

Complete Text of Selected Solid Waste Bills

- AB 1004 Porantino Solid waste: Solid Waste Postclosure and Corrective Action Trust Fund
- AB 1343 Huffman Solid waste: architectural paint
- AB 2139 Chesbro Solid waste: product stewardship
- AB 2176 Blumenfield Hazardous waste: lighting products
- AB 2398 Perez Product stewardship: carpet
- SB 1100 Corbett Product stewardship: household batteries

AMENDED IN SENATE JANUARY 20, 2010

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1004

Introduced by Assembly Member Portantino

February 27, 2009

An act to ~~add Section 53154.5 to the Government~~ *amend Sections 48000, 48010, 48012, and 48013 of the Public Resources Code, relating to local government. solid waste.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1004, as amended, Portantino. ~~Local government: emergency response.~~ *Solid waste: State Solid Waste Postclosure and Corrective Action Trust Fund.*

(1) *The California Integrated Waste Management Act of 1989 requires a solid waste disposal fee, on and after January 1, 2012, to be increased by \$0.12 per ton for each operator of a solid waste landfill that notifies the Department of Resources Recycling and Recovery that it elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund. However, the fee will not be operative on or after January 1, 2012, unless the department receives, on or before July 1, 2011, letters of participation in the fund from landfill operators representing at least 50% of the total volume of waste disposed of in 2010. The act requires the department to notify the State*

Board of Equalization on or before August 31, 2011, if the increased fee will become operative.

This bill would extend all of those dates by 6 months, except the total volume of waste would still be measured by 2010 standards.

(2) The act requires an operator of a landfill that meets specified requirements, including electing to participate in the fund, to submit written notice to the department on or before July 1, 2011. The act requires an operator that is operating a landfill on July 1, 2011, who submits that notice after the increased fee goes into effect to pay all trust fund fees applicable from January 1, 2012, and a 5% penalty before being allowed to participate. For a new landfill that receives a solid waste facility permit after July 1, 2011, the act requires the operator's election to participate in the fund to be submitted in writing to the department before the department concurs in the issuance of the permit. The act also requires an operator of multiple landfills who is required to maintain evidence of financial ability and whose landfills are operating on July 1, 2011, to include all other landfills in which that operator has in common ownership in the letter of participation.

This bill would extend all of those dates by 6 months.

(3) The act requires the department after January 1, 2015, to report annually on expenditures from the fund, the status of cost recovery actions, and any recommended statutory changes that are necessary to ensure adequate resources are available to carry out the purposes of the fund.

This bill would require the department to begin that annual reporting after January 1, 2016, rather than January 1, 2015.

~~Existing law specifically authorizes a public agency to charge any person who is under the influence of an alcoholic beverage or drug, whose negligent operation of a motor vehicle, boat or vessel, or civil aircraft causes an incident that requires an emergency response, who makes a false police report, or who intentionally, knowingly, and willfully enters into an area that is closed to the public or drives a vehicle on a street or highway that is temporarily covered by a rise in water level, the reasonable expenses of an emergency response to the incident.~~

~~This bill would prohibit a public agency from making residency a determining factor in determining liability for purposes of seeking reimbursement for the expenses of any emergency response.~~

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. Section 48000 of the Public Resources Code is
2 amended to read:

3 48000. (a) Each operator of a disposal facility shall pay a fee
4 quarterly to the State Board of Equalization, which is based on the
5 amount, by weight or volumetric equivalent, as determined by the
6 board *Department of Resources Recycling and Recovery*, of all
7 solid waste disposed of at each disposal site.

8 (b) (1) The fee for solid waste disposed of shall be one dollar
9 and thirty-four cents (\$1.34) per ton. Commencing with the
10 1995–96 fiscal year, the amount of the fee shall be established by
11 the board *Department of Resources Recycling and Recovery* at an
12 amount that is sufficient to generate revenues equivalent to the
13 approved budget for that fiscal year, including a prudent reserve,
14 but shall not exceed one dollar and forty cents (\$1.40) per ton.

15 (2) On and after ~~January~~ July 1, 2012, the amount of the fee
16 established by the board *Department of Resources Recycling and*
17 *Recovery* pursuant to paragraph (1) shall be increased by twelve
18 cents (\$0.12) per ton for each operator of a solid waste landfill that
19 notifies the board *department* that it elects to participate in the
20 State Solid Waste Postclosure and Corrective Action Trust Fund
21 pursuant to Article 2.1 (*commencing with Section 48010*).

22 (c) The board *Department of Resources Recycling and Recovery*
23 shall notify the state board on the first day of the period in which
24 the rate shall take effect of any rate change adopted pursuant to
25 paragraphs (1) and (2) of subdivision (b).

26 (d) The board *Department of Resources Recycling and Recovery*
27 and the state board shall ensure that all of the fees for solid waste
28 imposed pursuant to this section that are collected at a transfer
29 station are paid to the state board in accordance with this article.

30 (e) (1) The fee imposed by paragraph (2) of subdivision (b)
31 shall not be operative on or after ~~January~~ July 1, 2012, unless the
32 board *Department of Resources Recycling and Recovery* receives,
33 on or before ~~July 1, 2011~~ January 1, 2012, letters of participation
34 in the State Solid Waste Postclosure and Corrective Action Trust
35 Fund from landfill operators representing at least 50 percent of the
36 total volume of waste disposed of in 2010.

37 (2) The board *Department of Resources Recycling and Recovery*
38 shall notify the state board, on or before ~~August 31, 2011~~ February

1 29, 2012, if the fee imposed by paragraph (2) of subdivision (b)
2 shall become operative, pursuant to paragraph (1).

3 SEC. 2. Section 48010 of the Public Resources Code is
4 amended to read:

5 48010. (a) (1) An operator of a landfill ~~maintain~~ that maintains
6 evidence of financial ability pursuant to Article 4 (commencing
7 with Section 43600) of Chapter 2 of Part 4, that is operating the
8 landfill on ~~July 1, 2011~~ January 1, 2012, and that elects to
9 participate in the State Solid Waste Postclosure and Corrective
10 Action Trust Fund pursuant to this article, shall submit written
11 notice to the ~~board~~ Department of Resources Recycling and
12 Recovery on or before ~~July 1, 2011~~ January 1, 2012.

13 (2) An operator of multiple landfills that elects to participate in
14 the State Solid Waste Postclosure and Corrective Action Trust
15 Fund is required to submit written notice that includes all of the
16 operator's operating landfills and all other landfills in which that
17 operator has in common ownership.

18 (3) The ~~board~~ Department of Resources Recycling and Recovery
19 shall provide to the state board the name and address, and any
20 other information necessary to administer and collect the fee
21 imposed pursuant to paragraph (2) of subdivision (b) of Section
22 48000, of every operator of a landfill electing to participate in the
23 State Solid Waste Postclosure and Corrective Action Trust Fund
24 on or before ~~August 31, 2011~~ February 29, 2012.

25 (b) If an operator that is operating a landfill on ~~July 1, 2011~~
26 January 1, 2012, submits a written notification to the ~~board~~
27 Department of Resources Recycling and Recovery that it elects to
28 participate after the trust fund fee goes into effect, the operator
29 shall pay all trust fund fees applicable from ~~January~~ July 1, 2012,
30 and a 5-percent penalty before being allowed to participate.

31 (c) For new landfills that receive a solid waste facility permit
32 after ~~July 1, 2011~~ January 1, 2012, the operator's election to
33 participate in the State Solid Waste Postclosure and Corrective
34 Action Trust Fund shall be submitted in writing to the ~~board~~
35 Department of Resources Recycling and Recovery before the ~~board~~
36 department concurs in the issuance of the permit pursuant to
37 Section 44009.

38 (d) All elections to participate made by landfill operators
39 pursuant to this section are final, binding, and irrevocable for those
40 operators and their successors and assignees.

1 *SEC. 3. Section 48012 of the Public Resources Code is*
2 *amended to read:*

3 48012. After January 1, ~~2015~~ 2016, as part of the annual report
4 required pursuant to Section 40507, the ~~board~~ *Department of*
5 *Resources Recycling and Recovery* shall report on expenditures
6 from the State Solid Waste Postclosure and Corrective Action
7 Trust Fund, the status of cost recovery actions, and any
8 recommended statutory changes that are necessary to ensure
9 adequate resources are available to carry out the purposes of the
10 State Solid Waste Postclosure and Corrective Action Trust Fund.

11 *SEC. 4. Section 48013 of the Public Resources Code is*
12 *amended to read:*

13 48013. An operator of multiple landfills who is required to
14 maintain evidence of financial ability pursuant to Article 4
15 (commencing with Section 43600) of Chapter 2 of Part 4 and
16 whose landfills are operating on ~~July 1, 2011~~ *January 1, 2012*,
17 shall include all other landfills in which that operator has in
18 common ownership in the letter of participation.

19 ~~SECTION 1. Section 53154.5 is added to the Government~~
20 ~~Code, to read:~~

21 ~~53154.5. A public agency, in making a determination of liability~~
22 ~~for purposes of seeking reimbursement for the expenses of any~~
23 ~~emergency response, shall not make residency a determining factor.~~

AMENDED IN SENATE JULY 13, 2009

AMENDED IN SENATE JUNE 24, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1343

**Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Ma and Torlakson)**

February 27, 2009

An act to add Chapter 5 (commencing with Section 48700) to Part 7 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1343, as amended, Huffman. Solid waste: architectural paint: recovery program.

Existing law prohibits the disposal of latex paint in the land or waters of the state and authorizes certain persons to accept latex paint for recycling.

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 an architectural paint recovery program that would be enforced by the board. On or before January 1, 2011, a manufacturer or designated stewardship organization would be required to submit to the board an architectural paint stewardship plan to develop and implement a recovery program to reduce the generation of postconsumer paint, promote the reuse of postconsumer architectural

paint, and manage the end-of-life of postconsumer architectural paint, in an environmentally sound fashion, including collection, transportation, processing, and disposal. The plan would be required to contain specified elements of an architectural paint stewardship program, including, but not limited to, an architectural paint stewardship assessment, approved by the board, on each container of architectural paint sold in this state. The bill would require the plan to be reviewed and approved by the board, and if the board does not act on the plan within 90 days of receipt, it would be deemed adopted.

