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OAKLAND

# CITY OF OAKLAND

## AGENDA REPORT

2010 MAY 13 PM 1:43

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Public Works Agency  
DATE: May 27, 2010

**RE: Report And Five Resolutions To Support Five California Legislative Bills  
Establishing Recycling And Disposal Requirements For Product Manufacturers  
(Extended Producer Responsibility -EPR):**

**Resolution To Support California Senate Bill 1100 Which Will Require  
Manufacturers To Create, Fund And Operate A Program To Recycle  
And/Or Dispose Of Household Batteries They Sell In California After Their  
Useful Life**

**Resolution To Support California Assembly Bill 1343 Which Will Require  
Manufacturers To Create, Fund And Operate A Program To Recycle  
And/Or Dispose Of Architectural Paint They Sell In California After Its  
Useful Life**

**Resolution To Support California Assembly Bill 2139 Which Will Require  
Manufacturers To Create, Fund And Operate A Program To Recycle  
And/Or Dispose Of Household Medical Needles, Household Pesticides, And  
Household Single-Use Butane Containers They Sell In California After Their  
Useful Life**

**Resolution To Support California Assembly Bill 2176 Which Will Require  
Manufacturers To Create, Fund And Operate A Program To Recycle  
And/Or Dispose Of Mercury-Containing Lamps They Sell In California  
After Their Useful Life**

**Resolution To Support California Assembly Bill 2398 Which Will Require  
Manufacturers To Create, Fund And Operate A Program To Recycle  
And/Or Dispose Of Carpet They Sell In California After Its Useful Life**

### SUMMARY

Council has adopted the Extended Producer Responsibility (EPR) policy which supports statewide requirements for manufacturers to recycle and/or dispose of products that are difficult or costly to recycle, or are banned from landfill disposal. The five bills referenced above would establish new EPR requirements requiring manufacturers to create, fund and operate recycling and/or disposal programs for a variety of such products. Individual Bill Analyses are attached. Staff has prepared resolutions supporting each of these bills.

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**FISCAL IMPACT**

There is no fiscal impact from supporting these five bills.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the City Council approve the Resolutions supporting these five bills.

Respectfully submitted,

  
\_\_\_\_\_  
Vitaly B. Troyan, P.E.  
Interim Director, Public Works Agency

Reviewed by:  
Brooke A. Levin, Assistant Director

Reviewed by:  
Susan Kattchee, Environmental Services Manager

Prepared by:  
Peter Slote, Recycling Specialist  
Environmental Services Division

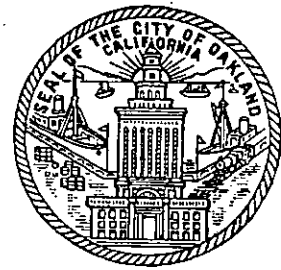
APPROVED AND FORWARDED TO THE  
RULES AND LEGISLATION COMMITTEE:

  
\_\_\_\_\_  
Office of the City Administrator

Item: \_\_\_\_\_  
Rules And Legislation Committee  
May 27, 2010

# CITY OF OAKLAND

## BILL ANALYSIS



**Date:** May 27, 2010

**Bill Number:** SB 1100

**Bill Author:** Corbett

### DEPARTMENT INFORMATION

**Contact:** Mark Gagliardi

**Department:** Public Works Agency, Facilities and Environment

**Telephone:** 238-6262

**FAX #** 238-7286

**E-mail:** mgagliardi@oaklandnet.com

**RECOMMENDED POSITION:** Support

### Summary of the Bill

SB 1100 would require manufacturers of household batteries to create, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life management of household batteries that they sell in California. It would require, by September 30, 2011, manufacturers of household batteries to submit to the Department of Resources Recycling and Recovery (CalRecycle) a plan that includes a description of how the manufacturer will provide collection, transport, recycling and or disposal services for household batteries they sell in California to meet performance goals for achieving specified recovery rates. The plan would be reviewed, approved and monitored by CalRecycle. The producer will be required to submit an annual report describing the activities carried out to implement the plan.

