

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 283

**Introduced by Assembly Member Chesbro
(Principal coauthor: Assembly Member Ruskin)
(Coauthors: Assembly Members ~~Huffman and Nava Evans,~~
Huffman, and Nava)**

February 12, 2009

An act to add Chapter 5 (commencing with Section 48800) to Part 7 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 283, as amended, Chesbro. Solid waste: extended producer responsibility program.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.

This bill would create the California Product Stewardship Act of ~~2010~~ 2009 and would require the board to administer the program. The bill would require the board to adopt regulations by July 1, 2011, in order to implement the program to provide environmentally sound product stewardship protocols that encourage producers to research alternatives during the product design and packaging phases to foster cradle-to-cradle producer responsibility and reduce the end-of-life environmental impacts of the product.

The bill, on and after January 1, 2012, would require the board to select covered products, as defined, according to certain requirements.

The bill would exempt the selection of covered products from the requirements of the Administrative Law Act. On and after July 1, 2012, a covered product would be prohibited from being sold or used for promotional purposes unless the producer or product stewardship organization, as defined, of the covered product, submits a product stewardship plan to the board that meets certain timelines and content requirements, including, but not limited to, a description of the system for collecting discarded covered products, methods proposed to maximize the recycling of packaging, a description of the processing and disposal system, and strategies for managing and reducing the life cycle impacts of covered products and packaging such as through redesign.

The bill would establish an annual reporting requirement for producers or stewardship organizations, require administrative fees to be set by the board, and authorize civil penalties of up to \$50,000 to be imposed by the board. The bill would require that the administrative fees be deposited into the Extended Producer Responsibility Account and that the penalties be deposited into the Extended Producer Responsibility Penalty Subaccount that the bill would create in the Integrated Waste Management Fund. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the board's program implementation costs and as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of covered products.

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. Chapter 5 (commencing with Section 48800) is
2 added to Part 7 of Division 30 of the Public Resources Code, to
3 read:

4
5 CHAPTER 5. CALIFORNIA PRODUCT STEWARDSHIP ACT OF ~~2010~~
6 2009
7

8 Article 1. Findings and Declarations
9

10 48800. (a) The Legislature finds and declares all of the
11 following:

1 (1) California has long been a national and international leader
2 in environmental stewardship efforts and mandating the diversion
3 of solid waste from disposal.

4 (2) By exercising a leadership role, the state will move forward
5 toward a future in which the environment and the economy both
6 grow stronger together by recycling more and reusing materials,
7 which encourages new markets and creates new jobs, instead of
8 burying resources that are lost to the economy forever.

9 (3) The California Integrated Waste Management Board
10 (CIWMB) is the state agency charged with monitoring and
11 regulating activities to reduce, recycle, and reuse solid waste
12 generated in the state to the maximum extent feasible in an efficient
13 and cost-effective manner to conserve water, energy, and other
14 natural resources, and to protect the environment.

15 ~~(4) The CIWMB manages 97 percent of the state's solid waste~~
16 ~~stream.~~

17 *(4) The CIWMB currently oversees regulation of the state's*
18 *solid waste stream while local government is responsible for solid*
19 *waste management within its jurisdiction.*

20 (5) To meet the mandates of the Integrated Waste Management
21 Act of 1989, the CIWMB develops and implements programs in
22 accordance with the act's waste management hierarchy, pursuant
23 to Section 40051 of the Public Resources Code.

24 ~~(6) End-of-life management of solid waste has been the shared~~
25 ~~responsibility between the state and local governments with the~~
26 ~~financial burden placed on the taxpayer.~~

27 *(6) End-of-life management of solid waste has been the*
28 *responsibility of the state and local governments with the financial*
29 *burden placed on both local government and the taxpayers.*

30 (7) Local governments throughout California are also working
31 hard to meet expanding environmental mandates to reduce solid
32 waste generation and landfill disposal, to prevent hazardous wastes
33 from being improperly disposed of, and to keep the rivers, streams,
34 and waterways free of trash. These mandates expose local
35 governments to significant financial burdens for end-of-life
36 management of products at a time when local governments are
37 struggling with significant budgetary constraints.

