



NATIONAL STEWARDSHIP ACTION COUNCIL

ADVOCATING FOR A CIRCULAR & EQUITABLE ECONOMY

Battery EPR in California: The Path to Passage

Connecticut Coalition for Sustainable Materials Management
EPR Working Group
November 15, 2022

NSAC'S VISION: The United States attains a circular & equitable economy.

Who is NSAC?



The National Stewardship Action Council (NSAC) is a 501(c)4 non-profit organization. NSAC is a network of committed proponents comprised of governments, non-government organizations, businesses, and consumers who advocate that **producers fairly share responsibility in a circular and equitable economy.**

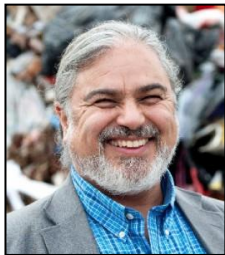
Vision: The United States attains a circular and equitable economy.



2019 NSAC Presentation to the Environmental Council of the States in Washington D.C. L to R: Liesl Eichler Clark, Director of State of MI Dept. of Environment, Barry Preen, Acting EPA Administrator, Heidi Sanborn, NSAC.

NSAC Board

10 Board Members, 5 women, 3 BIPOC



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President



Maia Corbitt,
Vice President
Garver, Black,
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Foundation



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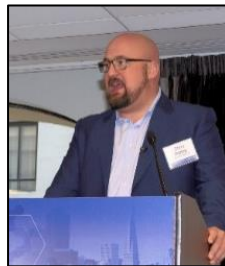
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Environmental Services
Manager
West County Wastewater



Rubi Soares
Terrascope
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Smarter Sorting



David Stitzhal
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The Stewardship Action Foundation

Sister 501c3 for education and outreach initiatives that aligns with NSAC's advocacy work

Seeking funding opportunities to support education and outreach for:

- Eliminating single-use tobacco products and plastic cigarette butts
- Truth-in-labeling for National WIPPES Act
- Truth-in-recycling labeling efforts
- National Bottle Bill

How you can help!

- Alert us to funding opportunities
- SHARE and PROMOTE our work with your network
- DONATE to the Foundation

www.stewardship-foundation.org





STEWARDSHIP ACTION FOUNDATIONSM

EDUCATING FOR A CIRCULAR & EQUITABLE ECONOMY

www.stewardship-foundation.org



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What is a Circular Economy?

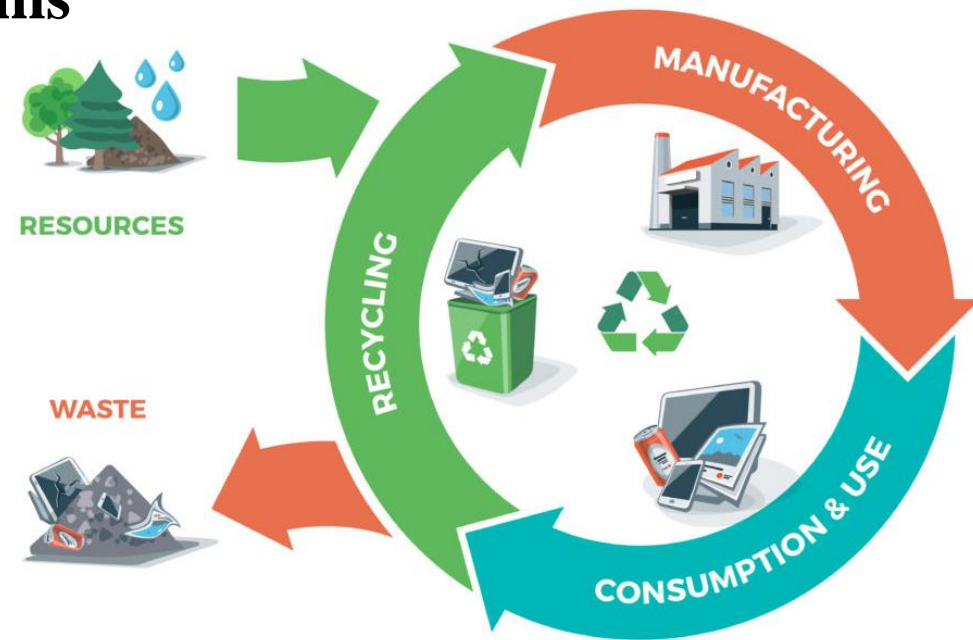
Multi-faceted with a focus on producers embracing sustainable design, using regenerative materials and collecting end of life products and materials for continuous use in the economy. It is based on three principles:

1. Design out waste and pollution
2. Keep products and materials in use
3. Regenerate natural systems



ELLEN
MACARTHUR
FOUNDATION

Decouples economic activity from the consumption of finite resources.



