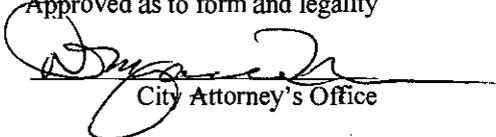


FILED
OFFICE OF THE CITY CLERK
OAKLAND

2012 MAY 17 PM 3:31

Approved as to form and legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

introduced by Councilmembers Brunner and Brooks

RESOLUTION OF SUPPORT FOR EXTENDED PRODUCER RESPONSIBILITY AND THE ALAMEDA COUNTY SAFE MEDICATION DISPOSAL ORDINANCE, WHICH WOULD REQUIRE PRODUCERS SELLING PHARMACEUTICAL DRUGS IN ALAMEDA COUNTY TO PARTICIPATE IN A DRUG STEWARDSHIP PROGRAM

WHEREAS, Extended Producer Responsibility (EPR) is a policy approach in which producers assume financial and operational responsibility for management of waste products and which has been shown to be effective; and

WHEREAS, there are significant environmental and human health impacts associated with improper management of universal waste, sharps, pharmaceuticals and other products; and

WHEREAS, Bay Area local governments formed the California Product Stewardship Council (CPSC) in 2006 to support education and outreach efforts on the benefits of producer responsibility systems and to advocate for them which is supported by Alameda StopWaste; and

WHEREAS, in September 2007 the California Integrated Waste Management Board, now known as CalRecycle, adopted the Extended Producer Responsibility Framework for an EPR System in California and the League of Cities has adopted a policy statement in 2008 in support of EPR legislation; and

WHEREAS, in Alameda County nonfatal hospitalized injuries from unintentional poisonings for adults 60 through 115 years of age increased 43% from 1998 to 2006;¹ and

WHEREAS, The Partnership for a Drug Free America report from February 2010 indicates that over 60% of teens are able to obtain prescription painkillers for free through friends or family; and

WHEREAS, properly disposing of leftover, expired and unwanted drugs would be a significant step towards both preventing unintentional poisoning deaths and improper disposal into the water treatment system; and

WHEREAS, a study released in January 2010 by the Maine Department of Environmental Protection detected the presence of over 40 drug compounds including antibiotics, steroids, antidepressants and pain medications in landfill leachate which is eventually treated by sewer treatment plants; and

WHEREAS, pharmaceutical residues have been proven to be accumulating in ground water and drinking water and are entering the environment through multiple sources including through flushing down toilets; and

WHEREAS, Extended Producer Responsibility (EPR) is a strategy that places the primary responsibility for end-of-life management of products on the producers of the products who make the design and marketing decisions, while encouraging product design that minimizes negative impacts on human health and the environment at every stage of the product's lifecycle; and

WHEREAS, in 2008 and 2010, California passed three significant producer responsibility laws for mercury thermostats, carpet, and paint requiring producers to design and fund recovery programs for their product waste. To date, 128 resolutions have been passed by California local jurisdictions and organizations supporting producer responsibility; and

WHEREAS, a number of states recently introduced drug product stewardship legislation in Maine, Maryland, Minnesota, Rhode Island, Florida, Oregon, and Washington; and

WHEREAS, there is no permanent drug collection program in Alameda County, but there is considerable demand for it; and

WHEREAS, most Canadian provinces and some other countries have active, well-established drug product stewardship programs funded by many of the same companies that sell drugs in the United States; and

WHEREAS, SB 966 of 2007 had the goal of developing model drug collection systems, it did not require producer to design or fund a program and to date, there is no voluntary or mandatory statewide collection program for unwanted drugs in California, and drug producers have not offered any support for a collection program to date, now, therefore be it

RESOLVED: That the Oakland City Council urges the California Legislature to enact EPR legislation which will give producers the incentive to design products to make them less toxic and easier to reuse, repair and recycle; and be it

FURTHER RESOLVED: That the City Administrator be authorized to work with and support the California Product Stewardship Council and send letters to the California League of Cities, and the CalRecycle, and the State legislature and to use other advocacy methods to urge support for EPR Framework legislation and related regulations when deemed appropriate; and be it

FURTHER RESOLVED: That the Oakland City Councils encourages all manufacturers to share in the responsibility for eliminating waste through minimizing excess packaging, designing products for durability, repairability, reusability, recyclability; using recycled materials in the manufacture of new products; and providing financial support for collection, processing,

recycling, or disposal of used materials; and communicating with haulers and local governments about end of life management; and be it

