An act to add Chapter 20.5 (commencing with Section 42985) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL’S DIGEST


The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria. This bill would require the department, by June 1, 2014, in coordination with the Ocean Protection Council and the State Water Resources Control Board, to adopt regulations to implement the bill. The department would be required, by July 1, 2014, in consultation with the council and the state water board, to adopt a list that specifies those items, or categories of items, that the department finds are the major sources of marine plastic pollution and, therefore, would be a covered item for purposes of the bill, and to revise the list, as specified.

The department would be required to notify the producer of a covered item, and no later than 6 months after receiving that notification, the producer of that covered item would be required to design and submit
to the department a plan to reduce the producer’s proportion of the marine plastic pollution caused by that covered item for review and approval by the department. The bill would authorize one or more producers of a covered item to designate a producer responsibility organization to act as its agent to develop and implement the plan. The bill would require the plan to specify the measures to meet the marine plastic pollution reduction targets that the producer of the covered item would be required to achieve, as specified in the regulations, and would require the measures to include utilization of innovative product design, the recovery, collection, or recycling of the covered item, or a combination of those measures. The department would be required to recover the cost of reviewing and approving the marine plastic pollution reduction plan by requiring the producer to pay a fee to the department, which the department would be required to set in an amount equivalent to the department’s costs of implementing the bill. The bill would establish the Marine Plastic Pollution Prevention Subaccount in the Integrated Waste Management Fund, would require the department to deposit the fees into that subaccount, and would authorize the department to expend those fees, upon appropriation by the Legislature, to cover the department’s costs to implement the bill.

The bill would authorize the department to impose a civil penalty administratively on a producer that is in violation of the bill. The bill would establish the Marine Plastic Pollution Penalty Subaccount in the Integrated Waste Management Fund, and would require the collected civil penalties to be deposited in the Marine Plastic Pollution Penalty Subaccount for expenditure by the department, upon appropriation by the Legislature, to cover the department’s costs to enforce the bill.

The bill would authorize a producer, in lieu of submitting a marine plastic pollution reduction plan to the department, to voluntarily elect to pay an annual alternative compliance fee to the department, which the department would be required to set in a specified amount and revise periodically. The department would be required to deposit the alternative compliance fees in the Marine Plastic Pollution Fund, which the bill would establish in the State Treasury. The department would be authorized to expend the moneys in the fund, upon appropriation by the Legislature, in a specified manner, for innovative product design for the covered item and for recovery, collection, and recycling programs to prevent the marine plastic pollution caused by the covered item.

State-mandated local program: no.
The people of the State of California do enact as follows:

SECTION 1. Chapter 20.5 (commencing with Section 42985) is added to Part 3 of Division 30 of the Public Resources Code, to read:

Chapter 20.5. Marine Plastic Pollution

Article 1. Definitions

42985. For purposes of this chapter, the following terms have the following meanings:

(a) “Council” means the Ocean Protection Council.

(b) “Covered item” or “category of covered items” means a source of marine plastic pollution listed by the department pursuant to Section 42985.2.

(c) “Marine plastic pollution” means plastic that is found in rivers, streams, riparian habitats, beaches, and the marine environment.

(d) “Producer” means one of the following:

(1) A person that manufactures a covered item and sells, offers for sale, distributes, or uses that covered item in a commercial enterprise under the person’s own brand.

(2) If there is no person that meets the conditions of paragraph (1) with regard to that covered item, the producer is the owner or licensee of a trademark under which the covered item is sold, distributed, or used in a commercial enterprise in the state, whether or not the trademark is registered.

(3) If there is no person that meets the conditions of paragraphs (1) or (2) with regard to that covered item, the producer is the person that imports the covered item into the state for sale, distribution, or use in a commercial enterprise.

(e) “Producer responsibility organization” means an organization designated by a group of producers to act as an agent on behalf of each producer to develop and operate a marine plastic pollution reduction plan for covered items.

(f) (1) “Recovery” means retrieval or diversion from disposal or from a transformation facility, for the purpose of recycling, reuse, or composting.

(2) Recovery does not include transformation.
(g) (1) “Transformation” means the conversion, combustion, or other processing of solid waste by incineration, pyrolysis, destructive distillation, or gasification, or to chemically or biologically process solid waste, for the purposes of volume reduction, synthetic fuel production, or energy recovery.

(2) Transformation does not include anaerobic digestion or composting.

Article 2. Covered Items

42985.1. (a) On or before June 1, 2014, the department, in coordination with the council and the state water board, shall adopt regulations for the implementation of this chapter.

(b) The regulations shall include, but are not limited to, procedures for the identification and listing of covered items and categories of covered items, requirements for the contents, review, and approval of marine plastic pollution reduction plans submitted pursuant to Article 3 (commencing with Section 42985.5), and procedures for the calculation of the amount and collection of the alternative compliance fee specified in Article 4 (commencing with Section 42985.8).

(c) (1) The regulations shall establish marine plastic pollution reduction targets for a producer of a covered item to achieve in implementing a marine plastic pollution reduction plan.

(2) In establishing those targets, the department shall determine the proportion of pollution reduction of a covered item in the state that each producer is required to achieve based, in part, on the producer’s total sales of the covered item in the state.