Current state law classifies household batteries as Universal Waste, and bans them from disposal as solid waste. However, the statewide disposal ban does not allocate resources to provide consumers with convenient opportunities for safe and lawful disposal of household batteries, and therefore local governments and solid waste ratepayers must pay for collection of household batteries through household hazardous waste collection programs. Yet these collection programs capture less than 10% of household batteries discarded statewide, and most household batteries end up disposed illegally as solid waste. SB 1100 would shift costs for battery collection from local governments and ratepayers to manufacturers of household batteries, and require that specific recovery goals be achieved: 50% starting in 2014, 70% starting in 2017, and eventually 95%.

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### Positive Factors for Oakland

SB 1100 would result in increased, convenient opportunities for Oakland residents and businesses to safely and legally dispose of household batteries. It would reduce the amount of illegally disposed household batteries and the fiscal and environmental costs associated with this activity. It would also relieve Alameda County Household Hazardous Waste facilities of the cost burden of managing household batteries, costs which are funded by Oakland solid waste collection rate payers.

Currently, Oakland residents and businesses may dispose of household batteries at the Alameda County Household Hazardous facility, and at Oakland public libraries and City office buildings. Additionally, Oakland residents may set out batteries for recycling in a sealed plastic bag on top of their garbage carts. SB 1100 would expand the scope of safe disposal options by requiring manufacturers to create and implement programs for safe and convenient collection and disposal options.

SB 1100 would create an EPR program that is consistent with the City Council intention to support EPR initiatives and statewide legislation that holds manufacturers responsible for providing proper and safe disposal for their products. SB 1100 would advance this goal by requiring the producers that make and sell household batteries to create recovery programs that meet specific performance goals through the plans submitted to CalRecycle.

### Negative Factors for Oakland

None known.

### PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or**  **None** (do not review with City Council, position not required)

**Known support:**

California Association of Environmental Health Administrators  
California Product Stewardship Council  
California State Association of Counties  
Californians Against Waste  
Central Costa County Sanitary District  
Central Contra Costa Solid Waste Authority  
Humboldt Waste Management Authority  
League of California Cities  
Marin County Board of Supervisors,  
Napa County  
Napa Recycling and Waste Services  
City of Needles  
Raw Materials Company  
City of Riverside  
Regional Council of Rural Counties  
City and County of San Francisco  
City of San Joaquin  
Santa Clara Board of Supervisors  
Sierra Club California  
City of Ventura

**Known Opposition:**

California Chamber of Commerce  
California Manufacturers and Technology Association  
Consumer Specialty Products Association  
Grocery Manufacturers of America  
National Electrical Manufacturers Association  
Advanced Medical Technology Association

**Attach bill text and state/federal legislative committee analysis, if available.**

# Senate Bill 1100

## The Battery Stewardship Act

Author - Senator Ellen M. Corbett

### Summary

Senate Bill 1100 will require battery manufacturers to create and institute stewardship plans to deal with the end of life for their products.

### Problem

In early 2006 all household batteries were classified in California as Universal Waste and banned from solid waste landfills because they are harmful to our planet. That's good news for the environment. However, it can be difficult for consumers to find a place to recycle used batteries.

While current law, AB 1125 (2006), requires retailers to take back rechargeable batteries, non-rechargeable batteries account for 80 percent of batteries sold in California.

According to a California report, more than 500 million batteries are sold each year in California and that number is expected to rise. Today, it is estimated that only one-half of one percent of used batteries are recycled through local government household hazardous waste programs.

To manage this toxic waste, local governments and taxpayers pay an average of \$800 per ton, which amounts to tens of millions of dollars each year.

Battery manufacturers have no incentive to be concerned about how much it costs taxpayers to properly and safely dispose of their products. Stewardship will ensure that the cost for end of life management is included in the product price, not a burden to the general taxpayers or garbage ratepayers.

### Solution

The California Integrated Waste Management Board adopted an overall Framework for an Extended Producer Responsibility (EPR) as a policy priority in January 2008.

Assembly Bill 2347 (2008) established California's first EPR program to manage mercury thermostats. Both Europe and Canada have successful EPR programs for household batteries.