This bill would require, on or before July 1, 2011, or two months after a plan is approved by the board, the manufacturer or stewardship organization to implement the architectural paint stewardship program described in the approved plan.

The bill would also prohibit a manufacturer or retailer from selling or offering for sale architectural paint to any person in this state, unless the manufacturer is in compliance with this act. The prohibition would be in effect on the 120th day after a notice listing the manufacturer as not being in compliance is posted on the board's Internet Web site.

This bill would authorize the board to administratively impose civil penalties for violations of the act. The bill would require manufacturers to submit a report to the board by July 1, 2012, and each year thereafter, describing their paint recovery efforts.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Architectural paint is a priority waste type based on its high
- 4 volume, subsequent cost to manage, and high potential for
- 5 increased recovery, reuse, and recycling.
- 6 (b) The Department of Toxic Substances Control has deemed
- 7 latex paint as presumed hazardous in California and oil-based paint
- 8 is characteristically hazardous, making both latex and oil-based
- 9 paints prohibited from disposal in California.
- 10 (c) The California Integrated Management Waste Board
- 11 estimates that architectural paint, both latex and oil-based,
- 12 comprises the largest volume of waste product collected at publicly
- 13 operated household hazardous waste facilities, 35 percent of total

1 household hazardous waste collected in California in the 2007–08
2 fiscal year.

3 (d) The Department of Toxic Substances Control estimates that
4 the cost to manage waste architectural paint in California is the
5 single largest cost to local governments in the household hazardous
6 waste system.

7 (e) The board estimates that for the 2007–08 fiscal year only 5
8 percent of California households utilized a household hazardous
9 waste program.

10 (f) Architectural paint is convenient to buy and inconvenient to
11 recycle or legally dispose of in California.

12 (g) There has been an ongoing debate on how to better manage
13 leftover architectural paint since 1989 when the board heard an
14 item on options to fund a collection and management system.

15 (h) A national dialogue has been ongoing since 2002, yet has
16 not resulted in any architectural paint collection or financial relief
17 to California local governments.

18 (i) California has the largest number of latex paint recyclers in
19 the country: Amazon Environmental (Riverside), Kelly-Moore
20 (Sacramento), and Visions (Sacramento).

21 (j) State procurement of recycled paint is required. The state
22 agency “buy recycled” mandates are not being met, and there is
23 no enforcement mechanism, resulting in only 2 percent compliance
24 reporting to the board.

25 ~~(k) The board adopted an Overall Framework for an Extended
26 Producer Responsibility (EPR) guidance document as a policy
27 priority in January 2008.~~

28 ~~(l) The EPR framework recognizes that the responsibility for
29 the end-of-life management of discarded products and materials
30 rests primarily with the producers, thereby incorporating costs of
31 product collection, recycling, and disposal into the total product
32 costs so as to have a reduced impact on human health and the
33 environment.~~

34 SEC. 2. Chapter 5 (commencing with Section 48700) is added
35 to Part 7 of Division 30 of the Public Resources Code, to read:

36

37 CHAPTER 5. ARCHITECTURAL PAINT RECOVERY PROGRAM

38

39 48700. The purpose of the architectural paint recovery program
40 established pursuant to this chapter is to require paint

1 manufacturers to develop and implement a program to collect,
2 transport, and process postconsumer paint to reduce the costs and
3 environmental impacts of the disposal of postconsumer paint in
4 this state.

5 48701. For purposes of this chapter, the following terms have
6 the following meanings:

7 (a) "Architectural paint" means interior and exterior architectural
8 coatings, sold in containers of five gallons or less for commercial
9 or homeowner use, but does not include *aerosol spray paint* or
10 architectural coatings purchased for industrial or original equipment
11 manufacturer use.

12 (b) "Board" means the California Integrated Waste Management
13 Board.

14 (c) "Consumer" means a purchaser or owner of architectural
15 paint, including a person, business, corporation, limited partnership,
16 nonprofit organization, or governmental entity.

17 (d) "Distributor" means a person that has a contractual
18 relationship with one or more manufacturers to market and sell
19 architectural paint to retailers.

20 (e) "Manufacturer" means a manufacturer of architectural paint.

21 (f) "Postconsumer paint" means architectural paint not used by
22 the purchaser.

23 (g) "Retailer" means a person that sells architectural paint in
24 the state to a consumer. A sale includes, but is not limited to,
25 transactions conducted through sales outlets, catalogs, or the
26 Internet or any other similar electronic means.

27 (h) "Stewardship organization" means—~~the~~ *a* nonprofit
28 organization created by the manufacturers to implement the
29 architectural paint stewardship program described in Section 48703.

30 48702. (a) A manufacturer of architectural paint sold in this
31 state shall, individually or through a stewardship organization,
32 submit an architectural paint stewardship plan to the board to
33 develop and implement a recovery program to reduce the
34 generation of postconsumer architectural paint, promote the reuse
35 of postconsumer architectural paint, and manage the end-of-life
36 of postconsumer architectural paint, in an environmentally sound
37 fashion, including collection, transportation, processing, and
38 disposal.

1 (b) (1) A manufacturer or retailer shall not sell or offer for sale
2 in this state architectural paint to any person in this state unless
3 the manufacturer is in compliance with this chapter.

4 (2) The sales prohibition in paragraph (1) shall be effective on
5 the 120th day after the notice described in subdivision (c) lists the
6 manufacturer on the board's Internet Web site and shall remain in
7 effect until the manufacturer is no longer listed on the board's
8 Internet Web site.

9 (c) (1) On July 1, 2011, and on January 1 and July 1 annually
10 thereafter, the board shall post a notice on its Internet Web site
11 listing manufacturers that are not in compliance with this chapter.

12 (2) *Manufacturers that have been listed on the board's Internet*
13 *Web site pursuant to this section, but can demonstrate to the*
14 *satisfaction of the board that they are in compliance with this*
15 *chapter before the next notice is required pursuant to this section,*
16 *may request a certification letter from the board to that effect. The*
17 *letter shall constitute compliance with this chapter.*

18 (d) A wholesaler or a retailer that distributes or sells architectural
19 paint shall monitor the board's Internet Web site to determine if
20 the sale of a manufacturer's architectural paint is in compliance
21 with this chapter.

22 48703. (a) On or before January 1, 2011, a manufacturer or
23 designated stewardship organization shall submit an architectural
24 paint stewardship plan to the board.

25 (b) (1) The plan shall demonstrate sufficient funding for the
26 architectural paint stewardship program as described in the plan,
27 including a funding mechanism for securing and dispersing funds
28 to cover administrative, operational, and capital costs, including
29 the assessment of charges on architectural paint sold by
30 manufacturers in this state.

31 (2) The funding mechanism shall provide for an architectural
32 paint stewardship assessment for each container of architectural
33 paint sold by manufacturers in this state and the assessment shall
34 be remitted to the stewardship organization, if applicable.

35 (3) The architectural paint stewardship assessment shall be
36 added to the cost of all architectural paint sold to California
37 retailers and distributors, and each California retailer or distributor
38 shall add the assessment to the purchase price of all architectural
39 paint sold in the state.

1 (4) The architectural paint stewardship assessment shall be
2 approved by the board as part of the plan, and shall be sufficient
3 to recover, but not exceed, the cost of the architectural paint
4 stewardship program.

5 (c) The plan shall address the coordination of the architectural
6 paint stewardship program with local household hazardous waste
7 programs, including contracting for the costs for architectural paint
8 collected by the household hazardous waste programs, where
9 practical.

10 *(d) The plan shall include goals established by the manufacturer*
11 *or stewardship organization to reduce the generation of*
12 *postconsumer paint, to promote the reuse of postconsumer paint,*
13 *and for the proper end-of-life management of postconsumer paint,*
14 *including recovery and recycling of postconsumer paint, as*
15 *practical, based on current household hazardous waste program*
16 *information. The goals may be revised by the manufacturer or*
17 *stewardship organization based on the information collected for*
18 *the annual report.*

19 ~~(d)~~

20 (e) The plan shall include consumer, contractor, and retailer
21 education and outreach efforts to promote the source reduction
22 and recycling of architectural paint. This information may include,
23 but is not limited to, developing, and updating as necessary,
24 educational and other outreach materials aimed at retailers of
25 architectural paint. These materials shall be made available to the
26 retailers. These materials may include, but are not limited to, one
27 or more of the following:

28 (1) Signage that is prominently displayed and easily visible to
29 the consumer.

30 (2) Written materials and templates of materials for reproduction
31 by retailers to be provided to the consumer at the time of purchase
32 or delivery, or both. Written materials shall include information
33 on the prohibition of improper disposal of architectural paint.

34 (3) Advertising or other promotional materials, or both, that
35 include references to architectural paint recycling opportunities.

36 ~~(e)~~

37 (f) On or before July 1, 2011, or two months after a plan is
38 approved pursuant to Section 48704, the manufacturer or
39 stewardship organization shall implement the architectural paint
40 stewardship program described in the approved plan.

1 48704. (a) The board shall review and approve the architectural
2 paint stewardship plan within 90 days of receipt. A plan not acted
3 upon by the board within 90 days shall be deemed adopted.

4 (b) The board shall review the annual report required pursuant
5 to Section 48705 and within 90 days of receipt shall adopt a finding
6 of compliance or noncompliance with the provisions of this act.

7 (c) The board shall enforce this chapter.

8 (d) The stewardship organization shall pay the board
9 administrative fees in the amount of ____ dollars (\$____) when
10 the plan is submitted for review and approval and thereafter an
11 annual administrative fee of 0.05 percent of the architectural paint
12 stewardship program costs as reported under Section 48705.

13 (e) (1) A civil penalty may be administratively imposed by the
14 board on any person who violates this chapter in an amount of one
15 thousand dollars (\$1,000) for each violation.