FURTHER RESOLVED: That this City Council does hereby support the Alameda County Board of Supervisors in adopting a producer responsibility ordinance requiring any person who produces a drug offered for sale in Alameda County to participate in a County approved Drug Stewardship Program for the collection and disposal of unwanted drugs from residential sources.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE , KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

ORDINANCE NO. _____

ORDINANCE AMENDING THE ALAMEDA COUNTY ORDINANCE CODE BY ADDING CHAPTER 6.53, SECTIONS 6.53.010 THROUGH 6.53.130 TO: REQUIRE ANY PERSON WHO PRODUCES A DRUG OFFERED FOR SALE IN ALAMEDA COUNTY TO PARTICIPATE IN AN APPROVED DRUG STEWARDSHIP PROGRAM FOR THE COLLECTION AND DISPOSAL OF UNWANTED DRUGS FROM RESIDENTIAL SOURCES; PROVIDE FOR IMPLEMENTATION, ENFORCEMENT, FEES, AND PENALTIES; AND PHASE-IN THE APPLICATION OF THIS CHAPTER TO CONTROLLED SUBSTANCES; AND MAKING ENVIRONMENTAL FINDINGS.

WHEREAS, the County of Alameda has a substantial interest in having a drug stewardship program; and

WHEREAS, the County of Alameda has chosen to exercise its political power to have a drug stewardship program; and

NOW THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

Title 6 of the Alameda County Health and Safety Code is hereby amended by adding Chapter 6.53, Sections 6.53.010 through 6.53.130, to read as follows:

6.53.010 - Declaration of findings.

The Board of Supervisors does hereby declare as follows:

A. Drugs are a necessary medical technology that successfully allows us to live longer, healthier, and more productive lives.

B. According to the American Association of Poison Control Centers, 51% of all poisonings are attributed to pharmaceuticals. 41% of these are in children under 6 years old, and 70% of visits to the emergency department are due to pharmaceutical poisonings. Poisoning is the fastest rising cause of accidental death among older adults, particularly from overdoses of over-the-counter, prescription and illicit drugs. (American Public Health Association, The Nation's Health, August ed., 2007) in Alameda County, nonfatal hospitalized injuries from unintentional poisonings for adults 60 and older increased 43% from 1998 to 2006.

C. Prescriptions for controlled substances increased by 154% between 1993 and 2003. In the same period, there has been a 90% increase in hospital visits due to prescription drug abuse and a 207% increase in hospital visits for teenage prescription drug abuse. 15 million Americans currently abuse prescription drugs, second only to

marijuana. The Partnership for a Drug Free America released a report in February 2010 indicating that over 60% of teens are able to obtain prescription painkillers for free through friends or family.

D. Hydrocodone and oxycodone or "Oxys" are implicated in 28% of all drug related crime. Methylphenidate and dextromethorphan, commonly known as "meth," are involved in 19% of all drug related crime.

E. Properly disposing of leftover, expired and unwanted drugs would be a significant step forward in preventing unintentional poisoning deaths attributable to drugs and abuse related to access to pharmaceuticals and concentrations of medicines reaching our drinking water.

F. A study released in January 2010 by the Maine Department of Environmental Protection detected the presence of over 40 drug compounds including antibiotics, steroids, antidepressants and pain medications in municipal solid waste landfill leachate (the liquid collected from the bottom of landfills). Landfill leachate is eventually treated by the same sewer treatment plants which are unable to treat the drugs found in wastewater.

G. Pharmaceutical residues have been proven to be accumulating in ground water and drinking water. Drugs enter the environment through multiple sources primarily through excretion as waste, disposal directly in to the environment through flushing down toilets, or through leachate leaks in landfills. Municipal wastewater treatment plants were designed to treat biological agents in drinking water. Costs to develop waste treatment through wastewater treatment are extremely high; thus, drugs pass through wastewater treatment systems and contaminate receiving waters.

H. Studies reveal concentrations of a variety of common drugs continue to mount including the 2001 US Geological Survey Report, the report for the San Francisco Estuary Institute, and investigative research by the Associated Press. The following reports detected various common drugs in US and Bay Area water bodies:

1. Koipin, Dana et al. (2002) Pharmaceuticals, hormones and other organic wastewater contaminants in U.S. Streams, 1999-2000: A National Reconnaissance, Environmental Science and Technology v. 36: 1202-1211.
2. Oros, Daniel and David, Nicole (2002). Identification and Evaluation of Unidentified Organic Contaminants in the San Francisco Estuary, San Francisco Estuary Regional Monitoring Program for Trace Substances, SFEI
3. Donn, J, Mendoza, M & Pritchard, J. (2008) AP Probe Finds Drugs in Drinking Water.

