September 11, 2026

Los Angeles County Public Works
Environmental Programs Division
Attn: Christopher Sheppard, P.E.
900 South Fremont Avenue
Annex Building, 3rd Floor
Alhambra, CA 91803

Submitted Electronically to the Clean LA County Team

Re: Comments on Proposed Household Hazardous Waste EPR Ordinance

To Clean LA County Team:

The California Retailers Association (CRA) appreciates the opportunity to provide comments on Los Angeles County Department of Public Works' draft Household Hazardous Waste (HHW) Extended Producer Responsibility (EPR) ordinance.

CRA represents retailers of all sizes and sectors across the state and advocates for public policies that support California consumers, employees, communities and the environment. CRA is the only statewide trade association representing all segments of the retail industry including general merchandise, department stores, mass merchandisers, on-line marketplaces, restaurants, convenience stores, supermarkets and grocery stores, chain drug and specialty retail such as auto, vision, jewelry, hardware and home stores.

The retail industry is committed to environmental sustainability and California's climate goals. Retailers have made investments in sustainable practices, and the California Retailers Association has representatives serving on numerous advisory boards for several of the state's EPR and product stewardship programs including:

- CalRecycle's Advisory Board for SB 54 (Allen-2022) Plastic Pollution Prevention and Packaging Producer Responsibility Act;

- Circular Action Alliance California's Advisory Board, the Producer Responsibility Organization or PRO tasked with managing the implementation of SB 54;

- Landbell USA's Advisory Board, the PRO tasked with managing the implementation of California's Textiles Stewardship Program created by SB 707 (Newman-2024);

- The California Carpet Stewardship Program's CARE LLC Advisory Board created by AB 863 (Aguiar-Curry-2024)

- CalRecycle's Mattress Recycling Stewardship Organization Advisory Committee

CRA's involvement in these product management programs is among the many ways retailers demonstrate the industry's commitment to moving towards a circular economy and environmental sustainability. Retailers are deeply invested in ensuring California's EPR and stewardship programs are successful for not only California's product management goals, but also for producers, local governments, recycling, reuse and repair service providers and, most importantly, consumers.

We appreciate the County's effort to address safe and convenient management of HHW and address rising labor costs. This is an issue CRA has worked on extensively at the statewide level through several iterations of bills introduced in the state legislature. Unfortunately, those efforts did not yield compromises after many negotiations. At the crux of those negotiations are significant concerns that we raised with using an EPR model for a universe of products that are not circular and exploring other options for addressing rising costs for responsible and safe management of HHW products.

This letter provides a summary of our concerns with LA County's draft ordinance and provides two alternative options along with a recommendation for a HHW Needs Assessment and pilot project that LA County can spearhead with the intention of bringing a statewide solution to the Legislature for the County to consider.

We look forward to continuing thoughtful discussions with LA County's Department of Public Works and the Clean LA Team and appreciate the opportunity to provide feedback on this draft ordinance.

Legal Concerns with Draft Ordinance

The ordinance's fee and cost-shifting provisions present potential legal concerns with unauthorized taxation, absent voter approval, and require further analysis.

The ordinance appears to allow Los Angeles County to levy fees from producers to pay for the costs to implement HHW programs, as well as County implementation and oversight, which may constitute a tax under the California Constitution's definition of tax, as opposed to a regulatory cost. Cal. Const. Art. 13C § 1(e)(3). Regarding potential taxes levied by localities, the Constitution provides:

> The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

Cal. Const. Art. 13C, § 1. No such showing by the County has been made here. Furthermore, any special tax levied by the County would require submission to the electorate and approval by a two-thirds majority. See Cal. Const. Art. 13A § 4, Art. 13C, § 2(d). As such, the ordinance should be closely evaluated to determine whether it constitutes an unauthorized tax under this definition. See *Bay Area*

Cellular Telephone Co. v. City of Union City, 162 Cal. App. 4th 686, 695-96 (Cal. Ct. App. 1st Dist. 2008).