16 (2) Any person who intentionally, knowingly, or negligently
17 violates this chapter may be assessed a civil penalty by the board
18 of up to ten thousand dollars (\$10,000) for each violation.

19 (3) Any penalties collected by the board shall be used to offset
20 the cost of the review and approval architectural paint stewardship
21 plans and annual reports and of enforcement activities.

22 48705. By July 1, 2012, and each year thereafter, a
23 manufacturer of architectural paint sold in this state shall,
24 individually or through a representative stewardship organization,
25 submit a report to the board describing its architectural paint
26 recovery efforts. At a minimum, the report shall include all of the
27 following:

28 (a) The total volume of architectural paint sold in this state
29 during the preceding calendar year.

30 (b) The total volume of postconsumer architectural paint
31 recovered in this state during the preceding calendar year.

32 (c) A description of methods used to collect, transport, and
33 process postconsumer architectural paint in this state.

34 (d) The total cost of implementing the architectural paint
35 stewardship program.

36 (e) An evaluation of how the architectural paint stewardship
37 program's funding mechanism operated.

38 (f) Examples of educational materials that were provided to
39 consumers the first year and any changes to those materials in
40 subsequent years.

1 ~~48706. Any action taken by a manufacturer or representative~~
2 ~~stewardship organization regarding the cost recovery system or~~
3 ~~the collecting, transporting, or processing of postconsumer~~
4 ~~architectural paint, pursuant to the requirements of this chapter~~
5 ~~and only to the extent necessary to plan and implement the cost~~
6 ~~recovery system, collection system, or recycling system, is not a~~
7 ~~violation of the Cartwright Act (Chapter 2 (commencing with~~
8 ~~Section 16700) of Part 2 of Division 7 of the Business and~~
9 ~~Professions Code), the Unfair Practices Act (Chapter 4~~
10 ~~(commencing with Section 17000) of Part 2 of Division 7 of the~~
11 ~~Business and Professions Code), or any other state law relating to~~
12 ~~antitrust, regulation of trade, or regulation of commerce.~~

ASSEMBLY BILL

No. 2139

Introduced by Assembly Member Chesbro

February 18, 2010

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 2139, as introduced, Chesbro. Solid waste: product stewardship. The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires a pharmaceutical manufacturer that sells or distributes medication that is self-injected at home through the use of hypodermic needles and other similar devices to submit a plan to the department that describes how the manufacturer supports the safe collection and proper disposal of the waste devices.

This bill would create the California Product Stewardship Act and would define the term "covered product" as including medical sharps, containers used to contain pesticides intended for residential use, small personal use propane tanks, personal butane lighters, and single-use food packaging that the department determines is a significant source of ocean and beach contamination. The bill would require the department by July 1, 2011, to establish a baseline collection rate for the amount of those products that is discarded and subsequently collected. The bill would provide a procedure for determining the collection rate applicable commencing January 1, 2014.

The bill would require, by September 30, 2011, a producer or the product stewardship organization created by one or more producers of a covered product to submit a product stewardship plan to the

department, which would be required to include specified elements, including performance goals and product goals. On or before January 1, 2012, the department would be required to review and either approve or disapprove the product stewardship plan submitted to the department.

The bill would prohibit the producer of a covered product, on and after July 1, 2012, from selling a covered product unless the producer or product stewardship organization of the covered product has submitted a plan to the department that is approved by the department. The act would require a producer of a covered product to collect the covered product pursuant to the product stewardship plan and to meet the performance goals included in the product stewardship plan.

Each producer or product stewardship organization implementing a product stewardship plan would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the product stewardship plan.

A producer or product stewardship organization submitting a product stewardship plan would be required to pay the department a fee of \$10,000 when submitting the plan for review and approval and to pay an annual administrative fee of \$1,000. The bill would provide for the imposition of administrative civil penalties upon a producer who does not comply with the act's requirements. The bill would create in the existing Integrated Waste Management Fund the Product Stewardship Account and would require that the administrative fees be deposited into that account and that the penalties be deposited into the Product Stewardship Penalty Subaccount that the bill would create in that account. 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:

1 CHAPTER 5. CALIFORNIA PRODUCT STEWARDSHIP PROGRAM

2
3 Article 1. Findings and Declarations
4

5 48800. The Legislature finds and declares all of the following:

6 (a) This chapter requires the Department of Resources Recycling
7 and Recovery to develop, implement, and administer the Product
8 Stewardship Program.

9 (b) Product stewardship is a mechanism to place responsibility
10 for end-of-life management issues for products on those involved
11 in the product chain in an equitable manner.

12 (c) The program established by this chapter will test the efficacy
13 of a consistent framework approach for managing products that
14 have significant end-of-life waste management impacts as well as
15 impacts on the environment and public health. This framework
16 approach provides a consistent process that includes goals and
17 oversight so that a level playing field exists among all producers,
18 while maintaining flexibility for specific products and for producers
19 to design their product stewardship programs.

20 (d) End-of-life management of solid waste has historically been
21 the responsibility of state and local governments with the primary
22 physical management and financial burden placed on local
23 government and ratepayers, who have no ability to influence the
24 design of the products or packaging to reduce waste management
25 costs.

26 (e) Prior to this program, the state addressed products with
27 end-of-life management issues through a patchwork of product
28 and material specific programs.

29 (f) Implementing product stewardship programs that are funded
30 and managed by the producers of products with significant
31 end-of-life impacts reduces the role of, and cost to, state and local
32 government and ratepayers.

33 (g) The Product Stewardship Program established by this chapter
34 will explore the feasibility and potential environmental, economic,
35 and social benefits of instituting a permanent product stewardship
36 program for an extended number of products while still providing
37 producers with the flexibility to customize individual product
38 stewardship plans toward the most effective and efficient approach
39 for a particular product or product category.

1 (h) The Product Stewardship Program established by this chapter
2 will test the applicability of extended producer responsibility and
3 may be used as a template for including additional products in
4 these programs.

5

6

Article 2. General Provisions

7

8 48800.1. This chapter shall be known and may be cited as the
9 California Product Stewardship Act.

10

11

Article 3. Definitions

12

13 48800.2. For purposes of this chapter, and unless the context
14 otherwise requires, the definitions in this article govern the
15 construction of this chapter.

16 48800.3. "Brand" means a name, symbol, word, or mark that
17 identifies a product, rather than its components, and attributes the
18 product to the owner or licensee of the brand as the producer.

19 48800.4. "Collection rate" means a quantitative measure
20 established by the department pursuant to Section 48811 or
21 determined pursuant to Section 48812, as applicable, that
22 establishes the amount of a covered product required to be collected
23 pursuant to a product stewardship plan.

24 48800.5. "Consumer product" means a product that is sold in
25 this state in a transaction that is a retail sale or in a transaction to
26 which a use tax applies pursuant to Part 1 (commencing with
27 Section 6001) of Division 2 of the Revenue and Taxation Code.

28 48800.6. "Covered product" means all of the following
29 consumer products that are used or discarded in this state, as
30 defined by the department:

31 (a) "Covered product 1" means medical sharps, including
32 hypodermic needles, hypodermic needles with syringes, blades,
33 and needles, that are not subject to Article 3.3 (commencing with
34 Section 47115) or Chapter 1 of Part 7.

35 (b) "Covered product 2" means containers used to contain
36 pesticides intended for residential use.

37 (c) "Covered product 3" means small personal use propane
38 tanks.

39 (d) "Covered product 4" means personal butane lighters.

1 (e) “Covered product 5” means single-use food packaging that
2 the department determines is a significant source of ocean and
3 beach contamination.

4 48800.7. “Department” means the Department of Resources
5 Recycling and Recovery.

6 48800.8. “Performance goal” means the collection rate of a
7 covered product, and may include, but is not limited to, the reuse
8 and recycling rate established by the product stewardship plan for
9 that covered product.

10 48800.9. “Producer” shall be determined, with regard to a
11 covered product that is sold, offered for sale, or distributed in the
12 state, as meaning one of the following:

13 (a) A person who manufactures the covered product and who
14 sells, offers for sale, or distributes that covered product in the state
15 under that person’s own name or brand.

16 (b) If there is no person who sells, offers for sale, or distributes
17 the covered product in the state under the person’s own name or
18 brand, the producer of the covered product is the owner or licensee
19 of a trademark or brand under which the covered product is sold
20 or distributed in the state, whether or not the trademark is
21 registered.

22 (c) If there is no person who is a producer of the covered product
23 for purposes of subdivisions (a) and (b), the producer of that
24 covered product is the person who imports the product into the
25 state for sale or distribution.

26 48800.10. “Product goal” means those qualitative or
27 quantitative goals determined by the producer to measure
28 improvements that reduce the life cycle impacts of a covered
29 product.

30 48800.11. “Product stewardship” means requiring the producer
31 of a covered product, and all other entities involved in the product
32 chain, to share in the responsibility of reducing the life cycle impact
33 of the covered product and its packaging, including requiring the
34 producer who makes design and marketing decisions for the
35 covered product to bear the primary responsibility for this
36 reduction.

37 48800.12. “Product stewardship organization” means an
38 organization appointed by one or more producers to act as an agent
39 on behalf of the producer to design, submit, and administer a
40 product stewardship plan pursuant to this chapter.

1 48800.13. "Product stewardship plan" or "plan" means a plan
2 written by an individual producer or a product stewardship
3 organization, on behalf of one or more producers, that includes all
4 of the information required by Section 48813.

5 48800.14. "Recycling rate" means a quantitative measure that
6 establishes the amount of a collected covered product that is
7 recycled as compared to the total amount of the covered product
8 that is collected, including the amount of the covered product that
9 is discarded for reuse, energy recovery, or safe disposal.

10 48800.15. "Reporting period" means the period commencing
11 January 1 and ending on December 31 of the same calendar year.

12 48800.16. "Reuse rate" means a quantitative measure that
13 establishes the amount of a collected covered product that is reused
14 as compared to the total amount of the covered product that is
15 collected, including the amount of the covered product that is
16 discarded by recycling, energy recovery, or safe disposal.