EPR requires manufacturers to create their own product stewardship plans. The plans give flexibility to producers on how to deal with the end of life for their products while harmonizing California's recycling efforts with other national and international programs. Product stewardship will not only make recycling more convenient for consumers it will also create incentives for manufacturers to design safer products that have less environmental impacts.

### Battery Stewardship

SB 1100 will require battery manufacturers to design, fund and operate a stewardship program to properly manage batteries in order to sell their products in California. SB 1100 will also require battery manufacturers to meet collection goals each year and report data to the Department of Resources, Recycling and Recovery who will oversee the implementation of each manufacturer's stewardship plan.

SB 1100 will help local governments' bottom lines by saving tax-payer money used to manage toxic battery waste. It will also create green jobs recycling and collecting batteries. In addition, battery stewardship will help California's environment by ensuring that battery waste is properly managed.

### Support

StopWaste.Org (Sponsor)  
Californians Against Waste  
California Product Stewardship Council  
California State Association of Counties  
Humboldt Waste Management Authority  
Marin Sanitary Service

Contacts: Michael Jarred, Senator Corbett's Office (916) 651-4010  
Justin Malan, StopWaste.Org Legislative Advocate, (916) 448-1015

AMENDED IN SENATE APRIL 22, 2010

AMENDED IN SENATE MARCH 25, 2010

**SENATE BILL**

**No. 1100**

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**Introduced by Senator Corbett**

February 17, 2010

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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 amended, 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.

The bill would require, by September 30, 2011, a producer or the ~~product~~ *household battery* stewardship organization created by one or more producers of a ~~covered product~~ *household battery* to submit a ~~product~~ *household battery* stewardship plan to the department, which would be required to include specified elements, including product goals and a collection rate for the household batteries subject to the plan, calculated in a specified ~~following~~ manner. *The bill would allow a registered hazardous waste transporter to elect to submit a household battery stewardship plan to the department on behalf of one or more producers and would require a hazardous waste transporter making that election to comply with the provisions of the bill applicable to a household battery stewardship organization.* The department would be

required to review a ~~product~~ *household battery* stewardship plan submitted to the department and deem the plan either complete or incomplete within 45 days after receipt.

The bill would prohibit a producer, wholesaler, or retailer, on and after January 1, 2012, from selling a household battery unless the plan for that battery is deemed ~~completed~~ *complete* by the department. The act would require a producer ~~of a~~ *or the* household battery *stewardship organization* to implement the household battery program pursuant to the ~~product~~ *household battery* stewardship plan, including achieving the collection rate.

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

A producer or ~~product~~ *household battery* stewardship organization submitting a ~~product~~ *household battery* stewardship plan would be required to pay the department ~~an unspecified fee~~ *a plan review fee, as determined by the department*, when submitting the plan ~~for review and approval to the department~~ and to pay an ~~annual unspecified administrative fee, as determined by the department, when submitting the annual report~~. The bill would provide for the imposition of administrative civil penalties upon a producer that does not comply with the bill's requirements or a ~~producer~~, wholesaler, 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 *would authorize all funds collected or received by the department under the program, except for the fees, to be expended* 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. Under state law, "household batteries" means  
6 batteries made of mercury, alkaline, carbon-zinc, nickel-cadmium,  
7 and other batteries typically generated as household waste,  
8 including, but not limited to, batteries used in hearing aids,  
9 cameras, watches, computers, calculators, flashlights, lanterns,  
10 standby and emergency lighting, portable radio and television sets,  
11 meters, toys, and clocks, but excluding lead-acid batteries *and*  
12 *batteries that are sold in a "covered electronic device," as defined*  
13 *in Section 42463 of the Public Resources Code.*

14 (b) Effective July 1, 2006, state law prohibited most retailers  
15 from selling rechargeable batteries in the state unless they have a  
16 system in place for collecting used rechargeable batteries from  
17 consumers.

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

21 (d) Local governments throughout the state are responsible for  
22 the collection and management of household batteries, and to  
23 manage this hazardous waste, these local governments and  
24 ~~taxpayers pay an average of eight hundred dollars (\$800) per ton,~~  
25 *taxpayers pay a range of between eight hundred dollars (\$800)*  
26 *per ton to two thousand seven hundred dollars (\$2,700) per ton,*  
27 or tens of millions of dollars each year.