Product Stewardship vs. EPR

■ Extended Producer Responsibility (EPR):

- **Mandatory**
- Costs internalized in the price of the product/cost of doing business
- Producers fund, design, and run program
- Government sets performance metrics, ensures a level playing field, transparency, and enforcement



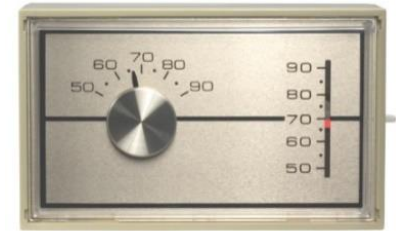
■ Product Stewardship:

- **Voluntary or Mandatory**
- Usually a visible fee paid by consumers and managed by producers
- Not necessarily take-back, could be source reduction or other product improvements



Legislated EPR/Stewardship in CA

1. Ag Pesticide Containers (2008) – EPR
2. Recalled Products (2008) –EPR
3. Mercury Thermostats (2008) – EPR
4. Paint (2010)
5. Carpet (2010)
6. Mattresses (2013)
7. Medications & Sharps (2018) – EPR
8. Loose batteries (2022) – EPR
9. Packaging (2022) – Circular Economy



NATIONAL STEWARDSHIP ACTION COUNCIL

Alameda County: 1st EPR Ordinance in the U.S.

- **7/24/2012:** Adopts first EPR ordinance for meds in U.S.
- **12/29/14:** PhRMA and other plaintiff organizations file a Petition For Writ of Certiorari asking the U.S. Supreme Court to consider the case – [Petition text](#)
- **5/26/15:** Denied! **National Impact!**
- EPR in U.S. allowed so long as the product has a public health and safety nexus



We MUST Stop the Fires

The Washington Post
Democracy Dies in Darkness

ETHICAL ISSUES

The explosive problem with recycling iPads, iPhones and other gadgets: They literally catch fire.

It's gadget season. But before you buy something new, take a look inside the recycling centers catching fire as they struggle to dispose the lithium-ion batteries in your old stuff.



Perspective by Geoffrey A. Fowler
Columnist

September 11, 2018 at 12:23 p.m. EDT

MOTHERBOARD
TECH BY VICE

Lithium Battery Fires Are Threatening Recycling as We Know It

People are tossing old electronics in the recycling bin, and they're lighting on fire and exploding at municipal recycling centers at an alarming rate.

After a trash truck dumped a fiery load, dozens of mobile homes burned and an 89-year-old woman died



Judy Dorius of San Diego salvages iron pot stands from the burned remains of the home where their mother, Lois Arvickson, 89, died after the Sandalwood fire burned her mobile home and many others at the Villa Calimesa Mobile Home Park in Calimesa. (Gina Ferazzi / Los Angeles Times)

SCIENCE

Recycling plants are catching on fire, and lithium-ion batteries are to blame

[Home](#) » [Markets](#) » [Recycling Commission](#)

Statewide Commission on Recycling Markets and Curbside Recycling

Markets Home

COVID-19

National Sword

Recycling Commission

Recycling Market Development
Zone Program

Glass

Metals

Related Topics

Waste Reduction

Buy Recycled

Recycle



In 2019, Governor Newsom signed into law The California Recycling Market Development Act (AB 1583, Eggman, Chapter 690, Statutes of 2019). Public Resources Code Section 42005.5 requires CalRecycle to convene by July 1, 2020, a Statewide Commission on Recycling Markets and Curbside Recycling consisting of representative of public agencies, private solid waste enterprises, and environmental organizations that have expertise in recycling.

34 policy recommendations

#1 Recommendation: EPR for Household Hazardous Waste (HHW) - “Put Out the Fires”

CA Foundation for Environment & Economy Study Trips Started 2019



The Path to Passage

**IT DIDN'T
HAPPEN
OVERNIGHT**

2003:
SB 20
(signed into law)

2005:
AB 1125
(signed into law)

2014:
AB 2284
(failed)

2019:
AB 1509
(failed)

2022 :
AB 2440 & SB 1215
(signed into law)



2004:
AB 2901
(signed into law)

2010:
SB 1100
(failed)

2015:
AB 1159
(failed)

2021:
SB 289
(failed)

2003: SB 20 (Sher) - Electronic Waste Recycling Act

- Video display devices containing a screen greater than four inches, measured diagonally
- Imposes an electronic waste recycling fee (fee amount depends on the size of the electronic device)



2004: AB 2901 (Pavley) - Cell Phone Recycling Act

- 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.