I. Extended Producer Responsibility, also called Product Stewardship, is a strategy that places a shared responsibility for end-of-life management of consumer products on the manufacturers of the products, while encouraging product design that minimizes negative impacts on human health and the environment at every stage of the product's lifecycle.

J. In 2009 and 2010, California passed three significant product stewardship bills for mercury thermostats, carpet, and paint. All three bills require producers to establish and fund product stewardship programs for their waste stream. To date, 120 resolutions have been passed by California local jurisdictions and organizations supporting product stewardship.

K. California Senate Bill 966, enacted as Chapter 542 of the Statutes of 2007, required CalRecycle to survey existing drug collection programs, evaluate them for several factors including cost effectiveness, and make recommendations for implementation of statewide programs. Recommendations have been returned to the state legislature for further action.

L. There is no permanent drug collection program in Alameda County, but there is considerable demand for it. In 2009, Bay Area residents disposed of over 60,000 lbs of unwanted pharmaceuticals at 126 sites. Alameda County citizens returned just roughly 4000 lbs, compared to Santa Clara County which disposed of almost 19,000 lbs and San Mateo which disposed of close to 18,000 pounds.

M. United States Senate Bill 3397, the "Secure and Responsible Drug Disposal Act of 2010," which was signed into law on October 12, 2010, authorizes the Attorney General to increase the methods—currently restricted to law enforcement—by which controlled substances may be collected, including collection at pharmacies. The goal of the bill is to increase opportunities for drug collection in order to reduce the instances of diversion and release of harmful substances into the environment.

N. The Pharmaceutical Act of 2011 was introduced in the United States House of Representatives in August of 2011 by Congresswomen Louise Slaughter of New York. The bill would mandate a pharmaceutical take-back program based on product stewardship principles, with a minimum of one take-back location in every city and town having a population greater than 10,000 persons.

O. A number of states introduced drug product stewardship bills recently including Maine, Maryland, Minnesota, Rhode Island, Florida, Oregon, and Washington.

P. Most Canadian provinces and many other countries have active, well-established drug product stewardship programs in place: British Columbia has had a manufacturer-funded drug collection program in place since 1996; Ontario began a program in July 2010, and Manitoba began its program in April 2011. France, Spain and Portugal, among others, have national, well-established, manufacturer-funded drug collection programs.

Q. There is no voluntary or mandatory statewide drug stewardship program for unwanted drugs in California, and drug manufacturers and producers have not offered any support for a collection program to date.

Section 6.53.020 - Title

This Chapter may be cited as the "Alameda County Safe Drug Disposal Ordinance."

Section 6.53.030 - Definitions.

For the purposes of this Chapter, the following terms have the meanings given.

1. "Cosmetics" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to, the human body, or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles.
2. "Covered product" means all prescription drugs and all nonprescription drugs, including both brand name and generic drugs that do not also meet the definition of "cosmetics".
3. "Department" means the County's Department of Environmental Health.
4. "Drug wholesaler" means a business that sells or distributes drugs for resale to an entity other than a consumer.
5. "Drugs" means: (1) articles recognized in the official United States pharmacopoeia, the official national formulary, the official homeopathic pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeias; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; (3) substances, other than food, intended to affect the structure or any function of the body of humans or other animals; or (4) substances intended for use as a component of any substances specified in this subdivision, but not including medical devices or their component parts or accessories.
6. "Entity" means a person other than an individual.
7. "Generic drug" means a drug that is chemically identical or bioequivalent to a brand name drug in dosage form, safety,

strength, route of administration, quality, performance characteristics, and intended use, though inactive ingredients may vary.

8. "Mail-back program" means a system whereby residential generators of unwanted products obtain prepaid and preaddressed mailing envelopes in which to place unwanted products for shipment to an entity that will dispose of them safely and legally.
9. "Nonprescription drug" means any drug that may be lawfully sold without a prescription.
10. "Person" means an individual, firm, sole proprietorship, corporation, limited liability corporation, general partnership, limited partnership, limited liability partnership, association, cooperative, or other legal entity, however organized.
11. "Plan" means a product stewardship plan required under this Chapter that describes the manner in which a product stewardship program will be provided.
12. "Prescription drug" means any drug that by federal or state law may be dispensed lawfully only on prescription.
13. "Producer" means a person or entity that: (1) has a physical presence in the United States and causes a covered drug to be manufactured or has legal ownership of the brand, brand name, or co-brand under which a covered drug is sold; or (2) imports a covered drug branded or manufactured by a person or entity that has no physical presence in the United States. "Producer" does not include: (1) a retailer that puts its store label on a covered drug unless the retailer imports the covered drug directly from a person that has no physical presence in the United States, or (2) a pharmacist who compounds a prescribed individual drug product for a patient.
14. "Product stewardship program" means a program financed and operated by producers to collect, transport, and recycle unwanted products.
15. "Residential generators" means single and multiple family residences and locations where household drugs are unused, unwanted, disposed of, or abandoned, such as hospice services, nursing homes, boarding care homes, schools, foster care, day care, and other locations where people, pets, or both reside on a temporary or permanent basis. "Residential generators" do not

include airport security, drug seizures by law enforcement, pharmacy waste, business waste, or any other source identified by the Department as a nonresidential source.