38 (8) The concept of product stewardship, also referred to as
39 extended producer responsibility, seeks to create shared
40 responsibility mechanisms for producers to mitigate or even

1 *eliminate the negative impacts of their products at the end of its*
2 *life.*

3 ~~(7)~~

4 (9) The CIWMB adopted a final “Extended Producer
5 Responsibility Framework” policy document in 2008 to guide
6 efforts to reduce the end-of-life environmental impacts of products
7 and require that producers share in the responsibility for the
8 stewardship of their products in order to promote environmental
9 sustainability.

10 ~~(8)~~

11 (10) Currently, the state addresses products with end-of-life
12 management issues through a patchwork of product and material
13 specific programs that have experienced various levels of success.

14 ~~(9)~~

15 (11) Establishing the Extended Producer Responsibility
16 Framework Program under this chapter offers an alternative to the
17 materials and products approach while providing the flexibility to
18 customize individual product stewardship plans toward the most
19 effective and efficient approach for a particular product or product
20 category.

21 ~~(10) The disposal of solid waste harms natural resources,~~
22 ~~negatively impacts the state’s environment, prevents materials~~
23 ~~from circulating in the state’s economy to produce jobs and new~~
24 ~~products, and contributes to global warming.~~

25 (12) *The generation of solid waste and associated management*
26 *has the potential to harm natural resources and contribute to*
27 *global warming, which can place an economic burden on local*
28 *government. Disposal of solid waste prevents materials from*
29 *circulating in the state’s economy in order to produce jobs and*
30 *new products.*

31 (13) *It is necessary for producers to design and manufacture*
32 *products that are more resource efficient, less hazardous, have*
33 *fewer greenhouse gas impacts, and are more recyclable.*

34 (14) *Convenient and environmentally sound product stewardship*
35 *programs that include collecting, transporting, and recycling*
36 *unwanted products will help protect California’s environment and*
37 *the health of state residents by encouraging producers to design*
38 *and produce products that have a lower carbon footprint, are less*
39 *hazardous and energy and material intensive, and are more*
40 *reusable or recyclable than other products.*

1 ~~(11)~~

2 (15) This chapter directs the CIWMB to develop, implement,
3 and administer the Extended Producer Responsibility Framework
4 Program. The program includes a framework for managing
5 individual products that have significant end-of-life waste
6 management impacts as well as impacts on the environment and
7 public health.

8 ~~(12) The CIWMB will select covered products through a set of~~
9 ~~requirements that include assessing waste management, public~~
10 ~~health, significant environmental impacts, and safety impacts and~~
11 ~~benefits.~~

12 ~~(13) Expanding the extended producer responsibility approach~~
13 ~~to a broader range of problem products, packaging, and materials~~
14 ~~offers an opportunity to reduce waste and increase recycling by~~
15 ~~customizing individual product stewardship plans toward the most~~
16 ~~effective and efficient approach for any particular product or~~
17 ~~product category.~~

18 ~~(b) (1) It is the intent of the Legislature that the CIWMB~~
19 ~~coordinate with other state agencies as well as local jurisdictions,~~
20 ~~industry sectors, business groups, environmental organizations,~~
21 ~~and other interested stakeholders in implementing this chapter.~~

22 ~~(2) It is the intent of the Legislature that in developing the~~
23 ~~framework, the CIWMB design performance goals for covered~~
24 ~~products that reduce the end-of-life and life cycle impacts of~~
25 ~~covered products.~~

26 ~~(3) It is the intent of the Legislature that the CIWMB design~~
27 ~~the program to help satisfy the waste diversion requirements of~~
28 ~~the Integrated Waste Management Act of 1989 in a manner that~~
29 ~~minimizes costs and maximizes benefits for California's economy,~~
30 ~~improves the end-of-life management of products, and maximizes~~
31 ~~additional environmental and economic cobenefits for California.~~

32 ~~(4) It is the intent of the Legislature to encourage the~~
33 ~~development of the additional materials processing capacity that~~
34 ~~is needed to meet state objectives for decreasing solid waste~~
35 ~~disposal by identifying incentives for local governments and~~
36 ~~businesses to locate and approve new or expanded facilities that~~
37 ~~meet and exceed their capacity needs, and to recognize those~~
38 ~~entities that make significant contributions to the state's overall~~
39 ~~solid waste reduction and recycling objectives through the siting~~

1 of facilities for the processing of materials diverted from the solid
2 waste stream.