2005: AB 1125 (Pavley) - Rechargeable Battery Recycling Act

- Defined rechargeable battery
- By 7/1/2006, retailers must accept and collect used **rechargeable batteries** for reuse, recycling, or proper disposal, **at no cost to the consumer** of a used rechargeable battery, **the type or brand of which the retailer sold or previously sold.**
- Prohibited the sale by a retailer of a rechargeable battery to a consumer after 7/1/2006, unless the retailer complies.
- **No funding for enforcement – collection reporting is done voluntarily!**

<https://dtsc.ca.gov/how-is-california-doing-with-recycling-rechargeable-batteries/>

Rechargeable Batteries Recycled in 2021:

308,578	pounds of lithium ion batteries (Li-ion)
175,464	pounds of nickel cadmium batteries (Ni-Cd)
101,056	pounds of nickel metal hydride batteries (Ni-MH)
3,834,716	pounds of small sealed lead acid batteries (SS Lead Acid)
<hr/>	
4,419,814	total pounds of rechargeable batteries



2006: Universal Waste Rule

- Made it illegal to throw universal waste (includes batteries) away in the trash

2010: SB 1100 (Corbitt)

- First battery bill sponsored by the California Product Stewardship Council
- Failed to pass
- Would require producers to create a stewardship plan and create and meet collection rates

2014: AB 2284 (Williams)

- Failed to pass
- Would require CalRecycle to develop and fund 3 local battery recycling pilot projects
- \$1.5 million funded by solid waste disposal facility quarterly fees based on the amount of solid waste disposed of at each disposal site

POSTED ON MAY 30, 2014
11:54 A.M.

Williams Leads the Charge on Battery Recycling with Bill to Create Pilot Programs

SOURCE: JEANNETTE SANCHEZ-PALACIOS FOR ASSEMBLYMAN DAS WILLIAMS

Creating a Convenient Household Battery Recycling Program



Watch later Share

Assembly Report

The Assembly has passed a bill authored by Assemblyman Das Williams, D-Santa Barbara, to create three battery recycling pilot programs.

2015: AB 1159 (Williams & Gordon)

- Failed to pass
- Covered batteries & home-generated sharps
- Would establish the Product Stewardship Pilot Program
- Would require producers and product stewardship organizations to develop and implement a product stewardship plan until 1/1/2024

2019: AB 1509 (Mullin)

- Failed to pass
- Would establish the Lithium-Ion Battery Recycling Program in CalRecycle
- Would cover lithium-ion battery sold separately or sold with a product, or a product containing a lithium-ion battery or battery pack that is not designed to be removed from the product by a consumer
- Would require covered entities to establish a stewardship program and achieve collection and recycling targets

2021: SB 289 (Newman) - Battery and Battery-Embedded Product Recycling and Fire Risk Reduction Act of 2021

- Failed in the Senate Appropriations Committee (first house)
- Would require producers to establish a stewardship program for batteries and battery-embedded products

- Supporters:
Environmental NGOs,
local governments,
waste haulers

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



2022: AB 2440 (Irwin) & SB 1215 (Newman)

- Originally, identical companion bills in both houses
- Amended to separate loose (AB 2440) and embedded batteries (SB 1215) – too many ornaments on the tree!



2022: SB 1215 (Newman)

- Expands the definition of “covered electronic device” in the Electronic Waste Recycling Act of 2003 to include a “covered battery-embedded product”
- Requires consumers to pay a recycling fee (amount determined by CalRecycle) on covered products starting 1/1/2026
- NO opposition

California governor signs bills expanding e-scrap recycling

Published: September 19, 2022

Updated: September 19, 2022

by [Marissa Heffernan](#)



Under California's SB 1215, consumers will be required to pay an electronic waste recycling fee upon the purchase of certain new or refurbished products starting Jan. 1, 2026. | Sheila Fitzgerald/Shutterstock

2022: AB 2440 (Irwin) - Responsible Battery Recycling Act of 2022

- Repeals the Rechargeable Battery Recycling Act & Cell Phone Recycling Act
- Requires producers to establish a stewardship program for the collection and recycling of covered batteries
- Requires PRO be a 501c3
- Preempts local ordinances adopted on or after 1/1/2023
- Violations of \$10K/day unless it is intentional (\$50K/day) to the Covered Battery Recycling Penalty Account



California legislation develops statewide battery recycling program

Legislature passes S.B. 1215 and A.B. 2440, creating a collection and recycling program for products that contain batteries and consumer batteries, respectively.