28 (e) Because other types of recycling programs have proven to  
29 have limited success, state and regional governments in Europe  
30 and Canada have adopted producer responsibility programs to  
31 redirect the responsibility for the end-of-life management of  
32 discarded hazardous and ~~hard-to-manage~~ *hard-to-manage* products  
33 from local governments and retailers primarily to producers.

34 (f) After many public hearings and discussions, the former  
35 California Integrated Waste Management Board adopted an overall  
36 Framework for an Extended Producer Responsibility (EPR)  
37 guidance document as a policy priority in January 2008.

1 (g) The program established by this act is intended to reduce  
2 costs to local government, to harmonize the state's producer  
3 responsibility obligations with other national and international  
4 programs, and to enhance the protection of public health and  
5 environment through safer product design, use, and end-of-life  
6 management.

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

10  
11 Article 3. Product Stewardship for Household Batteries  
12

13 42450.1. For purposes of this article, and unless the context  
14 otherwise requires, the definitions in this article govern the  
15 construction of this article.

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

20 (b) "Collection rate" means a quantitative measure established  
21 in each household battery stewardship plan that establishes the  
22 amount of household batteries required to be collected by the  
23 household battery stewardship system for that household battery  
24 by an established date. The collection rate is included as a  
25 component of the product goals for a household battery. *The*  
26 *collection rate shall be calculated by weight.*

27 (c) "Department" means the Department of Resources Recycling  
28 and Recovery.

29 (d) "Household battery" has the same meaning as defined in  
30 subdivision (c) of Section 42450, *but shall not include a battery*  
31 *that is sold in a "covered electronic device," as defined in Section*  
32 *42463.*

33 (e) "Household battery stewardship organization" means an  
34 organization appointed by one or more producers to act as an agent  
35 on behalf of the producer to design, submit, and administer a  
36 household battery stewardship plan pursuant to this article.

37 (f) "Household battery stewardship plan" or "plan" means a  
38 plan written by an individual producer ~~or~~, a household battery  
39 stewardship organization, *or a hazardous waste transporter*  
40 *registered pursuant to Section 25163 of the Health and Safety*

1 *Code*, on behalf of one or more producers, that includes all of the  
2 information required by Section 42450.2.

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

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

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

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

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

26 (i) "Product goal" means those qualitative or quantitative goals  
27 determined by the producer to address and measure source  
28 reduction, ~~design~~, material content, packaging, and end-of-life  
29 management.

30 (j) "Program" means the system for the collection,  
31 transportation, recycling, and disposal of household batteries  
32 pursuant to a completed household battery stewardship plan that  
33 is financed and managed or provided by an individual producer,  
34 ~~or~~ collectively by one or more producers *or by a hazardous waste*  
35 *transporter pursuant to paragraph (2) of subdivision (a) of Section*  
36 *42450.2.*

37 (k) "Recycling rate" means a quantitative measure that  
38 establishes the amount of collected household batteries that is  
39 recycled as compared to the total amount of household batteries

1 that is collected, including the amount of the household batteries  
2 that is discarded for reuse, energy recovery, or safe disposal.

3 (l) "Reuse rate" means a quantitative measure that establishes  
4 the amount of collected household batteries that is reused as  
5 compared to the total amount of household batteries that is  
6 collected, including the amount of household batteries that is  
7 discarded by recycling, energy recovery, or safe disposal.

8 (m) "Reporting period" means the period commencing January  
9 1 and ending on December 31 of the same calendar year.

10 (n) "Retailer" means a person that offers new household batteries  
11 in a retail sale, as defined in Section 6007 of the Revenue and  
12 Taxation Code, including a retail sale at retail through any means,  
13 including remote offerings such as sales outlets, catalogs, or an  
14 Internet Web site.

15 (o) "Sell" or "sales" means any transfer of title of a household  
16 battery for consideration, including a remote sale conducted  
17 through a sale outlet, catalog, or Internet Web site or similar  
18 electronic means, but does not include a lease.