3
4 Article 2. General Provisions

5
6 48800.1. This act shall be known and may be cited as the
7 ~~California Extended Producer Responsibility Framework Act of~~
8 ~~2010.~~ *California Product Stewardship Act of 2009.*

9 48800.1.5. (a) *The act shall apply the extended producer*
10 *responsibility approach to a broad range of problem products,*
11 *packaging, and materials and offers an opportunity to reduce*
12 *waste and increase recycling by customizing individual product*
13 *stewardship plans toward the most effective and efficient approach*
14 *for a particular product or product category.*

15 (b) (1) *It is the intent of the Legislature that the CIWMB*
16 *coordinate with other state agencies such as the Department of*
17 *Toxic Substances Control, the Department of Conservation, and*
18 *the State Water Resources Control Board, as well as local*
19 *jurisdictions, industry sectors, business groups, environmental*
20 *organizations, and other interested stakeholders in implementing*
21 *this chapter.*

22 (2) *It is the intent of the Legislature that in developing the*
23 *framework, the CIWMB design performance goals for covered*
24 *products that reduce the end-of-life and life cycle impacts of*
25 *covered products.*

26 (3) *It is the intent of the Legislature that the CIWMB design the*
27 *program to help satisfy the waste diversion requirements of the*
28 *Integrated Waste Management Act of 1989 in a manner that*
29 *minimizes costs and maximizes benefits for California's economy,*
30 *improves the end-of-life management of products, and maximizes*
31 *additional environmental and economic benefits for California.*

32 (4) *It is the intent of the Legislature, recognizing local*
33 *government land use authority, to encourage the development of*
34 *the additional materials processing capacity that is needed to meet*
35 *state objectives for decreasing solid waste disposal by identifying*
36 *incentives for local governments and businesses to locate and*
37 *approve new or expanded facilities that meet and exceed their*
38 *capacity needs, and to recognize those entities that make significant*
39 *contributions to the state's overall solid waste reduction and*

1 *recycling objectives through the siting of facilities for the*
2 *processing of materials diverted from the solid waste stream.*

3
4 Article 3. Definitions

5
6 48800.2. For purposes of this chapter, and unless the context
7 otherwise requires, the definitions in this article govern the
8 construction of this chapter.

9 48800.3. “Board” means the California Integrated Waste
10 Management Board.

11 48800.4. “Brand” means a name, symbol, word, or mark that
12 identifies a product, rather than its components, and attributes the
13 product to the owner or licensee of the brand as the producer.

14 48800.5. “Capture rate” is a component of the performance
15 goals for a covered product and means a quantitative measure that
16 establishes an amount of product to be collected by the product
17 stewardship system for that product by an established date.

18 48800.6. “Covered product” means a *consumer* product used
19 or disposed of in this state that has been selected by the board
20 pursuant to Section 48813.

21 48800.7. “Cradle-to-cradle design” means an ideal condition
22 where the product is developed for closed-loop systems in which
23 ~~every ingredient is safe and beneficial, either to biodegrade and~~
24 ~~be suitable to safely restore the soil or to be fully recycled into~~
25 ~~high-quality materials for subsequent product generations, again~~
26 ~~and again. every ingredient is safe and beneficial.~~

27 48800.8. “Department” means the Department of Toxic
28 Substances Control.

29 48800.9. “Disposition rate” is a component of the performance
30 goals for a covered product and means a quantitative measure that
31 establishes the amounts of unwanted product that are reused,
32 recycled, or recovered, including energy recovery or safe disposal.

33 48800.10. “Extended producer responsibility” means the
34 extension of the shared responsibility of producers, and all entities
35 involved in the product chain, to reduce the cradle-to-cradle
36 impacts of a product and its packaging, with the primary
37 responsibility being with the producer who makes design and
38 marketing decisions.