(3) In setting the reduction targets, the department shall use as its goals an overall reduction in the amount of marine plastic pollution from land-based sources by 75 percent in the year 2020 and 95 percent by 2025, as compared to the baseline amount on June 1, 2014. The departments shall establish the baseline using the best available information against which the reduction targets can be measured.

42985.2. (a) On or before July 1, 2014, the department shall, in consultation with the council and the state water board, adopt a list that specifies those items, or categories of items, that the department finds are the major sources of marine plastic pollution
in the state. An item that is listed pursuant to this section is a covered item for purposes of this chapter.

(b) The department shall adopt the list specified in subdivision (a) using the best data that is available as of July 1, 2014, and is not required to conduct any additional studies or research for purposes of adopting that list.

(c) The department may exclude an item from the list adopted pursuant to this section if the department determines the item is subject to effective marine plastic pollution prevention policies.

(d) The department shall revise the list adopted pursuant to subdivision (a) as additional studies or research are made available to the department.

42985.3. The department shall notify the producer of a covered item listed pursuant to Section 42985.2 in accordance with the regulations adopted by the department.

42985.4. One or more producers may designate a producer responsibility organization to act as its agent to develop and implement a marine plastic pollution reduction plan for a covered item pursuant to Article 3 (commencing with Section 42985.5).

Article 3. Marine Plastic Pollution Reduction Plan

42985.5. Except as provided in Article 4 (commencing with Section 42985.8), no later than six months after receiving a notification pursuant to Section 42985.3, the producer, or a producer responsibility organization appointed by a producer, of that covered item shall design and submit to the department a plan to reduce the marine plastic pollution caused by that covered item, which shall include both of the following:

(a) Measures to meet the producer’s marine plastic pollution reduction targets, as calculated pursuant to the regulations adopted pursuant to Section 42985.1, which shall include utilization of innovative product design, the recovery, collection, or recycling of the covered item, or any one or combination of these measures.

(b) Measures for monitoring, measuring, assessing, and reporting on the progress made towards the marine plastic pollution reduction targets specified in the regulations.

42985.6. (a) The department, in consultation with the council and the state water board, shall review the marine plastic pollution reduction plan required to be prepared pursuant to Section 42985.5
and shall determine whether the plan is likely to meet the plan’s
goals and plastic pollution reduction targets. If the department
determines the plan is likely to meet the plan’s goals and plastic
pollution reduction targets, the plan shall be deemed approved by
the department. If the department determines the plan is not likely
to meet those goals and targets, the department—may shall require
the marine plastic pollution reduction plan to be revised, pursuant
to the regulations adopted by the department.

(b) The department shall recover the cost of reviewing and
approving the marine plastic pollution reduction plan by requiring
a producer to pay a fee to the department. The department shall
set the fee in an amount equivalent to the department’s costs of
implementing this chapter, with regard to that producer.

(c) The Marine Plastic Pollution Prevention Subaccount is
hereby established in the Integrated Waste Management Fund.
The department shall deposit the fees collected pursuant to this
section into the Marine Plastic Pollution Prevention Subaccount
and may expend those fees, upon appropriation by the Legislature,
to cover the department’s costs to implement this chapter.

(d) The department shall periodically review the progress of a
producer in implementing, and meeting the targets specified in,
the producer’s marine plastic pollution reduction plan.

42985.7. (a) A civil penalty of up to the following amounts
may be administratively imposed by the department on a producer
who is in violation of this chapter:

(1) One thousand dollars ($1,000) per day per violation.

(2) Ten thousand dollars ($10,000) per day per violation if the
violation is intentional, knowing, or negligent.

(b) The Marine Plastic Pollution Penalty Subaccount is hereby
established in the Integrated Waste Management Fund.

(c) All civil penalties collected pursuant to this chapter shall be
deposited in the Marine Plastic Pollution Penalty Subaccount and
may be expended by the department, upon appropriation by the
Legislature, to cover the department’s costs to enforce this chapter.

Article 4. Alternative Compliance Program

42985.8. (a) In lieu of submitting a marine plastic pollution
reduction plan to the department pursuant to Article 3 (commencing
with Section 42985.5), a producer may voluntarily elect to pay an annual alternative compliance fee to the department.

(b) The department shall set the amount of the annual alternative compliance fee in the regulations adopted pursuant to Section 42985.2, which shall be no greater than the amount that the producer would expend in complying with the requirements of Article 3 (commencing with Section 42985.5). The department shall periodically revise the amount of the alternative compliance fee.

(c) The department shall deposit the alternative compliance fees in the Marine Plastic Pollution Fund, which is hereby established in the State Treasury. The department may expend the moneys in the fund, upon appropriation by the Legislature, for both of the following purposes, in the manner specified in subdivision (d):

(1) Innovative product design for the covered item.

(2) Recovery, collection, and recycling programs to prevent marine plastic pollution caused by the covered item.

(d) The department may expend the funds in the Marine Plastic Pollution Fund by directly expending those funds, by transferring those funds to other state agencies, or by providing grants to local governments or other entities deemed eligible by the department, including, but not limited to, nongovernmental organizations and conservation corps.