19 (p) "Wholesaler" means a person that offers new household  
20 batteries for sale in this state in a sale that is not a retail sale, as  
21 defined in Section 6007 of the Revenue and Taxation Code, and  
22 for which the household battery is intended to be resold.

23 42450.2. (a) (1) On or before September 30, 2011, a producer  
24 or the household battery stewardship organization of a household  
25 battery shall submit a household battery stewardship plan to the  
26 department.

27 (2) *A hazardous waste transporter registered pursuant to Section*  
28 *25163 of the Health and Safety Code may elect to submit a*  
29 *household battery stewardship plan to the department on behalf*  
30 *of one or more producers, and, if so, the hazardous waste*  
31 *transporter shall submit the household battery stewardship plan*  
32 *to the department on or before September 30, 2011, and shall*  
33 *comply with the provisions of this article that apply to a household*  
34 *battery stewardship organization, including, but not limited to,*  
35 *payment of the fees specified in Section 42450.10.*

36 (b) A producer, group of producers, or household battery  
37 stewardship organization shall consult with stakeholders during  
38 the development of the household battery stewardship plan,  
39 including soliciting stakeholder comments and responding to

1 stakeholder comments prior to submitting the household battery  
2 stewardship plan.

3 (c) Each household battery stewardship plan shall include, at a  
4 minimum, all of the following elements:

5 (1) Contact information for all participating producers.

6 (2) The collection rate for the household batteries subject to the  
7 plan, which shall be calculated in the following manner, except as  
8 provided in Section 42450.4:

9 (A) For the calendar year commencing January 1, 2014, the  
10 collection rate shall be 50 percent of the household batteries sold  
11 by the producers subject to the plan during the previous calendar  
12 year.

13 (B) On and after January 1, 2017, the collection rate shall be  
14 70 percent of the household batteries sold by the producers subject  
15 to the plan during the previous calendar year.

16 (C) The plan shall have a target of achieving a ~~95~~-percent  
17 ~~95-percent~~ collection rate.

18 (3) A description containing all of the following elements:

19 (A) Brands of the household batteries covered by the plan.

20 (B) How the product goals will be achieved.

21 (C) The annual schedule for achievement of the collection rate.

22 (D) Convenient collection opportunities for consumers in all  
23 counties of the state.

24 (E) Reuse rate and recycling rate for household batteries.

25 (F) Roles and responsibilities of key players along the  
26 distribution chain.

27 (G) Procedures to be used for notifying retailers and wholesalers  
28 of the program.

29 *(H) How existing collection points and programs can be  
30 identified and maximized to achieve the required collection rates.*

31 (4) Financing method selected to sustainably fund the  
32 implementation of the plan.

33 (5) Education and outreach activities to maximize collection  
34 rates.

35 (6) A producer or ~~product~~ household battery stewardship  
36 organization shall contact cities, counties, districts, and regional  
37 agencies, in whose jurisdictions the program will be implemented,  
38 to do either, or both, of the following:

39 ~~(A) Enter into an agreement to reimburse the local public agency  
40 for the cost of collecting household batteries.~~

1 (A) Reimburse the local public agency for the mutually agreed  
2 upon cost of collecting household batteries.

3 (B) Provide the local public agency with the location, hours,  
4 and contact information for the convenient collection points for  
5 household batteries that are located within the county where the  
6 local agency is located and are consistent with the plan.

7 42450.3. (a) A household battery stewardship program shall  
8 be considered in compliance with this article only if it achieves  
9 the collection rate specified in a plan that has been deemed  
10 complete by the department pursuant to Section 42450.5.

11 (b) If a program achieves a collection rate of 95 percent, the  
12 producer or household battery stewardship organization shall not  
13 be required to pay the annual fee imposed pursuant to subdivision  
14 (a) (b) of Section 42450.10.

15 42450.4. A producer may petition the department for an  
16 adjustment to the collection rate. The department may grant an  
17 adjustment to the collection rate only if the department determines  
18 there are documented exigent circumstances that are beyond the  
19 control of the producer or household battery stewardship  
20 organization.