1 48800.11. “Historic product” means a covered product ready
2 to be discarded by the user that is not a new product or product
3 currently marketed or sold by the manufacturer.

4 48800.12. “Orphan product” means any one of the following:

5 (a) A covered product that lacks a manufacturer’s brand.

6 (b) A covered product for which the manufacturer is no longer
7 in business and has no successor in interest.

8 (c) A covered product that is a brand for which the board cannot
9 identify an owner.

10 48800.13. “Performance goal” means product goals, capture
11 rates, and disposition rates established by the board for covered
12 products.

13 48800.14. “Producer” means one of the following:

14 (a) A person or entity that manufactures a covered product that
15 sells, offers for sale, or distributes that covered product in
16 California under the manufacturer’s own name or brand.

17 (b) If subdivision (a) does not apply, a person who is not the
18 manufacturer of the product but is the owner or licensee of a
19 trademark or brand under which a product is sold or distributed in
20 California, whether or not the trademark is registered.

21 (c) If subdivisions (a) and (b) do not apply, a person who imports
22 the product into California for sale or distribution.

23 48800.15. “Product goal” is a component of the performance
24 goals for a covered product and means a qualitative or quantitative
25 goal to measure improvements that reduce the life cycle impacts
26 of products. It ~~may~~ *shall* include product design and materials
27 content, manufacturing, packaging, distribution, and end-of-life
28 management. It ~~may~~ *shall* address use of virgin material, water,
29 energy, and hazardous substances, as well as carbon footprint,
30 product longevity, recycled content, and recyclability.

31 48800.16. “Product stewardship organization” means all of the
32 following:

33 (a) An organization appointed by a producer or producers to act
34 as an agent on behalf of the producer or producers to design,
35 submit, and administer a product stewardship plan.

36 (b) The organization shall be open for participation by all
37 producers of a covered product.

38 48800.17. “Product stewardship plan” means a plan written
39 by an individual producer or a stewardship organization, on behalf
40 of a producer, that addresses the environmental impacts of a

covered product over the entire life cycle of that product, including product design, *manufacture, and distribution*, and the collection, transportation, reuse, recycling, and final disposition of discarded covered products as provided in this chapter.

48800.18. “Reporting period” means the period commencing January 1 and ending on December 31 of the same calendar year.

48800.19. “Retailer” means a person that offers new products for sale at retail through any means, including remote offerings such as sales outlets, catalogs, or an Internet Web site.

48800.20. “Secondary material” means material that is being reused or recycled that would otherwise be disposed of in a landfill.

48800.21. “Sell” or “sales” means any transfer of title for consideration, including remote sales conducted through sales outlets, catalogs, or an Internet Web site or similar electronic means. ~~Sell or sales~~, but does not include leases.

Article 4. Extended Producer Responsibility Framework Program

48810. (a) (1) The Extended Producer Responsibility Framework Program is hereby created.

(2) The program shall be administered by the board.

(3) The program shall provide environmentally sound product stewardship protocols that encourage producers to research alternatives during the product design and packaging phases to foster cradle-to-cradle producer responsibility and reduce the end-of-life environmental impacts.

(b) For purposes of this chapter, the board shall review existing and proposed international, federal, and state ~~Extended Producer Responsibility Programs~~ *extended producer responsibility programs* and make reasonable efforts to promote consistency among the programs established pursuant to this part and those other programs.