Los Angeles County's authority to adopt a local HHW EPR program and potential conflicts with existing laws should be carefully evaluated and presented to stakeholders before adoption.

Los Angeles County should identify the specific legal authority on which it relies to impose a local HHW EPR program, including authority to require producers to fund and implement end-of-life management systems for products sold in the County. Furthermore, the ordinance should avoid duplicating or conflicting with existing federal, state, and local hazardous waste laws and product-stewardship requirements. California already regulates hazardous waste management through state law and the California Department of Toxic Substances Control (DTSC) oversight, and the State Legislature has considered statewide HHW producer responsibility legislation.

Los Angeles County should avoid creating a local program that is inconsistent with existing or pending statewide frameworks, particularly for products already subject to state stewardship or recycling programs. There is a real concern that the disposal-related taxes or fees that the County already imposes could create duplication or uniformity issues.

Putting aside these threshold questions of whether the County has the legal authority to impose the proposed HHW EPR program, we provide the following comments on the proposed structure of the ordinance and program itself.

Notwithstanding the serious legal concerns about the authorization and structure of the ordinance, any proposed law should expressly exclude hazardous waste generated by businesses and industries.

Hazardous waste generated by businesses or industries that are already subject to federal and/or state hazardous waste regulation, including the Resource Conservation and Recovery Act (RCRA) and DTSC requirements, should be clearly excluded by use of an express exemption. RCRA is the primary federal law in the United States governing the management and disposal of solid and hazardous waste. Congress passed the law in 1976 to protect people and the environment from waste hazards, conserve resources, and reduce waste generation.

LA County's ordinance should state expressly that hazardous waste generated by any business or industrial activity is not a Covered Product and is not subject to the proposed HHW EPR program. Without this clarification, regulated entities may face duplicative or conflicting obligations for materials already governed by comprehensive federal and state hazardous waste programs.

The ordinance should establish clear criteria and timing for designating Covered Products, with a public notice and input process.

The draft ordinance gives LA County's Department of Public Works the authority to designate Covered Products, but it does not clearly describe the criteria, process, timing, or notice that will govern those designations. Producers and retailers need adequate notice to determine whether products are covered, an opportunity to evaluate exemptions for proposed Covered Products where an EPR framework does not make sense, and an opportunity to appeal unfavorable decisions made by the Department. The

ordinance should identify objective standards for designation, require public notice and comment before products or product categories are added, provide reasonable implementation periods after any designation, provide a clear test for exemptions when necessary, and provide a clear path for appeals of designations.

Point-of-sale or public posting requirements should be narrowed and made flexible.

Section 17 would require persons selling Covered Products to post display materials approved by LA County Department of Public Works explaining how and where consumers may dispose of Covered Products. As drafted, this requirement could impose significant burdens on retailers, particularly those selling large numbers of potentially covered products across many departments, product categories, and locations.

Moreover, product-level signage may confuse consumers who assume that they can bring HHW for collection to the retailer. This is expected to result in additional burdens on the retailers who are not prepared to collect such waste and frustration among customers. As such, the ordinance should allow flexible compliance options, such as digital disclosures, centralized signage, or use of producer responsibility organization materials to communicate to the public.

Collection locations should be exclusively County-led, because the risk of public confusion about Participating Retail Business locations is high.

The ordinance defines a Participating Retail Business as a retail establishment that voluntarily participates in a stewardship plan as a collection site. However, instead of relying on a model of voluntary and decentralized collection locations, the ordinance should exclusively focus investment in County-led collection locations, which offer a much more practical and efficient avenue for collecting HHW.

This structure would provide clarity to the public about acceptable collection locations and avoid imposing unfair burdens on retailers. As described in Paragraph 5, there is a real concern that through use of voluntary collection sites, the public will be confused about where to bring Covered Products and retailers will be faced with managing their unauthorized disposal. Relying exclusively on expanded County-led locations would avoid penalizing retailers when the public misunderstands the collection process.