16. "Stewardship organization" means an organization designated by a group of producers to act as an agent on behalf of each producer to operate a product stewardship program.
17. "Unwanted product" means any covered product no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

Section 6.53.040. - Product stewardship program.

A. Requirement for sale. On and after July 1, 2012, all producers of covered products sold in the County of Alameda shall participate in a product stewardship program to collect and dispose of unwanted products from residential generators. This Chapter shall apply to all of Alameda County including unincorporated and incorporated areas, except for those incorporated areas (cities) where the governing body of that incorporated area (city) has authorized its own local health officer or environmental health director to administer and enforce the provisions of California Health and Safety Code section 117800. This Chapter shall be administered and implemented by the Alameda County Department of Environmental Health. Each producer must:

1. Operate, individually or jointly with other producers, a product stewardship program approved by the Department; or
2. Enter into an agreement with a stewardship organization to operate, on the producer's behalf, a product stewardship program approved by the Department.

B. Product stewardship program costs.

1. A producer, group of producers, or stewardship organization must pay all administrative and operational costs associated with their product stewardship program, including the cost of collecting, transporting, and disposing of unwanted products collected from residential generators and the recycling or disposal, or both, of packaging collected with the unwanted product.
2. A producer, group of producers, or stewardship organization must pay for all costs associated with obtaining compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.), if required, for a specific product stewardship program and product stewardship plan.

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3. No person or producer may charge a fee to cover the costs of a product stewardship program at the time of sale of the covered product or when unwanted products are collected from residential generators or delivered for disposal.

6.53.050 - Product stewardship plan.

A. Plan content. Each product stewardship program shall have a product stewardship plan that must contain the following:

1. Certification that the product stewardship program will accept all unwanted products regardless of who produced them, unless excused from this requirement by the Department as part of the approval of the plan;
2. Contact information for the individual and the entity submitting the plan and for all producers participating in the product stewardship program;
3. A description of the methods by which unwanted products from residential generators will be collected in the County and an explanation of how the collection system will be convenient and adequate to serve the needs of County residents;
4. Provide collection services for covered products in all areas of the County that are reasonably convenient to the public and adequate to meet the needs of the population in the area being served.
5. If applicable, include the location of each collection site and locations where envelopes for a mail-back program are available;
6. A list containing the name, location, permit status, and record of any penalties, violations, or regulatory orders received in the previous five years by each transporter and each medical waste disposal facility proposed to participate in the product stewardship program;
7. A description of how the unwanted products will be safely and securely tracked and handled from collection through final disposal and the policies and procedures to be followed to ensure security;
8. A description of the public education effort and outreach activities required under this Chapter and how their effectiveness will be evaluated;

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9. A description of how the scope and extent of the stewardship program are consistent with the scope and extent of the sales of covered products within the County by the producer or group of producers; and,
 10. A starting date when collection of unwanted products will begin.

B. Department review and approval; updates.

1. No producer, group of producers, or stewardship organization may begin collecting unwanted products until it has received written approval of its product stewardship plan from the Department.
2. Product stewardship plans must be submitted to the Department for approval. The initial plans must be submitted by January 1, 2013.
3. Within 90 days after receipt of a plan, the Department shall conduct a noticed public hearing and determine whether the plan complies with the requirements of this Chapter and of any regulations adopted pursuant to this Chapter. As part of its approval, the Department may set reasonable performance goals for the program. If the Department approves a plan, it shall notify the applicant of its approval in writing. If the Department rejects a plan, it shall notify the applicant in writing of its reasons for rejecting the plan. An applicant whose plan has been rejected by the Department must submit a revised plan to the Department within 60 days after receiving notice of the rejection.
4. At least every three years, a producer, group of producers or stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the Department for review and approval.
5. A producer who begins to offer covered products for sale in the County of Alameda after June 1, 2013, must submit a product stewardship plan to the Department or provide evidence of having joined an existing approved plan at least 90 days prior to the producer's initial offer of sale of covered products.
6. Any proposed changes to a product stewardship plan must be approved by the Department in writing.