21 42450.5. (a) The department shall review a plan within 45  
22 days after the date the plan is received and either deem the plan  
23 complete or incomplete. If the department does not deem the plan  
24 complete, the department shall notify the producer or organization  
25 that submitted the plan of the deficiencies and the producer or  
26 organization shall revise and resubmit the plan within 45 days after  
27 receiving the notification. If the department deems the plan  
28 complete, the department shall, within 45 days after receipt, notify  
29 the producer or organization that the submitted plan is complete.

30 (b) The department shall make all household battery stewardship  
31 plans submitted to the department available to the public on the  
32 department's Internet Web site.

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

36 (d) On or before July 1, 2012, and on or before July 1 annually  
37 thereafter, the department shall post on its Internet Web site a  
38 listing of the brands of household batteries for which the producer  
39 is in compliance with this article.

1 42450.6. On and after January 1, 2012, a producer, wholesaler,  
2 or retailer shall not offer a household battery for sale in this state  
3 or offer a household battery for promotional purposes in this state  
4 unless ~~the~~ *one of the following applies:*

5 (a) *The plan submitted by the producer or household battery*  
6 *stewardship organization of that household battery has been*  
7 *deemed complete by the department pursuant to Section 42450.5.*

8 (b) *A plan submitted by a hazardous waste transporter on behalf*  
9 *of the producer of that household battery pursuant to paragraph*  
10 *(2) of subdivision (a) of Section 42450.2 is deemed complete by*  
11 *the department.*

12 42450.7. Upon receiving notification from the department  
13 pursuant to Section 42450.5 that a plan is complete, the producer  
14 or the household battery stewardship organization shall do all of  
15 the following:

16 (a) Implement the plan, including, but not limited to, achieving  
17 the collection rate specified in the plan.

18 (b) Pay the administrative fees imposed pursuant to subdivision  
19 (a) (b) of Section 42450.10.

20 (c) Submit the annual report required by Section 42450.9.

21 42450.8. A wholesaler or a retailer that distributes or sells  
22 household batteries shall monitor the department's Internet Web  
23 site to determine if the sale of a producer's household batteries is  
24 in compliance with this article.

25 42450.9. (a) On or before April 1, 2013, and every subsequent  
26 year thereafter, each producer or *household battery* stewardship  
27 organization implementing a plan shall prepare and submit to the  
28 department an annual report describing the activities carried out  
29 pursuant to the plan during the previous calendar year. The annual  
30 report shall include, but is not limited to, all of the following:

31 (1) The extent to which each element of the plan specified in  
32 subdivision (c) of Section 42450.2 is attained, including, but not  
33 limited to, achieving the collection rate specified in the plan.

34 (2) The actions that the producer will take during the next  
35 reporting period to meet the product goals specified in the plan  
36 that have not been met.

37 (3) A report of the total sales data for household batteries sold  
38 in the state for the previous calendar year.

39 (b) The department shall review an annual report submitted  
40 pursuant to this section and shall deem it complete if the

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

3 (c) If the department does not act on a report within 45 days of  
4 receipt, the report shall be deemed to be complete.

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

8 (e) If the collection rate for the household batteries subject to  
9 the plan meets the collection rate specified in subdivision (b) of  
10 Section 42450.3, the report shall be submitted once every two  
11 years.

12 ~~42450.10. (a) The producer or household battery stewardship~~  
13 ~~organization submitting a household battery stewardship plan shall~~  
14 ~~pay the department an administrative fee in the amount of~~  
15 ~~\_\_\_\_\_ dollars (\$\_\_\_\_\_) when the plan is submitted for review and~~  
16 ~~approval and thereafter pay an annual administrative fee of~~  
17 ~~\_\_\_\_\_ dollars (\$\_\_\_\_\_). The department shall adjust the amount of~~  
18 ~~these fees every two years to reflect increases or decreases in the~~  
19 ~~cost of living during the prior two calendar years, as measured by~~  
20 ~~the Consumer Price Index issued by the Department of Industrial~~  
21 ~~Relations or by a successor agency. If~~

22 *42450.10. (a) (1) A producer or household battery stewardship*  
23 *organization that submits a battery stewardship plan to the*  
24 *department shall pay a plan review fee to the department pursuant*  
25 *to this subdivision.*