17 48800.17. "Sell" or "sales" means any transfer of title of a
18 covered product for consideration, including a remote sale
19 conducted through a sale outlet, catalog, or Internet Web site or
20 similar electronic means, but does not include a lease.

21 22 Article 4. Product Stewardship Program

23
24 48810. This chapter does not limit, supersede, duplicate, or
25 otherwise conflict with the authority of the Department of Toxic
26 Substances Control under Section 25257.1 of the Health and Safety
27 Code to fully implement Article 14 (commencing with Section
28 25251) of Chapter 6.5 of Division 20 of the Health and Safety
29 Code, including the authority of the Department of Toxic
30 Substances Control to include products in its product registry.

31 48811. (a) On or before July 1, 2011, the department shall
32 establish a baseline collection rate for the amount of each covered
33 product that is discarded and subsequently collected, based on
34 existing collection data.

35 (b) On and after July 1, 2011, and for the calendar years
36 commencing January 1, 2012, and January 1, 2013, the collection
37 rate shall be the collection rate established pursuant to this section.

38 48812. (a) On and after January 1, 2014, the collection rate
39 for a covered product shall be determined in the following manner:

1 (1) For the calendar year commencing January 1, 2014, the
2 collection rate shall be 5 percent more than the baseline collection
3 rate determined pursuant to Section 48811.

4 (2) On and after January 1, 2015, the collection rate for each
5 covered product shall increase by no less than 5 percent annually
6 until a 95 percent collection rate is reached.

7 (b) A producer may petition the department for an adjustment
8 to the collection rate. The department may grant an adjustment to
9 the collection rate only if the department determines there are
10 documented exigent circumstances that are beyond the control of
11 the producer or product stewardship organization.

12 48813. (a) On or before September 30, 2011, a producer or a
13 product stewardship organization that is created by one or more
14 producers of a covered product shall submit a product stewardship
15 plan to the department. A product stewardship organization created
16 pursuant to this section shall be open for participation by all
17 producers of a covered product.

18 (b) A producer, group of producers, or product stewardship
19 organization shall consult with stakeholders during the
20 development of the product stewardship plan, including soliciting
21 stakeholder comments and responding to stakeholder comments
22 prior to submitting the product stewardship plan.

23 (c) Each product stewardship plan for a covered product shall
24 address the environmental impacts of the covered product over
25 the entire life cycle of that product, including the product design,
26 manufacture, and distribution of the covered product, and the
27 collection, transportation, reuse, recycling, and final disposition
28 of the discarded covered product, in accordance with this chapter.
29 The plan shall include, at a minimum, all of the following elements:

30 (1) Contact information for all participating producers.

31 (2) A description of the covered product and associated brands
32 covered by the plan.

33 (3) Performance goals, including a detailed description of how
34 the performance goals will be achieved and how results will be
35 measured, and including both of the following:

36 (A) The collection rate shall be included as a performance goal
37 for the covered product.

38 (B) A reuse rate and a recycling rate for the covered product
39 shall be included in the performance goals.

1 (4) An overview of the roles and responsibilities of key players
2 along the product chain.

3 (5) Financing methods for the product stewardship plan.

4 (6) Strategies for managing and reducing the life cycle impacts
5 of the covered product, steps that will be taken to ensure
6 environmentally sound management, and how impacts will be
7 tracked over time to show continual improvement.

8 (7) Education and outreach activities.

9 (8) A description of the consultation process used to consult
10 with affected stakeholders regarding the product stewardship plan.

11 (9) Product goals, including, but not limited to, product
12 designing and materials content, manufacturing, packaging,
13 distribution, and end-of-life management goals. The product goals
14 shall address the use of virgin material in the manufacture of the
15 covered product, the impact upon, or use of, water or energy by
16 the covered product, the use of, or generation of hazardous
17 substances by, the covered product, the carbon footprint of the
18 covered product, the covered product's longevity, the recycled
19 content of the covered product, and the covered product's
20 recyclability, where applicable.

21 48814. (a) On or before January 1, 2012, the department shall
22 review the product stewardship plan submitted to the department
23 and either approve or disapprove the plan. If the department does
24 not approve the plan, the department shall notify the producer or
25 organization that submitted the plan and the producer or
26 organization shall revise and resubmit the disapproved product
27 stewardship plan within 30 days after receiving the notification.

28 (b) All product stewardship plans submitted to the department
29 shall be available to the public on the department's Internet Web
30 site.

31 (c) A producer shall notify the department 30 days before
32 instituting a significant or material change to a product stewardship
33 plan.

34 48815. On and after July 1, 2012, a producer shall not offer a
35 covered product for sale in this state or offer a covered product
36 for promotional purposes in this state unless the producer or a
37 product stewardship organization consisting of producers of the
38 covered product has submitted a product stewardship plan to the
39 department pursuant to Section 48816 and the product stewardship
40 plan is approved by the department pursuant to Section 48817.

1 48816. A producer of a covered product shall do all of the
2 following when implementing this chapter, including an approved
3 product stewardship plan:

4 (a) Collect the individual covered product to be reused or
5 recycled pursuant to the product stewardship plan for the covered
6 product submitted by the producer or product stewardship
7 organization pursuant to Section 48813 and approved by the
8 department pursuant to Section 48814.

9 (b) Meet the performance goals included in the product
10 stewardship plan, including achieving the collection rate established
11 pursuant to Section 48812.

12 (c) Provide collection services, in accordance with Section
13 48817, for the covered product, that do not charge a fee at the time
14 when the covered product is collected for either recycling or
15 disposal.

16 (d) Pay all administrative and operational costs associated with
17 the product stewardship plan, including the costs of collection,
18 transportation, and recycling or disposal, or both, of the covered
19 product.

20 (e) Submit the annual report required by Section 48818.

21 48817. A covered product shall be handled and recycled, or if
22 not feasible to be recycled, disposed of, in accordance with all
23 state and federal laws and regulations and local ordinances and
24 regulations, including, but not limited to, any law, regulation, or
25 ordinance that regulates hazardous waste.

26
27 Article 5. Reporting
28

29 48818. (a) Beginning one year after a product stewardship
30 plan is approved or no later than January 1, 2013, whichever date
31 is earlier, and every subsequent year thereafter, each producer or
32 stewardship organization implementing a product stewardship plan
33 shall prepare and submit to the department an annual report
34 describing the activities carried out pursuant to the product
35 stewardship plan during the previous reporting period, including,
36 but not limited to, all of the following:

37 (1) Whether the producer or product stewardship organization,
38 in implementing the plan, attained the performance goals for the
39 covered product, and if the performance goals were not met, what

1 actions the producer or product stewardship organization will take
2 during the next reporting period to attain those performance goals.

3 (2) Whether the producer or product stewardship organization,
4 in implementing the plan, attained the product goals for the covered
5 product, and if the product goals were not met, what actions the
6 producer or stewardship organization will take during the next
7 reporting period to achieve those product goals.

8 (b) The department shall review a report submitted pursuant to
9 this section and shall approve the report if the department
10 determines the report contains the information required by this
11 section.

12 (c) The department shall make all reports submitted to the
13 department pursuant to this section available to the public on the
14 department's Internet Web site.

15

16

Article 6. Financial Provisions

17

18 48819. (a) The producer or product stewardship organization
19 submitting a product stewardship plan shall pay the department
20 an administrative fee in the amount of ten thousand dollars
21 (\$10,000) when the plan is submitted for review and approval and
22 thereafter pay an annual administrative fee of one thousand dollars
23 (\$1,000).

24 (b) The total amount of annual fees collected pursuant to this
25 section shall not exceed the amount necessary to recover costs
26 incurred by the department in connection with the administration
27 and enforcement of the requirements of this chapter.

28 48820. (a) The Product Stewardship Account and the Product
29 Stewardship Penalty Subaccount are hereby established in the
30 Integrated Waste Management Fund.

31 (b) All fees collected pursuant to this chapter shall be deposited
32 in the Product Stewardship Account and may be expended by the
33 department, upon appropriation by the Legislature, to cover the
34 department's costs to implement this chapter.

35 (c) All penalties collected pursuant to this chapter shall be
36 deposited in the Product Stewardship Penalty Subaccount and may
37 be expended by the department, upon appropriation by the
38 Legislature, to cover the department's costs to implement this
39 chapter.

1 (d) All funds collected may be expended as incentives to
2 enhance reuse, recyclability, and redesign efforts and to reduce
3 environmental and safety impacts of covered products.
4

5 Article 7. Enforcement
6

7 48821. (a) If, after holding a public hearing, the department
8 finds that a producer has failed to make a good faith effort to
9 comply with this chapter, the department shall issue a compliance
10 order with a schedule for achieving compliance.

11 (b) If, after issuing an order and schedule for compliance
12 pursuant to subdivision (a), the department finds that the producer
13 has failed to make a good faith effort to comply with this chapter,
14 the department may impose an administrative civil penalty of ten
15 thousand dollars (\$10,000) per day until the producer achieves
16 compliance.

17 (c) For purposes of this section, “good faith effort” means all
18 reasonable and feasible efforts by a producer towards implementing
19 the requirements of this chapter, including, but not limited to,
20 meeting the performance goals specified in the plan.

21 48822. (a) The department, or its designee, may inspect, audit,
22 or require and review third-party audits of producers, product
23 stewardship organizations, and service providers, including
24 collectors and recyclers, that are utilized to fulfill the requirements
25 of a product stewardship plan.

26 (b) For purposes of this section, a “service provider” means any
27 person who is authorized to perform an action to implement the
28 product stewardship plan with regard to the collection, recycling,
29 reuse, or disposal of a covered product, but does not include the
30 consumer of the covered product.

ASSEMBLY BILL

No. 2176

Introduced by Assembly Member Blumenfield

February 18, 2010

An act to add Article 10.03 (commencing with Section 25210.13) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2176, as introduced, Blumenfield. Hazardous waste: lighting products.