~~(c) By July 1, 2011, the board, following one or more noticed public workshops and consultation with all appropriate state agencies, shall adopt regulations to implement this chapter.~~

(c) To ensure the goals of this article are achieved successfully and efficiently, the board shall collaborate with representatives of state and local government, producers, retailers, consumers, transporters, haulers, recyclers, nonprofit organizations, and other

1 *interested stakeholders with respect to all regulations adopted*
2 *pursuant to this article and shall consider the net economic impacts*
3 *and benefits of a product stewardship plan prior to its approval.*

4 *(d) (1) By July 1, 2011, the board, following one or more*
5 *noticed public workshops and in consultation with the State Air*
6 *Resources Board, the Department of Conservation, the State*
7 *Department of Public Health, the Department of Toxic Substances*
8 *Control, the State Water Resources Control Board, and other*
9 *appropriate state agencies, shall adopt regulations to implement*
10 *this chapter.*

11 *(2) The board shall also consult with other state and local*
12 *environmental regulatory agencies, as well as representatives of*
13 *local government, producers, retailers, consumers, transporters,*
14 *haulers, recyclers, nonprofit organizations, and other interested*
15 *stakeholders in adopting the regulations.*

16 ~~(d)~~

17 *(e) The board, in addition to any other regulations necessary to*
18 *implement this chapter, shall do all of the following:*

19 *(1) Establish definitions.*

20 *(2) Establish a process for selecting covered products and*
21 *determining performance goals.*

22 *(3) Establish a process for product stewardship plan*
23 *development, review, and submittal.*

24 *(4) Establish a process for providing data and reporting to the*
25 *board.*

26 ~~*(5) Prepare recommendations for immediate incentives for*~~
27 ~~*producers that stimulate waste reduction, pollution prevention,*~~
28 ~~*energy efficiency, and increased secondary use of recycled and*~~
29 ~~*reused materials that would otherwise be disposed of. These*~~
30 ~~*incentives may include, but are not limited to, an expedited*~~
31 ~~*approach to permitting facilities needed to implement product*~~
32 ~~*stewardship programs, investments in more market development,*~~
33 ~~*cost-effective energy savings and reducing water usage, tax*~~
34 ~~*incentives for utilizing renewable resources, loans from the*~~
35 ~~*Recycling Market Development Revolving Loan Program pursuant*~~
36 ~~*to Section 42023.1 to qualifying product stewardship organizations*~~
37 ~~*for startup of stewardship programs, and further incentives for*~~
38 ~~*designing products and processing facilities from recycled and*~~
39 ~~*reused materials that would otherwise be disposed of.*~~

1 (5) (A) Prepare recommendations, in consultation with local
2 government and the business community, for immediate incentives
3 for producers that stimulate waste reduction, pollution prevention,
4 energy efficiency, and increased secondary use of recycled and
5 reused materials that would otherwise be disposed of.

6 (B) The incentives specified in subparagraph (A) may include,
7 but are not limited to, an expedited approach to state-issued
8 permits needed to implement product stewardship programs,
9 recognizing local government land use authority, investments in
10 more market development, cost-effective energy savings and
11 reducing water usage, tax incentives for utilizing renewable
12 resources, loans from the Recycling Market Development Revolving
13 Loan Program pursuant to Section 42023.1 to qualifying product
14 stewardship organizations for startup of stewardship programs,
15 and further incentives for designing products and processing
16 facilities from recycled and reused materials that would otherwise
17 be disposed of.

18 (C) Nothing in this section shall be construed to interfere with
19 a local government's sole authority over local land-use decisions.

20 (6) Prepare recommendations for long-term incentives to foster
21 environmental product design to reduce waste and use of hazardous
22 materials, to reward businesses for superior environmental
23 performance that results in significant solid or hazardous waste
24 reduction or increased use of secondary materials, and for
25 investments that support longer term change to material markets
26 and market development.

27 (7) Prepare recommendations for funding incentives, by
28 consulting with product stewardship stakeholders to determine
29 how to fund additional cradle-to-cradle stewardship initiatives and
30 disincentives for solid waste disposal as a viable option.

31 (8) Establish penalties for violations of this chapter.

32 (9) Develop guidelines designed to ensure that activities
33 undertaken pursuant to this chapter do not interfere with the
34 following:

35 (A) Efforts by the department undertaken pursuant to Article
36 14 (commencing with Section 25251) of Chapter 6.5 of Division
37 20 of the Health and Safety Code.

38 (B) The State Energy Resources Conservation and Development
39 Commission's energy efficiency programs.

1 (C) The State Air Resources Board climate change efforts to
2 achieve and maintain state and federal ambient air quality standards
3 and reduce greenhouse gas emissions.

