costs

Mileage and parking fees shall be reimbursed in accordance with the County’s Mileage Reimbursement Guidelines established in the County’s Fiscal Manual and mileage reimbursement rates

GAM Language to add:

Mileage Calculation

Mileage will be reimbursed for all mileage driven while conducting business during the project performance period of the awarded grant, consistent with the County’s Mileage Reimbursement Guidelines.

Mileage will be reimbursed for mileage between the employees’ worksite and the project site and from the project site to the employee’s worksite. Should the employee have a different starting point, the employee may only claim the shortest driven distance between actual miles driven or miles from the assigned worksite to the project site. For example: if the employee starts his/her day at home and it takes 5 miles to get to the project site, and it takes 10 miles to get to the project site from his/her worksite, then the employee may use the home address as a starting point and claim a total of 5 miles (shortest distance would be from home to the project site). If the employee starts his/her day at home and it takes 15 miles to get to the project site, but it would take 10 miles to get to the project site from the worksite, then the employee may use the home address as a starting point but only claim a total of 10 miles (shortest distance would be from the worksite).

Grantees are allowed reimbursement for all actual miles driven for project performance that are directly related to the grant project, subject to the County’s policy and mileage log submission.

In-House Employee Services – GAM Section 3.4.4 Grant Administration

Policy Update: Expand the list of eligible benefits to be reimbursed with staff salaries and wages. The benefits listed are consistent with other granting agencies.

Benefits List:

- Workers Compensation
- Health Insurance
- *Leave Benefits (new)*
- *Pension Contributions (new)*

Amendments – GAM Section 3.4.4 Grant Administration

Policy Update: Add the following language to the amendment section provide guidance to grantees considering requests to amend their grant agreements.

Leadtime to submit amendment requests.

It is highly recommended that amendment requests are submitted to RPOSD no later than 90 days before the expiration of the performance period. Once the performance period expires, the grant agreement cannot be extended or amended.

Annual Allocation Grants

Requests for grant amount increases must include additional project description items added to the project. The grant agreement states RPOSD awards the grantee a sum of money not to exceed the grant amount, in consideration and on the condition that the sum be solely expended for the purposes set forth in the project description, and under the terms and conditions set forth in the agreement. Grantee agrees to furnish any additional funds necessary to complete the project.

Competitive Grants

Due to competitive nature of the grant awards, requests for grant amount increases will not be considered.

Maintenance and Servicing Program

Overhead/Indirect Costs – GAM Section 3.4.8 Maintenance and Servicing

Policy Update: Allow overhead/indirect costs for Measure A Maintenance and Servicing Program with a 12% cap. *(Implementation commencing on July 1, 2021)*

Overhead/Indirect Costs: Reimbursement of overhead and indirect costs shall not exceed 12% of the report on expenses and shall require documentation of actual expenses. Overhead/indirect costs are costs not usually identified specifically with the grant, contract, or activity, but are necessary for the general operation of the grantee/organization. Overhead/Indirect may include, but not be limited to:

- o Personnel
- o Accounting
- o Administrative Costs
- o Communication Expenses
- o Employee Services
- o Indirect Services and Supplies
- o Management Oversight of Funded Activities
- o Contracting
- o Compliance

- o Data and Performance Reporting
- o Fiscal Services

Advancing Payments – GAM Section 3.4.8 Maintenance and Servicing

Policy Update: Commencing January 1, 2022, forecasts on anticipated expenses submitted in advance of incurring maintenance expenses, will be considered for approval subject to the following conditions:

RPOSD will disburse payment of the lesser of 75% of the anticipated expenses, based on the two-year average of expenses incurred in the maintenance and servicing of the grant funded project, or 75% of the forecasted amount. At the end of the identified timeframe, a true-up statement, with accompanying documentation, shall be required to validate all expenses, and uploaded to GMS. At that time, RPOSD shall reimburse any remaining amount of actual expenses, minus the 75% funds previously disbursed.

Mileage Reimbursement – GAM Section 3.4.8 Maintenance and Servicing Program

Policy Update: Allow mileage reimbursement based on the County’s Mileage Reimbursement Guidelines. *(Implementation commencing on July 1, 2021)*

Transportation/Travel Costs

Mileage and parking fees shall be reimbursed in accordance with the County’s Mileage Reimbursement Guidelines established in the County’s Fiscal Manual and mileage reimbursement rates.

Mileage Calculation

Mileage will be reimbursed for all mileage driven while conducting business during the project performance period of the awarded grant, consistent with the County’s Mileage Reimbursement Guidelines.

Grantees are allowed reimbursement for all actual miles driven for project performance that are directly related to the grant project, subject to the County’s policy and mileage log submission.

Maintenance Services – GAM Section 3.4.8 Maintenance and Servicing Program

Policy Update: Use the same accounting requirements for the various Measure A Grant Programs in the Maintenance and Servicing Program.