6.53.060 - Disposal of unwanted products.

- A. Compliance with applicable law. Each product stewardship program must comply with all local, state, and federal laws and regulations applicable to its operations,

including laws and regulations governing the disposal of medical waste and controlled substances.

B. Disposal at medical waste facility. Each product stewardship program must dispose of all unwanted products from residential generators at a medical waste facility. The medical waste facility must be in possession of all required regulatory permits and licenses.

C. Product stewardship programs may petition the Department for approval to use final disposal technologies, where lawful, that provide superior environmental and human health protection than provided by current medical waste disposal technologies for covered products if and when those technologies are proven and available. The proposed technology must provide equivalent protection in each, and superior protection in one or more, of the following areas:

1. Monitoring of any emissions or waste;
2. Worker health and safety;
3. Air, water, or land emissions contributing to persistent, bioaccumulative, and toxic pollution; and,
4. Overall impact on the environment and human health.

D. Packaging separation. Each product stewardship program is encouraged to separate unwanted products from their original containers, when appropriate, prior to collection or disposal.

6.53.070 - Product stewardship program promotion and outreach.

A. A product stewardship program must promote the product stewardship program to residential generators, pharmacists, retailers of covered products, and health care practitioners as to the proper and safe method to dispose of unwanted drugs.

B. A product stewardship program shall include, but is not limited to, developing, and updating as necessary, educational and other outreach materials aimed at retailers of covered products. These materials may include, but are not limited to, one or more of the following:

1. Signage that is prominently displayed and easily visible to the consumer.
2. Written materials and templates of materials for reproduction by retailers to be provided to the consumer at the time of purchase or delivery, or both.

3. Advertising or other promotional materials, or both.

C. A product stewardship program must prepare education and outreach materials that publicize the location and operation of collection locations in the County and disseminate the materials to health care facilities, pharmacies, and other interested parties. The program also must establish a website publicizing collection locations and program operations and a toll-free telephone number that residential generators can call to find nearby collection locations and understand how the program works.

6.53.080 - Report.

A. On or before July 1, 2013, and in each subsequent year, every producer, group of producers, or stewardship organization operating a product stewardship program must prepare and submit to the Department an annual report describing the program's activities during the previous reporting period. The report must include the following:

1. A list of producers participating in the product stewardship program;
2. The amount, by weight, of unwanted products collected from residential generators collected at each drop-off site and in the entire County and the total amount by weight collected by a mail-back program, if applicable;
3. A description of the collection system, including the location of each collection site and locations where envelopes for a mail-back program are provided, if applicable;
4. The name and location of disposal facilities at which unwanted products were disposed of and the weight of unwanted products collected from residential generators disposed of at each facility;
5. Whether policies and procedures for collecting, transporting, and disposing of unwanted products, as established in the plan, were followed during the reporting period and a description of any noncompliance;
6. Whether any safety or security problems occurred during collection, transportation, or disposal of unwanted products during the reporting period and, if so, what changes have or will be made to policies, procedures, or tracking mechanisms to alleviate the problem and to improve safety and security;

7. A description of public education and outreach activities implemented during the reporting period, including the methodology used to evaluate the outreach and program activities;
8. How the product stewardship program complied with any other elements in the product stewardship plan approved by the Department, including its degree of success in meeting any performance goals set by the Department as part of its approval of the program; and
9. Any other information that the Department may reasonably require.

B. For the purposes of this section, "reporting period" means the period beginning January 1 and ending December 31 of the same calendar year.

6.53.090. - Drug wholesaler responsibilities.

A. The Department shall provide on its website a list of all producers participating in product stewardship programs approved by the Department and a list of all producers the Department has identified as noncompliant with this Chapter or any regulations adopted pursuant to this Chapter.

B. Beginning 45 days after the effective date of the legislation adopting this Chapter, any drug wholesaler offering covered products for sale in the County must provide a list of the producer or producers of those products to the Department. Drug wholesalers must submit an updated list to the Department by January 15 of each year, beginning January 15, 2014.

6.53.100. - Regulations and fees.

A. The Director of the Department of Environmental Health may, after a noticed public hearing, adopt such rules and regulations as necessary to implement, administer, and enforce this ordinance.

B. As soon as practicable, the Department shall submit to the Board of Supervisors a proposed schedule of fees to be charged to the producers to cover the County's costs of administering and enforcing this ordinance, including but not limited to enforcement of education and outreach programs.

6.53.110. - Enforcement.