4 (D) The State Water Resources Control Board efforts for water
5 quality protection.

6 (E) The Ocean Protection Council's ocean litter reduction
7 efforts.

8 (F) The Beverage Container Recycling and Litter Reduction
9 Act (Division 12.1 (commencing with Section 14500)).

10 (G) *The Rigid Plastic Packaging Containers Program pursuant*
11 *to Chapter 5.5 (commencing with Section 42300) of Part 3.*

12 48811. (a) Nothing in this chapter or any regulation adopted
13 or actions taken by the board pursuant to this chapter shall be
14 interpreted to limit, abrogate, supersede, duplicate, or otherwise
15 conflict with federal law, federal policy, or federal treaty
16 obligations.

17 (b) Nothing in this chapter or any regulation adopted or actions
18 taken by the board pursuant to this chapter shall be interpreted to
19 limit, supersede, duplicate, or otherwise conflict with the authority
20 of the department under Section 25257.1 of the Health and Safety
21 Code to fully implement Article 14 (commencing with Section
22 25251) of Chapter 6.5 of Division 20 of the Health and Safety
23 Code, including the authority of the department to include products
24 in its product registry.

25 48812. As a part of the board's annual report to the Legislature
26 pursuant to Section 40507, the board shall include a section on the
27 progress and implementation of the Extended Producer
28 Responsibility Framework Program.

29 48813. On and after January 1, 2012, the board, in consultation
30 with all appropriate state agencies *and local governments*, and
31 after one or more noticed public workshops with an opportunity
32 for all interested parties to comment, shall select covered products
33 according to the following requirements:

34 ~~(a) The board shall only select covered products that have been~~
35 ~~identified with end-of-life environmental and waste management~~
36 ~~impacts, that meet one or more of the following criteria:~~

37 *(a) The board shall only select covered products that have been*
38 *identified with environmental, waste management, and health*
39 *impacts resulting from the manufacture, transport, use, and*
40 *disposal, that meet one or more of the following criteria:*

1 (1) Those products that pose a significant threat to public health
2 and safety when discarded.

3 (2) Products that pose a threat of increased greenhouse gas
4 emissions.

5 (3) Products that impose significant end-of-life management
6 costs on state or local government.

7 (b) The factors the board shall consider in selecting covered
8 products pursuant to subdivision (a) shall include, but are not
9 limited to, the following:

10 (1) *Current impacts to local government and general ratepayers.*

11 ~~(1) Public health and significant environmental and safety~~

12 ~~(2) Public health, toxicity, and significant environmental and~~
13 ~~safety impacts and benefits.~~

14 ~~(2)~~

15 (3) Resource recovery and material conservation potential,
16 including the potential for product redesign to achieve greater
17 waste reduction, toxicity reduction, water consumption reduction,
18 increase in recycled content, and greater capability for being
19 recycled.

20 ~~(3)~~

21 (4) Energy use and conservation potential.

22 ~~(4)~~

23 (5) Climate change impacts and benefits.

24 ~~(5)~~

25 (6) Existing infrastructure capacity for material management
26 and potential for expansion.

27 ~~(6)~~

28 (7) Success in collecting and processing similar products in
29 other programs in the United States and other countries.

30 ~~(7)~~

31 (8) The selection of products in extended producer responsibility
32 programs in other states.

33 ~~(8)~~

34 (9) Ocean pollution impacts.

35 ~~(9) Storm water~~

36 (10) *Stormwater runoff impacts.*

37 (11) *The lack of an existing product stewardship or other*
38 *regulatory system for the product.*

39 (12) *Life cycle net environmental impacts.*

40 (13) *Public safety and public health uses of products.*

1 (c) The board may select covered products and set performance
2 goals over time at regularly scheduled board meetings. *All products*
3 *banned from landfill disposal in California shall be designated*
4 *within one year of adoption of the regulations pursuant to Section*
5 *48810, and shall be managed under a product stewardship*
6 *program.*

7 (d) Through the product selection process, the board shall do
8 the following:

9 (1) Identify and notify potential interested parties for a proposed
10 covered product.