Maintenance Services

Accounting Rules

Grantees must follow these accounting practices for services performed by its employees or contractors to be eligible for reimbursement for maintenance and/or servicing costs:

- Maintain time and attendance records (coded timesheets) as charges are incurred, identifying the employee through a name or other tracking system, and that employee’s actual time spent on the maintenance and servicing of the qualifying Prop A/Measure A project.

- Time estimates, including percentages, for work performed are not acceptable.
- Time sheets that do not identify the specific employee's time spent on the qualifying Prop A/Measure A project are not acceptable.
- Costs of the salaries and wages must be calculated according to the grantee's wage and salary scales and may include only benefit costs for leave benefits, pension contributions, health insurance and workers' compensation.

If claiming Maintenance Services costs, grantees will need to upload a form into the GMS when requesting reimbursement, signed by their authorized representative attesting that the time spent by their employees on the qualifying Prop A/Measure A project is accurate.

REPORT

DATE: May 19, 2021

TO: Energy, Environment, and Natural Resources (EENR) Committee

FROM: Marisa Creter, Executive Director

RE: **REOPENING PROCEDURES AND RECOMMENDATIONS FROM THE LOS ANGELES COUNTY DEPARTMENT OF PUBLIC HEALTH**

RECOMMENDED ACTION

For information only.

BACKGROUND

On May 6, 2021, Los Angeles County entered the “Yellow Tier” of the State’s Blueprint for a Safer Economy Framework. Given that the “Yellow Tier” is the least restrict tier, the County recently lifted some local activity-specific and sector-specific restrictions, with all activities continue to be subjected to the local “Yellow Tier” Risk Reduction Order and any other Los Angeles County sector-specific reopening protocols and guidance.

Specifically, advancing into the “Yellow Tier” allows Los Angeles County sectors to increase capacity limits as follows:

Bars (with no meal service)	<ul style="list-style-type: none">• Indoor capacity at 25% of 100 people, whichever is fewer• Masking required, except while eating or drinking• Tables 6 feet apart with no counter seating/service• TV viewing allowed, with outdoor live entertainment permitted
Restaurants	<ul style="list-style-type: none">• Indoor capacity at 50%, with tables 6 feet apart• TV viewing allowed, with outdoor live entertainment permitted
Breweries and Wineries (with no meal service)	<ul style="list-style-type: none">• Indoor capacity at 50% or 200 people, whichever is fewer• Masking required, except while eating or drinking• Tables 6 feet apart with no counter seating/service• TV viewing allowed, with outdoor live entertainment permitted
Movie Theaters	<ul style="list-style-type: none">• Each screening room at 50% maximum capacity• Reserved seating to allow 6 feet of distance in all directions• Fully vaccinated sections can be established without 6 feet distancing provided there is 3 feet of distance between these sections and other seats in the theater• Eating or drinking allowed in designated area or in seat
Gyms, Fitness Centers, and Yoga Studios	<ul style="list-style-type: none">• Indoor capacity at 50%• Masking always required• 6 feet of distancing between participants and staff for all activities• Steam rooms and saunas are allowed to open
Museums, Zoos, and Aquariums	<ul style="list-style-type: none">• Indoor capacity at 75%

Additionally, bars, restaurants, breweries, and wineries are allowed to have either up to 6 individuals from the same household indoors or up to 8 individuals from up to 3 households


outdoors per table. For vaccinated individuals, up to 6 individuals from different households can be placed at the same table for indoor dining activities and up to 8 individuals from different households can be placed at the same table for outdoor dining activities.

As certain activities are allowed to resume, the Los Angeles County Department of Public Health (DPH) continues to urge residents to adhere to precautions and fully vaccinate to be protected from COVID-19 infections. Vaccinations are widely available to those who are 16 years and older; however, most residents are still not fully vaccinated and remain susceptible to infection. It is vitally important that a very high percentage of Los Angeles County residents become fully vaccinated as soon as possible, as new variants of the virus may spread more easily and/or cause more severe illnesses.

As the County gradually recovers from the COVID-19 Pandemic, residents are recommended to follow these core principles and practices:

- **Go outdoors:** Outdoor activities are far safer than indoor activities.
- **Stay masked:** Consistent and correct use of masks, especially double-masking at indoor and outdoor settings, is extremely effective at preventing the spread of COVID-19.
- **Maintain physical distance:** Maintain at least a 6-foot distance from others.
- **Avoid crowds:** Decreasing interactions with others can help with decreasing the spread of the virus.
- **Vaccinate:** All federally authorized vaccines are proven to be effective at protecting residents against COVID-19.

DPH Industrial Hygienist, John Ferrer, REHS, will provide a presentation on this item.

Prepared by: 
Alexander R. Fung
Management Analyst

Approved by: 
Marisa Creter
Executive Director