Existing law, the California Lighting Efficiency and Toxics Reduction Act, administered by the Department of Toxic Substances Control, prohibits a person from manufacturing for sale or selling in the state specified general purpose lights that contain levels of hazardous substances prohibited by the European Union pursuant to the RoHS Directive.

This bill would declare the intent of the Legislature to enact subsequent legislation to provide for the California Lighting Toxics Reduction and Recycling Act.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The state's policy, including the California Lighting
- 4 Efficiency and Toxics Reduction Act, which added Article 10.02

1 (commencing with Section 25210.9) to Chapter 6.5 of Division
2 20 of the Health and Safety Code, has put the state on a path of
3 transitioning toward more energy-efficient lighting, including
4 substantially increased utilization of fluorescent lighting.

5 (b) Lighting products introduce hazardous waste into the
6 environment as it may contain such hazardous substances as
7 mercury, in the lighting product itself, and by the release of
8 hazardous substances from the production of energy, which the
9 lighting product utilizes.

10 (c) High-efficiency bulbs, such as compact fluorescent lamps,
11 contain mercury within the product, but because these bulbs use
12 less energy, they are responsible for smaller hazardous emissions
13 from energy production.

14 (d) Low-efficiency bulbs, such as incandescent bulbs, contain
15 no mercury in the product but are responsible for greater hazardous
16 substance emissions from energy production.

17 (e) The state prohibits the disposal of lighting products
18 containing hazardous levels of metal in the solid waste stream.

19 (f) The hazardous waste generated by waste lighting products
20 can be reduced and managed through recycling, but recycling
21 opportunities are currently inconvenient or nonexistent for most
22 consumers.

23 (g) Even though some types of fluorescent lighting products
24 deliver the same level of light at the same level of efficiency as
25 other types of these products, they may have varying levels of
26 mercury. The Department of General Services has adopted a
27 procurement preference favoring low-mercury fluorescent lamps.

28 (h) In 2007, the Legislature enacted the California Lighting
29 Efficiency and Toxics Reduction Act, which directed the
30 Department of Toxic Substances Control to convene a lighting
31 task force to consider and make policy recommendations to the
32 Legislature for designing a statewide collection program for
33 end-of-life fluorescent lights.

34 (i) On September 1, 2008, the task force submitted
35 recommendations to the Legislature on the need and options for a
36 convenient statewide system for the collection and recycling of
37 fluorescent lamps for residential generators.

38 (j) Electricity generation, particularly from coal, releases
39 mercury into the atmosphere, which then contaminates waterways
40 and fish, causing a public health risk.

1 (k) The more electricity required by a bulb, the greater the level
2 of hazardous waste, including mercury, from electricity generation
3 associated with its use.

4 (l) The purpose of this act is to establish a system for the
5 recycling of fluorescent lamps generated by households and small
6 businesses that is free and convenient for end users and to promote
7 the rapid development and uptake of more efficient and
8 low-toxicity lighting products to minimize the public health impacts
9 from lighting.

10 (m) The responsibility for the end-of-life management of
11 products and materials rests primarily with the producers who
12 designed and profited from the product, so incorporating life-cycle
13 costs into the total product costs will reduce the impact of these
14 products on the taxpayers and ratepayers of the state and reduce
15 the impact of these products on human health and the environment.

16 SEC. 2. Article 10.03 (commencing with Section 25210.13)
17 is added to Chapter 6.5 of Division 20 of the Health and Safety
18 Code, to read:

19
20 Article 10.03. California Lighting Toxics Reduction and
21 Recycling Act
22

23 25210.13. The Legislature declares its intent to enact
24 subsequent legislation to provide for the California Lighting Toxics
25 Reduction and Recycling Act.

ASSEMBLY BILL

No. 2398

Introduced by Assembly Member John A. Perez

February 19, 2010

An act to add Chapter 20 (commencing with Section 42970) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as introduced, John A. Perez. Product stewardship: carpet. The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, 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 require the department, by January 1, 2012, to establish a baseline collection rate for the amount of carpet that is discarded and subsequently collected. The bill would provide a procedure for determining the collection rate for purposes of the bill, commencing January 1, 2013.

The bill would require, by September 30, 2011, a producer or the product stewardship organization created by one or more producers of a carpet to submit a carpet stewardship plan to the department, which would be required to include specified elements, including performance goals as to the collection rate for a compact. By January 1, 2012, the department would be required to review and either approve or disapprove carpet stewardship plans submitted to the department.

The bill would prohibit a producer or retailer, on and after January 1, 2012, from selling a carpet unless the producer or carpet stewardship organization of the carpet has submitted a plan to the department that

is approved by the department. The act would require a producer of carpet to collect the carpet pursuant to the carpet stewardship plan and to meet the performance goals included in the carpet stewardship plan.

Each producer or carpet stewardship organization implementing a carpet stewardship plan would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the carpet stewardship plan and the department would be required to adopt regulations, by January 1, 2012, specifying the information required to be included in the annual carpet stewardship plan report.

A producer or carpet stewardship organization submitting a carpet stewardship plan would be required to pay the department an unspecified fee when submitting the plan for review and approval and to pay an annual administrative fee, determined as an unspecified percentage of the costs of implementing the plan. The bill would provide for the imposition of administrative civil penalties upon a producer who does not comply with the bill’s requirements or a producer or retailer selling carpet in violation of the bill. The bill would create the Carpet Stewardship Account in the existing Integrated Waste Management Fund and would require that the administrative fees be deposited into that account and that the penalties be deposited into the Carpet Stewardship Penalty Subaccount that the bill would create in that account. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the department’s program implementation costs and as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of carpet.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Recycling carpets results in greater green house gas (GHG)
- 4 emission reductions than most other products.
- 5 (b) Carpets accounted for 3.2 percent of waste by volume
- 6 disposed of in California in 2008.
- 7 (c) Despite nationwide and California memoranda of
- 8 understanding to promote carpet recycling, the carpet recycling
- 9 rate has dropped from 4.9 percent in 2007 to 4.3 percent in 2008.

1 (d) The California carpet industry memorandum of
2 understanding targets a recycling rate of between 20 and 25 percent
3 by 2012.

4 (e) Because other types of recycling programs have proven to
5 have limited success, state and regional governments in Europe
6 and Canada have adopted producer responsibility programs to
7 redirect the responsibility for the end-of-life management of
8 discarded hazardous and hard to manage products from local
9 governments and retailers primarily to producers.

10 (f) The former California Integrated Waste Management Board
11 adopted an overall Framework for an Extended Producer
12 Responsibility (EPR) guidance document as a policy priority in
13 January 2008.

14 (g) The program established by this act is intended to reduce
15 costs to local government, to harmonize the state's producer
16 responsibility obligations with other national and international
17 programs, and to enhance the protection of public health and the
18 environment through safer product design, use, and end-of-life
19 management.

20 SEC. 2. Chapter 20 (commencing with Section 42970) is added
21 to Part 3 of Division 30 of the Public Resources Code, to read:

22
23 CHAPTER 20. PRODUCT STEWARDSHIP FOR CARPETS
24

25 42970. For purposes of this chapter, and unless the context
26 otherwise requires, the definitions in this chapter govern the
27 construction of this chapter:

28 (a) "Brand" means a name, symbol, word, or mark that identifies
29 the carpet, rather than its components, and attributes the carpet to
30 the owner or licensee of the brand as the producer.

31 (b) "Carpet" means _____.

32 (c) "Collection rate" means a quantitative measure that
33 establishes the amount of carpet required to be collected by the
34 carpet stewardship system for that carpet by an established date.
35 The collection rate is included as a component of the performance
36 goals for a carpet.

37 (d) "Department" means the Department of Resources Recycling
38 and Recovery.

1 (e) "Performance goal" means the collection rate of carpets and
2 may include, but is not limited to, the reuse and recycling rates
3 established by the carpet stewardship plan for that carpet.

4 (f) "Producer" shall be determined, with regard to a carpet that
5 is sold, offered for sale, or distributed in the state, as meaning one
6 of the following:

7 (1) The person who manufactures the carpet and who sells,
8 offers for sale, or distributes that carpet in the state under that
9 person's own name or brand.

10 (2) If there is no person who sells, offers for sale, or distributes
11 the carpet in the state under the person's own name or brand, the
12 producer of the carpet is the owner or licensee of a trademark or
13 brand under which the carpet is sold or distributed in the state,
14 whether or not the trademark is registered.

15 (3) If there is no person who is a producer of the carpet for
16 purpose of paragraphs (1) and (2), the producer of that carpet is
17 the person who imports the carpet into the state for sale or
18 distribution.

19 (g) "Product goal" means those qualitative or quantitative goals
20 determined by the producer to measure improvements that reduce
21 the life cycle impacts of a carpet.

22 (h) "Product stewardship" means requiring the producer of a
23 carpet, and all other entities involved in the distribution chain of
24 a carpet, to share in the responsibility of reducing the life cycle
25 impact of the carpet and its packaging, including requiring the
26 producer who makes design and marketing decisions for the carpet
27 to bear the primary responsibility for this reduction.

28 (i) "Product stewardship organization" means an organization
29 appointed by one or more producers to act as an agent on behalf
30 of the producer to design, submit, and administer a carpet
31 stewardship plan pursuant to this chapter

32 (j) "Product stewardship plan" or "plan" means a plan written
33 by an individual producer or a carpet stewardship organization,
34 on behalf of one or more producers, that includes all of the
35 information required by Section 42973.

36 (k) "Recycling rate" means a quantitative measure that
37 establishes the amount of a collected carpet that is recycled as
38 compared to the total amount of the carpet that is collected,
39 including the amount of the carpet that is discarded for reuse,
40 energy recovery, or safe disposal.

1 (l) "Reporting period" means the period commencing January
2 1 and ending on December 31 of the same calendar year.

3 (m) "Retailer" means a person that offers new carpet in a retail
4 sale, as defined in Section 6007 of the Revenue and Taxation Code,
5 including a retail sale at retail through any means, including remote
6 offerings such as sales outlets, catalogs, or an Internet Web site.