A. The Department of Environmental Health shall administer the penalty provisions of this Chapter.

B. The Department of Environmental Health may issue an administrative citation to a producer for violation of this Chapter or any regulation adopted pursuant to

this Chapter. The Department shall first send a written warning to the producer as well as a copy of this Chapter and any regulations adopted pursuant to this Chapter. The producer shall have 30 days after receipt of the warning to come into compliance and correct any violations.

C. If the producer fails to come into compliance and correct any violations, the Department may impose administrative fines for violations of this Chapter or of any regulations adopted pursuant to this Chapter. Each day shall constitute a separate violation for these purposes.

D. Any person in violation of this Chapter or any regulation adopted pursuant to this Chapter shall be liable to the County of Alameda for a civil penalty in an amount not to exceed one thousand dollars (\$1,000) per day per violation. Each day in which the violation continues shall constitute a separate and distinct violation.

E. In determining the appropriate penalties, the Department of Environmental Health shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.

F. Any producer receiving an administrative citation under this Chapter or any regulation adopted pursuant to this Chapter may appeal it within 21 calendar days from the date the administrative citation was issued. The administrative citation is deemed issued on the day it is sent by first class mail or personal service. The administrative citation shall state the date of issuance. If the deadline falls on a weekend or County holiday, then the deadline shall be extended until the next regular business day.

The request to appeal must:

1. Be in writing;
2. Be accompanied by a deposit of the total fine and any fees noted on the administrative citation;
3. Specify the basis for the appeal in detail;
4. Be postmarked within 21 days from the date the administrative citation was issued; and
5. Be sent to the address as set forth on the administrative citation.

G. The written request to appeal will be reviewed and, if found to be complete, a date, time and place shall be set for a hearing before a hearing officer appointed by the Director of the Department of Environmental Health. Written notice of the time and place for the hearing will be served by first class mail or personal service at

least 21 days prior to the date of the hearing to the producer appealing the citation. Service by first class mail, postage prepaid shall be effective on the date of mailing.

H. The failure of any producer to receive notice of the hearing shall not affect the validity of any proceedings under this Chapter. Failure of any producer to file an appeal in accordance with the provisions of this section shall constitute waiver of that producer's rights to administrative determination of the merits of the administrative citation and the amount of the fine and any fees.

I. A hearing officer shall be designated by the Director of the Department of Environmental Health for hearings under this Chapter. The producer requesting the appeal may request the Director of the Department of Environmental Health to recuse a hearing officer for reasons of actual prejudice against the party's cause. The hearing officer shall conduct an orderly, fair hearing and accept evidence as follows:

1. A valid administrative citation shall be prima facie evidence of the violation;
2. All testimony shall be by declaration under penalty of perjury;
3. The producer responsible for the violation or any other interested person may present testimony or evidence concerning the violation.
4. The hearing officer may reduce, waive or conditionally reduce the fines and any fees stated in the administrative citation. The hearing officer may impose deadlines or a schedule for payment of the fine and any fees due in excess of the deposit.
5. The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings. The decision shall be served by first class mail on all parties. The decision of the hearing officer affirming or dismissing the administrative citation is final.

J. The Department of Environmental Health may establish appropriate administrative rules for implementing this Chapter, conducting hearings, and rendering decisions pursuant to this section.

K. Upon the failure of any producer to comply with any requirement of this Chapter and any rule or regulation adopted pursuant to this Chapter, the Alameda County Counsel's Office may petition any court having jurisdiction for injunctive relief, payment of civil penalties and any other appropriate remedy, including restraining such person from continuing any prohibited activity and compelling compliance with lawful requirements.

L. Any person who knowingly and willfully violates the requirements of this Chapter or any rule or regulation adopted pursuant to this Chapter is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not less than fifty dollars (\$50) and not more than five hundred (\$500) for each day per violation, or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment.

6.53.120. - Implementation.

A. Notwithstanding any other provision of this Chapter, "covered product," as defined in this Chapter, shall not include any controlled substance until January 1, 2013, or until 90 days after the effective date of regulations adopted by the Attorney General of the United States for the delivery of controlled substances by ultimate users for disposal under Title 21 of the United States Code, Section 622(g) ("Secure and Responsible Drug Disposal Act of 2010"), whichever comes later. "Controlled substance" for purposes of this Section shall mean any substance listed under California Health and Safety Code Sections 11053 through 11058 or Title 21 of the United States Code, Sections 812 and 813 or any successor legislation.

B. The Department of the Environmental Health shall submit recommendations to the Board of Supervisors no later than October 1, 2013, regarding whether to continue to include controlled substances under this Chapter and, if so, how best to address the legal requirements for disposal of such substances.

6.53.130 - Additional provisions.