11 (2) Select and define a covered product or covered products.
12 This ~~may~~ *shall* include historic and orphan products in addition to
13 new products.

14 (3) Determine whether the packaging for a covered product
15 shall be considered part of the covered product.

16 (4) Establish any implementation dates for requirements for
17 covered products.

18 (5) Identify unique environmental impacts or management
19 requirements, if any, for a covered product.

20 (6) Set performance goals and timeframes for the covered
21 product.

22 (7) Establish measurement metrics and reporting protocols for
23 the covered product.

24 (e) The selection process for covered products described in this
25 section shall not be subject to the requirements of Chapter 3.5
26 (commencing with Section 11340) of Part 1 of Division 3 of Title
27 2 of the Government Code. However, selected covered products
28 and associated performance goals shall be submitted to the Office
29 of Administrative Law for filing and printing with the Secretary
30 of State.

31 48814. (a) On and after July 1, 2012, a covered product shall
32 not be offered for sale or used for promotional purposes in this
33 state unless the producer or product stewardship organization of
34 the covered product submits a product stewardship plan in
35 accordance with this chapter and the regulations adopted pursuant
36 to subdivision (c) of Section 48810.

37 (b) A producer shall do all of the following:

38 (1) (A) Submit a product stewardship plan or participate in a
39 stewardship organization.

1 (B) The producer, however, shall maintain responsibility for
2 compliance with this chapter.

3 (2) (A) Collect the individual covered product pursuant to a
4 product stewardship plan to be reused or recycled, unless the board
5 determines that the covered product is not reusable or recyclable.

6 (B) Covered products that have been determined by the board
7 not to be recyclable nor reusable shall be disposed of or managed
8 in properly permitted facilities appropriate for the covered product,
9 including disposal or management of all hazardous products,
10 components, or materials in properly permitted hazardous waste
11 facilities appropriate for the product, component, or material.

12 (3) Provide for collection services without charging a fee at the
13 time that covered products are discarded and collected for recycling
14 or disposal.

15 (4) Pay all the administrative and operational costs associated
16 with the product stewardship plan, including the costs of collection,
17 transportation, and recycling or disposal, or both, of covered
18 products, *including the costs of local government*.

19 44815. (a) The producer or product stewardship organization
20 of a covered product shall submit a product stewardship plan to
21 the board.

22 (b) Each product stewardship plan for a covered individual
23 product shall include, at a minimum, all of the following:

24 (1) Contact information for all participating producers.

25 (2) A description of the product and associated brand covered
26 by the plan.

27 (3) A detailed description of how the performance goals set by
28 the board will be achieved.

29 (4) A description of methods proposed to be used to maximize
30 the recycling of packaging that is delivered into the program along
31 with the discarded covered product.

32 (5) A description of the collection system for collecting the
33 discarded covered product, including, but not limited to, the
34 following:

35 (A) How the discarded covered product will be collected in all
36 *cities, cities and counties, and counties* of the state.

37 (B) The entities that will perform collection services.

38 (C) How the collection system is available, convenient,
39 accessible, and free of charge statewide.

1 (D) Locations, hours, and days of operation for collection
2 locations.

3 (6) A description of the processing and disposal system,
4 including the following:

5 (A) How the discarded covered product will be reused and
6 recycled.

7 (B) If the covered product is not reusable nor recyclable, how
8 the covered product will be disposed of or managed in properly
9 permitted facilities appropriate to the covered product, including
10 the disposal or management of hazardous substances.

11 (C) The location and permit status of processing or disposal
12 facilities.

13 (D) Processing methods utilized at each facility and how
14 residuals will be handled.

15 (7) How the product stewardship plan will be financed, including
16 the following:

17 (A) The mechanism for securing and dispersing funds to cover
18 administrative, operational, and capital costs, including the
19 assessment of charges to producers who participate through a
20 stewardship organization.

21 (B) Adequate insurance and financial assurance for collection,
22 handling, and disposal operations.