7 (n) "Reuse rate" means a quantitative measure that establishes
8 the amount of a collected carpet that is reused as compared to the
9 total amount of the covered carpet that is collected, including the
10 amount of the carpet that is discarded by recycling, energy
11 recovery, or safe disposal.

12 (o) "Sell" or "sales" means any transfer of title of a carpet for
13 consideration, including a remote sale conducted through a sale
14 outlet, catalog, or Internet Web site or similar electronic means,
15 but does not include a lease.

16 42971. On or before January 1, 2012, the department shall
17 establish a baseline collection rate for the amount of carpets that
18 are discarded and subsequently collected, based on existing
19 collection data.

20 42972. (a) The collection rate for a carpet shall be determined
21 in the following manner:

22 (1) For the calendar year commencing January 1, 2013, the
23 collection rate shall be 5 percent more than the baseline collection
24 rate determined pursuant to Section 42971.

25 (2) On and after January 1, 2014, the collection rate for each
26 carpet shall increase by no less than 5 percent annually until a 95
27 percent collection rate is reached.

28 (b) A producer may petition the department for an adjustment
29 to the collection rate. The department may grant an adjustment to
30 the collection rate only if the department determines there are
31 documented exigent circumstances that are beyond the control of
32 the producer or carpet stewardship organization.

33 42973. (a) On or before September 30, 2011, a producer or
34 the carpet stewardship organization of a carpet shall submit a carpet
35 stewardship plan to the department. A carpet stewardship
36 organization created pursuant to this section shall be open for
37 participation by all producers of carpet.

38 (b) A producer, group of producers, or carpet stewardship
39 organization shall consult with stakeholders during the
40 development of the carpet stewardship plan, including soliciting

1 stakeholder comments and responding to stakeholder comments
2 prior to submitting the carpet stewardship plan.

3 (c) Each carpet stewardship plan for an identified carpet shall
4 address the environmental impacts of a carpet over the entire life
5 cycle of that carpet, including carpet design, manufacture, and
6 distribution, and the collection, transportation, reuse, recycling,
7 and final disposition of discarded carpet, in accordance with this
8 chapter. The plan shall include, at a minimum, all of the following
9 elements:

10 (1) Contact information for all participating producers.

11 (2) A description of the brands of carpet covered by the plan.

12 (3) Performance goals, including a detailed description of how
13 the performance goals will be achieved and how results will be
14 measured and including both of the following:

15 (A) The collection rate shall be included as a performance goal
16 for a carpet.

17 (B) The reuse rate and recycling rate for that carpet shall be
18 included in the performance goal.

19 (4) An overview of the roles and responsibilities of key players
20 along the distribution chain for that carpet.

21 (5) Financing methods for the carpet stewardship plan.

22 (6) Strategies for managing and reducing the life cycle impacts
23 of the carpet, steps that will be taken to ensure environmentally
24 sound management, and how impacts will be tracked over time to
25 show continual improvement.

26 (7) Education and outreach activities.

27 (8) A description of the consultation process used to consult
28 with affected stakeholders regarding the carpet stewardship plan.

29 (9) A description of product goals, including, but is not limited
30 to, carpet designing and materials content, manufacturing,
31 packaging, distribution, and end-of-life management goals. The
32 product goals shall address the use of virgin material in the
33 manufacture of the carpet, the impact upon, or use of, water or
34 energy by the carpet, the use of, or generation of hazardous
35 substances, by the carpet, the carbon footprint of the carpet, the
36 carpet's longevity, the recycled content of the carpet, and
37 recyclability, where applicable.

38 (10) Procedures for notifying all retailers engaged in the sale
39 of that carpet.

1 42974. (a) On or before January 1, 2012, the department shall
2 review any plan submitted to the department and either approve
3 or disapprove the carpet stewardship plan submitted to the
4 department. If the department does not approve the plan, the
5 department shall notify the producer or organization that submitted
6 the plan and the producer or organization shall revise and resubmit
7 the disapproved carpet stewardship plan within 30 days after
8 receiving the notification.

9 (b) All carpet stewardship plans submitted to the department
10 shall be available to the public on the department's Internet Web
11 site.

12 (c) A producer shall notify the department 30 days before
13 instituting a significant or material change to a carpet stewardship
14 plan.

15 (d) The carpet stewardship plan shall be implemented upon the
16 approval of the department by the producer or the carpet
17 stewardship organization that submitted the plan.

18 42975. On and after January 1, 2012, a producer or retailer
19 shall not offer a carpet for sale in this state or offer a carpet for
20 promotional purposes in this state unless the producer or carpet
21 stewardship organization of the carpet has submitted a carpet
22 stewardship plan to the department pursuant to Section 42973 and
23 the carpet stewardship plan is approved by the department pursuant
24 to Section 42974 and being implemented pursuant to Section
25 42976.

26 42976. A producer of a carpet shall do all of the following
27 when implementing this chapter, including when implementing
28 an approved carpet stewardship plan:

29 (a) Collect the individual carpets to be reused or recycled
30 pursuant to the carpet stewardship plan for that carpet submitted
31 by the producer or carpet organization pursuant to Section 42973
32 and approved by the department pursuant to Section 42974.

33 (b) Meet the performance goals included in the carpet
34 stewardship plan, including achieving the collection rate established
35 pursuant to Section 42973.

36 (c) Provide collection services, in accordance with Section
37 42977, for the carpet that does not charge a fee at the time when
38 the carpet is collected for either recycling or disposal.

39 (d) Pay all administrative and operational costs associated with
40 the carpet stewardship plan, including the costs of collection,

1 transportation, and recycling or disposal, or both, of the carpet,
2 including the amount determined pursuant to Section 42979.

3 (e) Submit the annual report required by Section 42978.

4 42977. A carpet shall be handled and recycled, or, if not
5 feasible to be recycled, disposed of, in accordance with all state
6 and federal laws and regulations and local ordinances and
7 regulations, including, but not limited to, any law, regulation, or
8 ordinance that regulates hazardous waste.

9 42978. (a) On or before January 1, 2012, the department shall
10 adopt regulations specifying the information required to be included
11 in annual carpet stewardship plan reports. Notwithstanding
12 subdivision (b), the department may include, in those regulations,
13 alternative reporting requirements for purposes of those annual
14 reports.

15 (b) Beginning one year after a carpet stewardship plan is
16 approved or no later than January 1, 2013, whichever date is earlier,
17 and every subsequent year thereafter, each producer or stewardship
18 organization implementing a carpet stewardship plan shall prepare
19 and submit to the department an annual report describing the
20 activities carried out pursuant to the carpet stewardship plan during
21 the previous reporting period. The report, unless required otherwise
22 by the department pursuant to the regulations adopted pursuant to
23 subdivision (a), shall include, but is not limited to, all of the
24 following:

25 (1) Whether the producer or carpet stewardship organization,
26 in implementing the plan, attained the performance goals for the
27 carpet, and if the performance goals were not met, what actions
28 the producer or carpet stewardship organization will take during
29 the next reporting period to attain those performance goals.

30 (2) Whether the producer or carpet stewardship organization,
31 in implementing the plan, attained the carpet goals for the carpet,
32 and if the carpet goals were not met, what actions the producer or
33 stewardship organization will take during the next reporting period
34 to achieve those carpet goals.

35 (3) A description of the outreach and education activities
36 undertaken during the reporting period to inform consumers and
37 other stakeholders of the collection opportunities and safe carpet
38 handling described in the carpet stewardship plan.

1 (4) A description of those areas in the state that have been served
2 by the carpet stewardship plan and any barriers to, or opportunities
3 for, increased coverage in the future.

4 (5) A description of the actions undertaken to manage and reduce
5 the life cycle impacts of the carpet.

6 (6) The total cost to implement the carpet stewardship plan and
7 a description of any economic or job impacts to stakeholders.

8 (c) The department shall review a report submitted pursuant to
9 this section and shall approve the report if the department
10 determines the report contains the information required by this
11 section.

12 (d) The department shall make all reports submitted to the
13 department pursuant to this section available to the public on the
14 department's Internet Web site.

15 42979. (a) The producer or carpet stewardship organization
16 submitting a carpet stewardship plan shall pay the department an
17 administrative fee in the amount of ____ dollars (\$____) when the
18 plan is submitted for review and approval and thereafter pay an
19 annual administrative fee of ____ percent of the carpet stewardship
20 program costs as reported under paragraph (6) of subdivision (b)
21 of Section 42978.

22 (b) The total amount of annual fees collected pursuant to this
23 section shall not exceed the amount necessary to recover costs
24 incurred by the department in connection with the administration
25 and enforcement of the requirements of this chapter.

26 42980. (a) The Carpet Stewardship Account and the Carpet
27 Stewardship Penalty Subaccount are hereby established in the
28 Integrated Waste Management Fund.

29 (b) All fees collected pursuant to this chapter shall be deposited
30 in the Carpet Stewardship Account and may be expended by the
31 department, upon appropriation by the Legislature, to cover the
32 department's costs to implement this chapter.

33 (c) All penalties collected pursuant to this chapter shall be
34 deposited in the Carpet Stewardship Penalty Subaccount and may
35 be expended by the department, upon appropriation by the
36 Legislature, to cover the department's costs to implement this
37 article.

38 (d) All funds collected may be expended as incentives to
39 enhance reuse, recyclability, and redesign efforts and to reduce
40 environmental and safety impacts of carpet.

1 42981. (a) If, after holding a public hearing, the department
2 finds that a producer has failed to make a good faith effort to
3 comply with this chapter, including, but not limited to, failing to
4 submit a plan pursuant to Section 42973, the department shall issue
5 a compliance order with a schedule for achieving compliance.

6 (b) If, after issuing an order and schedule for compliance
7 pursuant to subdivision (c), the department finds that the producer
8 has failed to make a good faith effort to comply with this chapter,
9 the department may impose an administrative civil penalty of ten
10 thousand dollars (\$10,000) per day until the producer achieves
11 compliance.

12 (c) For purposes of this section, “good faith effort” means all
13 reasonable and feasible efforts by a producer towards implementing
14 the requirements of this chapter, including, but not limited to,
15 meeting the performance goals specified in the plan.