A. Disclaimer. In adopting and implementing this Chapter, the County of Alameda is assuming an undertaking only to promote the general welfare. The County is not assuming or imposing on its officers and employees an obligation by which they could be liable in money damages to any person or entity who claims that a breach proximately caused injury.

B. Conflict with State or Federal Law. This Chapter shall be construed so as not to conflict with applicable federal or state laws, rules or regulations. Nothing in this Chapter shall authorize any County agency or department to impose any duties or obligations in conflict with limitations on municipal authority established by state or federal law at the time such agency or department action is taken. The County shall suspend enforcement of this ordinance to the extent that said enforcement would conflict with any preemptive state or federal legislation subsequently adopted.

C. Severability. If any of the provisions of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

D. Environmental Findings. The County has determined that the actions contemplated in this ordinance are in compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.).

Adopted by the Board of Supervisors of the County of Alameda, State of California, on _____, 2012, by the following called vote:

AYES:

NOES:

EXCUSED:

NATE MILEY, President
Board of Supervisors
County of Alameda, State of California

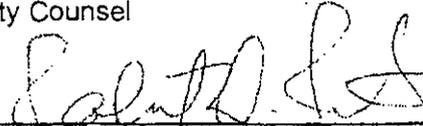
ATTESTED TO:

CRYSTAL K. HISHIDA-GRAFF, Clerk
Board of Supervisors, County of Alameda

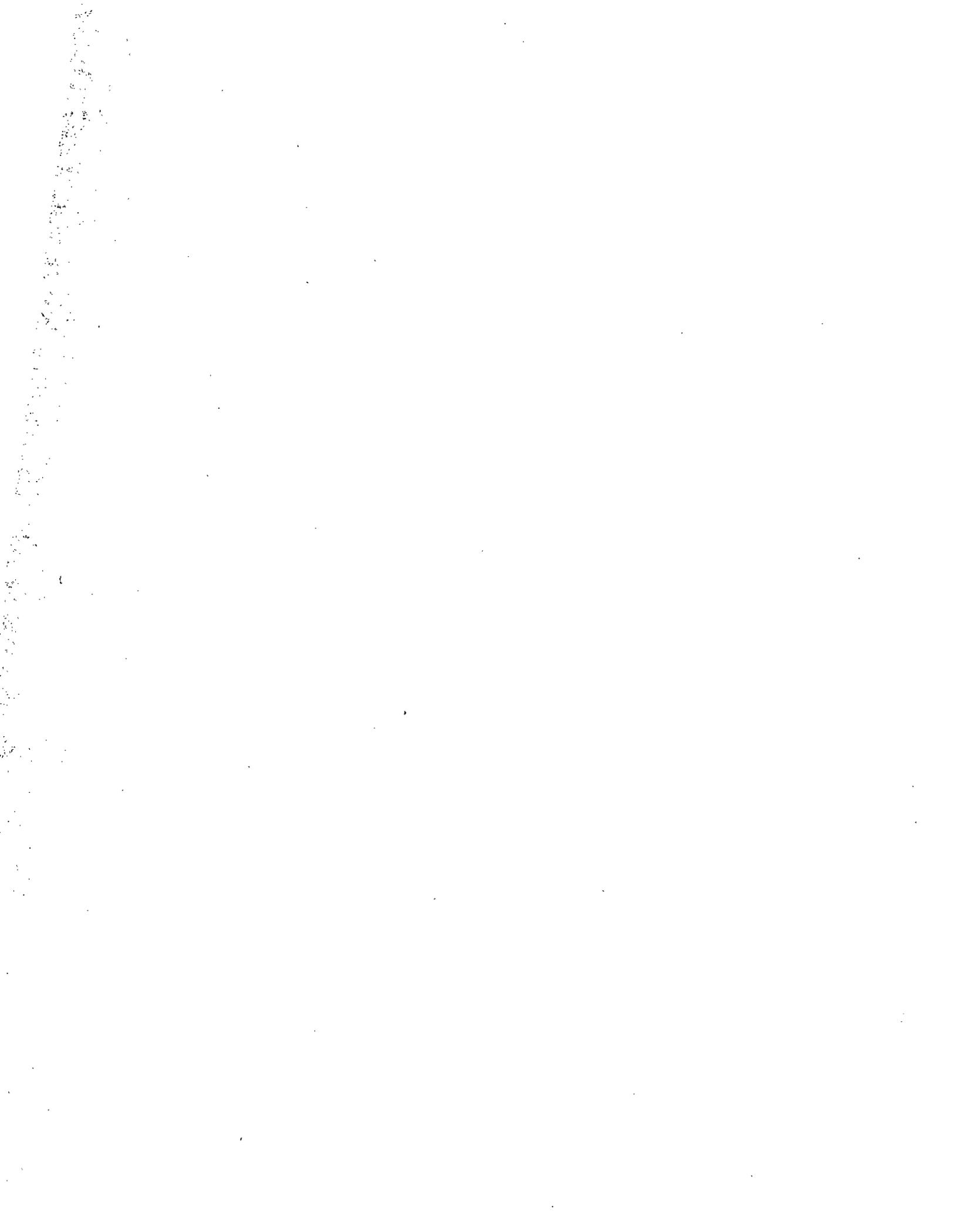
By: _____

APPROVED AS TO FORM:

DONNA R. ZIEGLER
County Counsel

By: 

ROBERT D. REITER
Deputy County Counsel





Board of Supervisors

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Supervisor Nate Miley Convenes Alameda County Safe Drug Disposal Stakeholder Meetings

OAKLAND, April 26, 2012_ The Alameda County Drug Disposal Ordinance will be the topic of discussion at series of stakeholder meetings kicking off on Monday April 30th. The meetings convened by Alameda County Supervisor Nate Miley's office is the first of four stakeholder meetings designed take a closer look at a new county wide policy that has sparked attention in the national debate around extended producer responsibility.

"For years, the community has faced the problem of what to do with unused and expired medication and together we have created a groundbreaking policy solution," said Miley. "Our goal is to reduce teenage prescription drug abuse, expand local medication collection sites in the county and prevent discarded drugs from entering our waterways and landfills."

The ordinance is scheduled to go before the Alameda County Board of Supervisors in June and if adopted, the county will be the first in the nation to make pharmaceutical manufacturers take responsibility for the entire lifespan of their products. The ordinance requires drug manufacturers to provide a medication take-back program, just like they already do in other countries including Canada, Spain and France.

According to Miriam Gordon, the California Director of Clean Water Action, "unused medications that get flushed down the drain contaminate fish and other marine organisms. The industry that profits from the sale of pharmaceuticals has a responsibility for managing them properly at the end of their useful life." She added that "This proposed measure shows that when the feds and the state drop the bail, local government can and sometimes does step in and do the right thing."

Poisoning is the fastest rising cause of accidental death among older adults particularly from overdoses of over-the-counter, prescription and illicit drugs in Alameda County. The Safe Drug Disposal Ordinance aims to reverse that trend by ensuring safe and proper disposal of prescription drugs.

In 2009, Bay Area residents disposed of over 60,000 lbs. of unwanted pharmaceuticals. The goal of the stakeholder meetings is to engage elected officials, pharmaceutical industry representatives and the community to share their perspective on the ordinance. The meetings will explore the feasibility and effectiveness of the ordinance and possible changes to improve policy outcomes.

Stakeholder meetings will be held on the following days and times at the Alameda County Conference Center, 25 12th Street, 4th Floor Oakland CA 94607-6467. Please RSVP with the media contact if you are interested in attending.

- April 30 9:30 to 11:30 a.m.
- May 9 11:30 a.m. to 1:30 p.m.
- May 16 2 to 4 p.m.
- May 23 10 a.m. to noon

Alameda County Safe Drug Disposal Ordinance

LIST OF ENDORSERS

- U.S. Congressman Pete Stark
- California Nurses Association (CNA)
- California Product Stewardship Council (CPSC)
- San Francisco Public Utilities Commission (SFPUC)
- Waste Management
- City of Emeryville
- Union Sanitary District in Union City
- Castro Valley Sanitary District
- Napa Sanitation District
- Central Contra Costa County Sanitary District
- Save the Bay
- County of Sacramento Department of Waste Management and Recycling
- The Teleosis Institute in Berkeley
- East Bay Municipal Utility District (EBMUD)
- City of Livermore Water Resources Division
- Marin County Pharmaceutical Association
- American Pharmacist Association Academy of Student Pharmacists
- Marin County Hazardous and Solid Waste Management Joint Powers Authority
- The Adult Day Services Network of Alameda County
- Castro Valley Community Action Network (CV CAN)
- Alameda County Health Care Services Agency
- City of Pleasanton
- Department of the Environment , City and County of San Francisco
- Alameda County Health Consortium
- Alameda County Medical Center (ACMC)
- Eden Medical Center
- St. Mary's Center
- Washington Hospital Healthcare System
- Creekside Middle School in Castro Valley
- StopWaste.org
- Product Stewardship Institute
- Dublin San Ramon Services District
- Bay Area Clean Water Agencies (BACWA)
- South Bayside System Authority
- North American Hazardous Materials Management Association (NAHMMA)