OPPOSITION: (Verified 8/25/22)

Association of Home Appliance Manufacturers
California Retailers Association
Consumer Technology Association

AB 2440 Implementation Timeline

- 3/15/2023: Producers must provide a list of all covered batteries and brands that producers sell into CA
- Dept. of Toxic Substances Control and CalRecycle must adopt regulations to implement Act with an effective date no later than 4/1/2025
- 4/1/2027: “operators” must have an *approved complete* stewardship plan
 - Within 12 months of having approved Plan, must fully implement the program
- 1/1/2032: (and every 5 years thereafter) Dept. may after consultation with the program operators and through regulations adopted by the department adjust the minimum recycling efficiency rates
- Timelines in the statute for stewardship plan and budget submittals and resubmittals

AB 2440 Definitions

(d) (1) "Covered battery" means a device consisting of one or more electrically connected electrochemical cells designed to receive, store, and deliver electric energy. A covered battery includes a battery that is any of the following:

(A) A loose battery that is either sold separately from a product or that is designed to be easily removed from a product by the user of the product, with no more than common household tools.

(B) A battery that is packed with, but not installed in, the product that the battery is intended to power, when the product is offered for sale by the producer.

(n) "Recycling" has the same meaning as set forth in subdivision (a) of Section 25121.1 of the Health and Safety Code. "Recycling" does not include any of the following:

(1) Combustion.

(2) Incineration.

(3) Energy generation.

(4) Fuel production.

(5) Beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover.

(6) Other forms of disposal, as defined in subdivision (b) of Section 40192.

AB 2440 Exemptions

(2) "Covered battery" does not include any of the following:

(A) A primary battery weighing over two kilograms. For purposes of this subparagraph, "primary battery" means a nonrechargeable battery, including, but not limited to, alkaline, carbon-zinc, and lithium metal batteries.

(B) A rechargeable battery weighing over five kilograms and having a Watt-hour rating of more than 300 Watt-hours.

(C) A lead-acid battery, as defined in subdivisions (a) and (b) of Section 42440.

(D) (i) A battery contained in a motor vehicle. For purposes of this subparagraph, "motor vehicle" has the same meaning as set forth in Section 415 of the Vehicle Code.

(ii) Notwithstanding any other law, the exclusion in clause (i) does not apply to a battery contained in any of the following:

(I) A motorized scooter.

(II) A motorized skateboard.

(III) A motorized hoverboard.

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

(E) A fuel cell electrical generating facility. For purposes of this subparagraph, "fuel cell electrical generating facility" has the same meaning as "eligible fuel cell electrical generating facility," as defined in Section 2827.10 of the Public Utilities Code.

AB 2440 Exemptions (cont.)

(F) (i) A Class I device as defined in Section 360c of Title 21 of the United States Code, and either of the following applies:

(I) It is a device described in Section 414.202 of Title 42 of the Code of Federal Regulations.

(II) Either of the following applies:

(ia) The device is predominantly used in a health care setting by a provider.

(ib) The device is predominantly prescribed by a health care provider.

(ii) A Class II or Class III device as defined in 360c of Title 21 of the United States Code.

(G) A battery that has been recalled.

Labeling Requirements in SB 1215 & AB 2440

- AB 2240: stewardship plan shall include:
 - (p) Developing strategies in coordination with other program operators to develop and implement proper labeling of covered batteries to ensure proper collection and recycling, by identifying the chemistry of the covered battery and including an indication that the covered battery should not be disposed of as household waste
- SB 1215:
 - 1/1/2026: Prohibited from selling a new or refurbished covered battery-embedded product unless the product is labeled with the name of the manufacturer or the manufacturer's brand label so that it is readily visible. Also requires a new or refurbished covered battery-embedded product to be labeled with information identifying the chemistry of the embedded product or include that information on the manufacturer's internet website.
 - Information labeled on the device that describes where and how to return, recycle, and dispose of the covered electronic waste resulting from discarded electronic devices

Truth in Marketing & Advertising

- AB 1894 (L. Rivas & Petrie-Norris): Cannabis Vape Marketing for Safe Disposal – signed into law 9/18/2022
- Sponsored by NSAC
- Vapes being promoted as “disposable” & to “just throw them in the trash”
- Starting 1/1/24, requires advertising & marketing of cannabis cartridge & vape to **prominently display a message to properly dispose as hazardous waste, & prohibits the package, label, advertisement, & marketing from indicating that it is disposable or implying that it may be thrown in the trash or recycling streams.**





ADVOCATING FOR A CIRCULAR & EQUITABLE ECONOMY



Help Us Keep Pushing & Join Us!

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