16 42982. (a) In addition to the penalty specified in Section
17 42981, the department may impose an administrative civil penalty
18 of ten thousand dollars (\$10,000) per day against a producer or
19 retailer who violates Section 42975.

20 (b) Prior to enforcing a penalty pursuant to this section, the
21 department shall issue a compliance order to the producer or retailer
22 selling the carpet allowing 30 days from the date of the compliance
23 order to cease sales of the carpet.

24 42983. (a) The department, or its designee, may inspect, audit,
25 or require and review third-party audits of producers, carpet
26 stewardship organizations, and service providers, including
27 collectors and recyclers, that are utilized to fulfill the requirements
28 of a carpet stewardship plan.

29 (b) For purposes of this section, a “service provider” means a
30 person who is authorized to perform an action to implement the
31 carpet stewardship plan with regard to the collection, recycling,
32 reuse, or disposal of a carpet, but does not include the consumer
33 of the carpet.

34 42984. The department shall adopt regulations for the
35 imposition of administrative civil penalties pursuant to this chapter.

36 42985. This article does not limit, supersede, duplicate, or
37 otherwise conflict with the authority of the Department of Toxic
38 Substances Control under Section 25257.1 of the Health and Safety
39 Code to fully implement Article 14 (commencing with Section
40 25251) of Chapter 6.5 of Division 20 of the Health and Safety

- 1 Code, including the authority of the department to include a carpet
- 2 in its product registry.

O

Introduced by Senator CorbettFebruary 17, 2010

An act to add Article 3 (commencing with Section 42450.1) to Chapter 8 of Part 3 of Division 30 of the Public Resources Code, relating to product stewardship.

LEGISLATIVE COUNSEL'S DIGEST

SB 1100, as introduced, Corbett. Product stewardship: household batteries.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, 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 require the department by January 1, 2012, to establish a baseline collection rate for the amount of household batteries that are discarded and subsequently collected. The bill would provide a procedure for determining the collection rate applicable commencing January 1, 2013.

The bill would require, by September 30, 2011, a producer or the product stewardship organization created by one or more producers of a covered product to submit a product stewardship plan to the department, which would be required to include specified elements, including performance goals and product goals. By January 1, 2012, the department would be required to review and either approve or disapprove the product stewardship plan submitted to the department.

The bill would prohibit a producer or retailer, on and after January 1, 2012, from selling a household battery unless the producer or product stewardship organization of the household battery has submitted a plan

to the department that is approved by the department. The act would require a producer of a household battery to collect the household battery pursuant to the product stewardship plan and to meet the performance goals included in the product stewardship plan.

Each producer or product stewardship organization implementing a product stewardship plan would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the product stewardship plan and the department would be required to adopt regulations, by January 1, 2012, specifying the information required to be included in the annual product stewardship plan report.

A producer or product stewardship organization submitting a product stewardship plan would be required to pay the department an unspecified fee when submitting the plan for review and approval and to pay an annual administrative fee, determined as an unspecified percentage of the costs of implementing the plan. The bill would provide for the imposition of administrative civil penalties upon a producer who does not comply with the bill's requirements or a producer or retailer selling household batteries in violation of the bill. The bill would create the Household Battery Stewardship Account in the existing Integrated Waste Management Fund and would require that the administrative fees be deposited into that account and that the penalties be deposited into the Household Battery Stewardship Penalty Subaccount that the bill would create in that account. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the department's program implementation costs and as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of household batteries.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In early 2006, all household batteries were classified by the
- 4 state as universal waste and prohibited from being disposed of in
- 5 solid waste landfills.
- 6 (b) Effective July 1, 2006, state law prohibited most retailers
- 7 from selling rechargeable batteries in the state unless they have a

1 system in place for collecting used rechargeable batteries from
2 consumers.

3 (c) Approximately 80 percent of batteries sold in this state are
4 alkaline batteries, and are not covered under the retail take-back
5 requirements.

6 (d) Local governments throughout the state are responsible for
7 the collection and management of household batteries, and to
8 manage this hazardous waste, these local governments and
9 taxpayers pay an average of eight hundred dollars (\$800) per ton,
10 or tens of millions of dollars each year.

11 (e) Because other types of recycling programs have proven to
12 have limited success, state and regional governments in Europe
13 and Canada have adopted producer responsibility programs to
14 redirect the responsibility for the end-of-life management of
15 discarded hazardous and hard to manage products from local
16 governments and retailers primarily to producers.

17 (f) The former California Integrated Waste Management Board
18 adopted an overall Framework for an Extended Producer
19 Responsibility (EPR) guidance document as a policy priority in
20 January 2008.

21 (g) The program established by this act is intended to reduce
22 costs to local government, to harmonize the state's producer
23 responsibility obligations with other national and international
24 programs, and to enhance the protection of public health and
25 environment through safer product design, use and end-of-life
26 management.

27 SEC. 2. Article 3 (commencing with Section 42450.1) is added
28 to Chapter 8 of Part 3 of Division 30 of the Public Resources Code,
29 to read:

30

31 Article 3. Product Stewardship for Household Batteries

32

33 42450.1. For purposes of this article, and unless the context
34 otherwise requires, the definitions in this article govern the
35 construction of this article.

36 (a) "Brand" means a name, symbol, word, or mark that identifies
37 a household battery, rather than its components, and attributes the
38 household battery to the owner or licensee of the brand as the
39 producer.

1 (b) "Collection rate" means a quantitative measure that
2 establishes the amount of household batteries required to be
3 collected by the household battery stewardship system for that
4 household battery by an established date. The collection rate is
5 included as a component of the performance goals for a household
6 battery.

7 (c) "Department" means the Department of Resources Recycling
8 and Recovery.

9 (d) "Household battery" has the same meaning as defined in
10 subdivision (c) of Section 42450.

11 (e) "Performance goal" means the collection rate of household
12 batteries and may include, but is not limited to, the reuse and
13 recycling rates established by the household battery stewardship
14 plan for that household battery.

15 (f) "Producer" shall be determined, with regard to a household
16 battery that is sold, offered for sale, or distributed in the state, as
17 meaning one of the following:

18 (1) The person who manufactures the household battery and
19 who sells, offers for sale, or distributes that household battery in
20 the state under that person's own name or brand.

21 (2) If there is no person who sells, offers for sale, or distributes
22 the household battery in the state under the person's own name or
23 brand, the producer of the household battery is the owner or
24 licensee of a trademark or brand under which the household battery
25 is sold or distributed in the state, whether or not the trademark is
26 registered.

27 (3) If there is no person who is a producer of the household
28 battery for purpose of paragraphs (1) and (2), the producer of that
29 household battery is the person who imports the household battery
30 into the state for sale or distribution.

31 (g) "Product stewardship" means requiring the producer of a
32 household battery, and all other entities involved in the distribution
33 chain of a household battery, to share in the responsibility of
34 reducing the life cycle impact of the household battery and its
35 packaging, including requiring the producer who makes design
36 and marketing decisions for the household battery to bear the
37 primary responsibility for this reduction.

38 (k) "Product stewardship organization" means an organization
39 appointed by one or more producers to act as an agent on behalf

1 of the producer to design, submit, and administer a household
2 battery stewardship plan pursuant to this article.

3 (l) “Product stewardship plan” or “plan” means a plan written
4 by an individual producer or a household battery stewardship
5 organization, on behalf of one or more producers, that includes all
6 of the information required by Section 42450.4.

7 (m) “Product goal” means those qualitative or quantitative goals
8 determined by the producer to measure improvements that reduce
9 the life cycle impacts of a household battery.

10 (n) “Recycling rate” means a quantitative measure that
11 establishes the amount of collected household batteries that is
12 recycled as compared to the total amount of household batteries
13 that is collected, including the amount of the household batteries
14 that is discarded for reuse, energy recovery, or safe disposal.

15 (o) “Reuse rate” means a quantitative measure that establishes
16 the amount of collected household batteries that is reused as
17 compared to the total amount of household batteries that is
18 collected, including the amount of household batteries that is
19 discarded by recycling, energy recovery, or safe disposal.

20 (p) “Reporting period” means the period commencing January
21 1 and ending on December 31 of the same calendar year.

22 (q) “Retailer” means a person that offers new household batteries
23 in a retail sale, as defined in Section 6007 of the Revenue and
24 Taxation Code, including a retail sale at retail through any means,
25 including remote offerings such as sales outlets, catalogs, or an
26 Internet Web site.

27 (r) “Sell” or “sales” means any transfer of title of a household
28 battery for consideration, including a remote sale conducted
29 through a sale outlet, catalog, or Internet Web site or similar
30 electronic means, but does not include a lease.

31 42450.2. On or before January 1, 2012, the department shall
32 establish a baseline collection rate for the amount of household
33 batteries that is discarded and subsequently collected, based on
34 existing collection data.

35 42450.3. (a) The collection rate for a household battery shall
36 be determined in the following manner:

37 (1) For the calendar year commencing January 1, 2013, the
38 collection rate shall be 5 percent more than the baseline collection
39 rate determined pursuant to Section 42450.2.

1 (2) On and after January 1, 2014, the collection rate for
2 household batteries shall increase by no less than 5 percent annually
3 until a 95 percent collection rate is reached.

4 (b) A producer may petition the department for an adjustment
5 to the collection rate. The department may grant an adjustment to
6 the collection rate only if the department determines there are
7 documented exigent circumstances that are beyond the control of
8 the producer or household battery stewardship organization.

9 42450.4. (a) On or before September 30, 2011, a producer or
10 the household battery stewardship organization of a household
11 battery shall submit a household battery stewardship plan to the
12 department. A household battery stewardship organization created
13 pursuant to this section shall be open for participation by all
14 producers of a household battery.

15 (b) A producer, group of producers, or household battery
16 stewardship organization shall consult with stakeholders during
17 the development of the household battery stewardship plan,
18 including soliciting stakeholder comments and responding to
19 stakeholder comments prior to submitting the household battery
20 stewardship plan.