While voluntary, we need to reiterate that retailers are not equipped to be collection sites for reasons stated above. Retailers do not have the staffing or training capacity to serve as collection sites. HHW facilities deal with a much larger assortment of hazardous material than what a retail establishment holds onsite. With existing product management programs in California including for batteries and bottles, collection sites will receive returns of materials not at all related to retail business including ammunition, bulky electronics and specialty chemicals. Limiting LA County's HHW EPR program to specific covered products will likely result in the improper disposal of any rejected materials and cause further confusion regarding the delta between California's definition of hazardous waste and covered HHW EPR products.

If centralized County-led locations are not sufficient for collection locations, retail collection-site participation should remain entirely voluntary.

In the event the Ordinance does not rely exclusively on expanded County-led locations, the voluntary nature of Participating Retail Business should be preserved and made explicit throughout the ordinance. Retailers should not be required, directly or indirectly, to serve as hazardous waste collection sites, and no producer responsibility organization should be permitted to assign collection-site obligations to a retailer without that retailer's affirmative consent.

The stewardship-plan submission deadline should be corrected and harmonized.

The draft ordinance contains inconsistent deadlines for submitting a proposed stewardship plan. Section 5(d)(2) provides for submission within 12 months after the effective date, while Section 12 appears to require submission within 6 months. The ordinance should be revised to remove this conflict and confirm that the stewardship-plan submission deadline is at least 12 months after the effective date, to allow a reasonable period for product designation, producer identification, organization formation, plan development, and stakeholder coordination.

The ordinance should clarify how a producer responsibility organization will form and operate.

The draft ordinance assumes that producers will participate in a producer responsibility organization, but it does not clearly explain how such an organization will be formed, recognized, governed, or funded. The ordinance should clarify whether multiple organizations may operate, how producers may join or withdraw, how costs will be allocated among producers, and how the County will evaluate whether a proposed stewardship plan is sufficiently representative and workable.

Additionally, the draft ordinance does not address what happens if the program results in no voluntary PROs coming forward.

Alternative Structures

The California Retailers Association recommends LA County look into either or both of the following solutions to meet what the County's labor cost concerns for HHW product management.

Obtaining funding from producers to fund existing HHW operations is a clean alternative to LA County's HHW EPR proposal. This can be accomplished a number of ways and CRA would welcome the opportunity to explore this option with LA County. One example would be to assess the top HHW products that cost the most in terms of labor and other needs for collection, sorting and management for safe and responsible disposal and these costs could be attributed to wight and volume or other determining cost factors leveraging existing studies and reports LA County has prepared and by also initiative a comprehensive Needs Assessment that is countywide and pairing that with a pilot study in LA County to see how this fee system would work.

A fee would get levied on the highest costing HHW products and the monies generated by the fee would go into a fund that is managed by LA County with a board that includes producers, local government, recycling service providers and other key stakeholders to oversee how the money is being spent. There will need to be explicit guard rails in place and strong transparency and accountability measures in place to ensure the HHW product management funds are being used appropriately, and this should be audited and reassessed on an annual basis.

The other option is to introduce a modest tax to LA County voters. A modest, countywide funding mechanism is needed to ensure Los Angeles County can continue to safely and consistently manage household hazardous waste while meeting growing operational and labor demands, which the County has shared contributes to 65% of their HHW product management costs. A small countywide tax would provide a stable, equitable source of revenue to support LA County's existing infrastructure with a skilled workforce and safety procedures required at permanent collection centers, temporary events, and related public education and compliance programs. This tax could be paired with the fee and grant system for the highest costing HHW products or considered independently.

CRA will continue to participate in stakeholder meetings LA County's Department of Public Works is hosting and we, again, appreciate the opportunity to provide feedback on this draft ordinance. If you have any questions or need additional information on any of the issues raised in this letter, please do not hesitate to contact me directly either at 916/443-1975 or sarah@calretailers.com

Sincerely,



Sarah Pollo Moo
Vice President, Sustainability Compliance and Operations
California Retailers Association