23 (8) Strategies for managing and reducing the life cycle impacts
24 of covered products and packaging, including through redesign
25 and how impacts will be tracked over time to show continual
26 improvement.

27 (9) Education and outreach activities, including the following:

28 (A) Providing information to the general public on how to use
29 the collection system for a covered product.

30 (B) Providing information regarding the collection system to
31 collectors, *including local governments if they are envisioned to*
32 *be part of the collection system*, retailers, and other interested
33 parties.

34 (10) The consultation process used to consult with affected
35 stakeholders and the general public about the contents of the
36 product stewardship plan.

37 (c) Producers shall submit their product stewardship plan, or
38 updates to the product stewardship plan, to the board within 180
39 days following the selection of a covered product or 180 days prior
40 to the sale of a new covered product.

1 (d) Product stewardship plans shall be revised and submitted to
2 the board every four years.

3 (e) All product stewardship plans submitted to the board shall
4 be available to the public on the board's Internet Web site.

5 (f) A producer shall notify the board *30 days* in advance of
6 instituting a material change to a product stewardship plan.

7
8 Article 5. Reporting
9

10 48820. (a) Beginning June 30, 2012, and every subsequent
11 year thereafter, each producer or stewardship organization
12 operating a product stewardship plan shall prepare and submit to
13 the board an annual report describing the activities of the product
14 stewardship program during the previous reporting period,
15 including, but not limited to, the following:

16 (1) How the product stewardship plan attained the performance
17 goals for the covered product, and if the performance goals were
18 not met, what actions the producer or stewardship organization
19 will take during the next reporting period to do so.

20 (2) A description of the outreach and education activities
21 undertaken during the reporting period.

22 (3) The actions undertaken to manage and reduce the life cycle
23 impacts of the covered products and packaging, from product
24 design to end-of-life management, including how the formulation,
25 packaging, and distribution of products have been improved to
26 reduce waste, reduce toxicity, reduce carbon footprint, reduce other
27 environmental impacts, increase recycled content, increase product
28 longevity, and make covered products more easily recyclable.

29 (b) All reports submitted to the board are required to be
30 approved by the board members at a monthly committee or board
31 hearing *no later than 90 days after submittal*.

32 (c) All reports submitted to the board shall be made available
33 to the public on the board's Internet Web site.
34

35 Article 6. Financial Provisions
36

37 44825. (a) All producers shall submit an administrative fee to
38 the board, according to a fee schedule established by the board.

39 (b) The total amount of annual fees collected pursuant to this
40 section shall not exceed the amount necessary to recover costs

1 incurred by the board in connection with the administration and
2 enforcement of the requirements of this chapter.

3 48826. (a) The Extended Producer Responsibility Account
4 and the Extended Producer Responsibility Penalty Subaccount are
5 hereby established in the Integrated Waste Management Fund.

6 (b) All fees collected pursuant to this chapter shall be deposited
7 in the Extended Producer Responsibility Account and may be
8 expended by the board, upon appropriation by the Legislature, to
9 cover the board's costs to implement this chapter.

10 (c) All penalties collected pursuant to this chapter shall be
11 deposited in the Extended Producer Responsibility Penalty
12 Subaccount and may be expended by the board, upon appropriation
13 by the Legislature, to cover the board's costs to implement this
14 chapter.

15 (d) All funds collected may be expended as incentives to
16 enhance recyclability and redesign efforts and to reduce
17 environmental and safety impacts of covered products.

18
19 Article 7. Enforcement
20

21 48830. (a) Civil liability in an amount of up to fifty thousand
22 dollars (\$50,000) may be administratively imposed by the board
23 against a producer for any violation of this chapter. The board shall
24 deposit all penalties in the Extended Producer Responsibility
25 Penalty Subaccount.

26 (b) The board shall adopt regulations that specify the procedures
27 and amounts for the imposition of administrative civil penalties
28 pursuant to this subdivision.

29 48831. The board, or its designee, is authorized to inspect,
30 audit, or require and review third-party audits of producers, product
31 stewardship organizations, and service providers including
32 collectors and recyclers that are utilized to fulfill the requirements
33 of a product stewardship plan.