21 (c) Each household battery stewardship plan for a covered
22 individual household battery shall address the environmental
23 impacts of a household battery over the entire life cycle of that
24 household battery, including household battery design,
25 manufacture, and distribution, and the collection, transportation,
26 reuse, recycling, and final disposition of discarded household
27 batteries, in accordance with this article. The plan shall include,
28 at a minimum, all of the following elements:

29 (1) Contact information for all participating producers.

30 (2) A description of the brands of the household batteries
31 covered by the plan.

32 (3) Performance goals, including a detailed description of how
33 the performance goals will be achieved and how results will be
34 measured and including both of the following:

35 (A) The collection rate shall be included as a performance goal
36 for a household battery.

37 (B) The reuse rate and recycling rate for that household battery
38 shall be included in the performance goal.

39 (4) An overview of the roles and responsibilities of key players
40 along the distribution chain for that household battery.

1 (5) Financing methods for the household battery stewardship
2 plan.

3 (6) Strategies for managing and reducing the life cycle impacts
4 of the household battery, steps that will be taken to ensure
5 environmentally sound management, and how impacts will be
6 tracked over time to show continual improvement.

7 (7) Education and outreach activities.

8 (8) A description of the consultation process used to consult
9 with affected stakeholders regarding the household battery
10 stewardship plan.

11 (9) A description of product goals, including, but is not limited
12 to, household battery designing and materials content,
13 manufacturing, packaging, distribution, and end-of-life
14 management goals. The product goals shall address the use of
15 virgin material in the manufacture of the household battery, the
16 impact upon, or use of, water or energy by the household battery,
17 the use of, or generation of hazardous substances, by the household
18 battery, the carbon footprint of the household battery, the household
19 battery's longevity, the recycled content of the household battery,
20 and recyclability, where applicable.

21 (10) Procedures for notifying all retailers engaged in the sale
22 of that household battery.

23 42450.5. (a) On or before January 1, 2012, the department
24 shall review any plan submitted to the department and either
25 approve or disapprove the household battery stewardship plan
26 submitted to the department. If the department does not approve
27 the plan, the department shall notify the producer or organization
28 that submitted the plan and the producer or organization shall
29 revise and resubmit the disapproved household battery stewardship
30 plan within 30 days after receiving the notification.

31 (b) All household battery stewardship plans submitted to the
32 department shall be available to the public on the department's
33 Internet Web site.

34 (c) A producer shall notify the department 30 days before
35 instituting a significant or material change to a household battery
36 stewardship plan.

37 (d) The household battery stewardship plan shall be implemented
38 upon the approval of the department by the producer or the
39 household battery stewardship organization that submitted the
40 plan.

1 42450.6. On and after January 1, 2012, a producer or retailer
2 shall not offer a household battery for sale in this state or offer a
3 household battery for promotional purposes in this state unless the
4 producer or household battery stewardship organization of the
5 household battery has submitted a household battery stewardship
6 plan to the department pursuant to Section 42450.4 and the
7 household battery stewardship plan is approved by the department
8 pursuant to Section 42450.5 and is being implemented pursuant
9 to Section 42450.7.

10 42450.7. A producer of a household battery shall do all of the
11 following when implementing this chapter, including when
12 implementing an approved household battery stewardship plan:

13 (a) Collect the individual household battery to be reused or
14 recycled pursuant to the household battery stewardship plan for
15 the household battery submitted by the producer or household
16 battery stewardship organization pursuant to Section 42450.4, and
17 approved by the department pursuant to Section 42450.5.

18 (b) Meet the performance goals included in household battery
19 stewardship plan, including achieving the collection rate established
20 pursuant to Section 42450.3.

21 (c) Provide collection services, in accordance with Section
22 42450.8, for the household battery that does not charge a fee at
23 the time when the household battery is collected for either recycling
24 or disposal.

25 (d) Pay all administrative and operational costs associated with
26 the household battery stewardship plan, including the costs of
27 collection, transportation, and recycling or disposal, or both, of
28 the household battery, including the amount determined pursuant
29 to Section 42450.10.

30 (e) Submit the annual report required by Section 42450.9.

31 42450.8. A household battery shall be handled and recycled,
32 or, if not feasible to be recycled, disposed of, in accordance with
33 all state and federal laws and regulations and local ordinances and
34 regulations, including, but not limited to, any law, regulation, or
35 ordinance that regulates hazardous waste.

36 42450.9. (a) On or before January 1, 2012, the department
37 shall adopt regulations specifying the information required to be
38 included in annual household battery stewardship plan reports.
39 Notwithstanding subdivision (b), the department may include, in

1 those regulations, alternative reporting requirements for purposes
2 of those annual reports.

3 (b) Beginning one year after a household battery stewardship
4 plan is approved or no later than January 1, 2013, whichever date
5 is earlier, and every subsequent year thereafter, each producer or
6 stewardship organization implementing a household battery
7 stewardship plan shall prepare and submit to the department an
8 annual report describing the activities carried out pursuant to the
9 household battery stewardship plan during the previous reporting
10 period. The report shall include all of the following, unless required
11 otherwise by the department pursuant to the regulations adopted
12 pursuant of subdivision (a), including, but not limited to, all of the
13 following:

14 (1) Whether the producer or household battery stewardship
15 organization, in implementing the plan, attained the performance
16 goals for the household battery, and if the performance goals were
17 not met, what actions the producer or household battery
18 stewardship organization will take during the next reporting period
19 to attain those performance goals.

20 (2) Whether the producer or household battery stewardship
21 organization, in implementing the plan, attained the household
22 battery goals for the household battery, and if the household battery
23 goals were not met, what actions the producer or stewardship
24 organization will take during the next reporting period to achieve
25 those household battery goals.

26 (3) A description of the outreach and education activities
27 undertaken during the reporting period to inform consumers and
28 other stakeholders of the collection opportunities and safe
29 household battery handling described in the household battery
30 stewardship plan.

31 (4) A description of those areas in the state that have been served
32 by the household battery stewardship plan and any barriers to, or
33 opportunities for, increased coverage in the future.

34 (5) A description of the actions undertaken to manage and reduce
35 the life cycle impacts of the household battery.

36 (6) The total cost to implement the household battery
37 stewardship plan and a description of any economic or job impacts
38 to stakeholders.

39 (c) The department shall review a report submitted pursuant to
40 this section and shall approve the report if the department

1 determines the report contains the information required by this
2 section.

3 (d) The department shall make all reports submitted to the
4 department pursuant to this section available to the public on the
5 department's Internet Web site.

6 42450.10. (a) The producer or household battery stewardship
7 organization submitting a household battery stewardship plan shall
8 pay the department an administrative fee in the amount of
9 _____ dollars (\$_____) when the plan is submitted for review and
10 approval and thereafter pay an annual administrative fee of
11 _____ percent of the household battery stewardship program costs
12 as reported under paragraph (6) of subdivision (b) of Section
13 42450.9.

14 (b) The total amount of annual fees collected pursuant to this
15 section shall not exceed the amount necessary to recover costs
16 incurred by the department in connection with the administration
17 and enforcement of the requirements of this article.

18 42450.11. (a) The Household Battery Stewardship Account
19 and the Household Battery Stewardship Penalty Subaccount are
20 hereby established in the Integrated Waste Management Fund.

21 (b) All fees collected pursuant to this article shall be deposited
22 in the Household Battery Stewardship Account and may be
23 expended by the department, upon appropriation by the Legislature,
24 to cover the department's costs to implement this article.

25 (c) All penalties collected pursuant to this article shall be
26 deposited in the Household Battery Stewardship Penalty
27 Subaccount and may be expended by the department, upon
28 appropriation by the Legislature, to cover the department's costs
29 to implement this article.

30 (d) All funds collected may be expended as incentives to
31 enhance reuse, recyclability, and redesign efforts and to reduce
32 environmental and safety impacts of household batteries.

33 42450.12. (a) If, after holding a public hearing, the department
34 finds that a producer has failed to make a good faith effort to
35 comply with this article, including, but not limited to, failing to
36 submit a plan pursuant to Section 42450.4, the department shall
37 issue a compliance order with a schedule for achieving compliance.

38 (b) If, after issuing an order and schedule for compliance
39 pursuant to subdivision (c), the department finds that the producer
40 has failed to make a good faith effort to comply with this article,

1 the department may impose an administrative civil penalty of ten
2 thousand dollars (\$10,000) per day until the producer achieves
3 compliance.

4 (c) For purposes of this section, “good faith effort” means all
5 reasonable and feasible efforts to by a producer towards
6 implementing the requirements of this article, including, but not
7 limited to, meeting the performance goals specified in the plan.

8 42450.13. (a) In addition to the penalty specified in Section
9 42450.12, the department may impose an administrative civil
10 penalty of ten thousand dollars (\$10,000) per day against a
11 producer or retailer who violates Section 42450.6.

12 (b) Prior to enforcing any penalty pursuant to this section, the
13 department shall issue a compliance order to the producer or retailer
14 selling the household battery allowing 30 days from the date of
15 the compliance order to cease sales of the household battery.

16 42450.14. (a) The department, or its designee, may inspect,
17 audit, or require and review third-party audits of producers,
18 household battery stewardship organizations, and service providers,
19 including collectors and recyclers, that are utilized to fulfill the
20 requirements of a household battery stewardship plan.

21 (b) For purposes of this section, a “service provider” means any
22 person who is authorized to perform an action to implement the
23 household battery stewardship plan with regard to the collection,
24 recycling, reuse, or disposal of a household battery, but does not
25 include the consumer of the household battery.

26 42450.15. The department shall adopt regulations for the
27 imposition of administrative civil penalties pursuant to this article.

28 42450.16. This article does not limit, supersede, duplicate, or
29 otherwise conflict with the authority of the Department of Toxic
30 Substances Control under Section 25257.1 of the Health and Safety
31 Code to fully implement Article 14 (commencing with Section
32 25251) of Chapter 6.5 of Division 20 of the Health and Safety
33 Code, including the authority of the department to include
34 household batteries in its household battery registry.