26 *(2) The department shall set the plan review fee at an amount*  
27 *so that the total amount of plan review fees received by the*  
28 *department is adequate to cover the department's full costs of*  
29 *reviewing and acting upon the plan. The department may establish*  
30 *a variable plan review fee based on relevant factors, including,*  
31 *but not limited to, the proportion of household batteries produced*  
32 *by the feepayer as compared to the total amount of batteries*  
33 *produced by all producers or household battery stewardship*  
34 *organizations submitting a household battery stewardship plan.*

35 *(3) The fee shall be due to the department upon submittal of the*  
36 *plan.*

37 *(b) (1) Except as provided in paragraph (4), a producer or*  
38 *household battery stewardship organization required to submit*  
39 *an annual report pursuant to this article shall pay an annual*  
40 *administrative fee to the department pursuant to this subdivision.*



1 (2) *The department shall set the annual administrative fee in*  
2 *an amount that is sufficient to pay for the department's cost of*  
3 *reviewing annual reports and enforcing this article. The*  
4 *department may establish a variable annual administrative fee*  
5 *based on relevant factors, including, but not limited to, the*  
6 *proportion of household batteries produced by the feepayer, as*  
7 *compared to the total amount of household batteries produced by*  
8 *all producers or household battery stewardship organizations*  
9 *submitting an annual report.*

10 (3) *The fee shall be due to the department upon submittal of the*  
11 *annual report.*

12 (4) *If the program implementing the plan submitted by the*  
13 *producer meets the collection rate specified in subdivision (b) of*  
14 *Section 42450.3, the producer or household battery stewardship*  
15 *organization is not required to pay the fees imposed pursuant to*  
16 *this subdivision.*

17 ~~(b)~~

18 (c) *The total amount of ~~annual~~ fees collected pursuant to this*  
19 *section shall not exceed the amount necessary to recover costs*  
20 *incurred by the department in connection with the administration*  
21 *and enforcement of the requirements of this article.*

22 42450.11. (a) *The Household Battery Stewardship Account*  
23 *and the Household Battery Stewardship Penalty Subaccount are*  
24 *hereby established in the Integrated Waste Management Fund.*

25 (b) *All fees collected pursuant to this article shall be deposited*  
26 *in the Household Battery Stewardship Account and may be*  
27 *expended by the department, upon appropriation by the Legislature,*  
28 *to cover the department's costs to implement this article.*

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

34 (d) *All funds ~~collected~~ that are collected or received by the*  
35 *department pursuant to this article, other than the fees specified*  
36 *in subdivision (b), may be expended as incentives to enhance reuse,*  
37 *recyclability, and redesign efforts and to reduce environmental*  
38 *and safety impacts of household batteries.*

39 42450.12. (a) *If, after holding a public hearing, the department*  
40 *finds that a producer has failed to make a good faith effort to*

1 comply with this article, including, but not limited to, failing to  
2 submit a plan pursuant to Section 42450.2 or failing to submit an  
3 annual report pursuant to Section 42450.9, the department shall  
4 issue a compliance order with a schedule for achieving compliance.

5 (b) If, after issuing an order and schedule for compliance  
6 pursuant to subdivision (a), the department finds that the producer  
7 has failed to make a good faith effort to comply with this article,  
8 the department may impose an administrative civil penalty of five  
9 thousand dollars (\$5,000) per day until the producer achieves  
10 compliance.

11 (c) For purposes of this section, "good faith effort" means all  
12 reasonable and feasible efforts by a producer *or the program*  
13 *implementing a plan deemed complete by the department* towards  
14 implementing the requirements of this article, including, but not  
15 limited to, meeting the ~~performance goals~~ *collection rate* specified  
16 in the plan.

17 (d) *If a household battery stewardship organization or*  
18 *hazardous waste transporter submits a plan on behalf of a producer*  
19 *pursuant to Section 42450.2, which plan is deemed complete by*  
20 *the department, and the department finds the program established*  
21 *by the plan has made a good faith effort to implement this article,*  
22 *the department shall not deem the producer to have failed to make*  
23 *a good faith effort to implement this article.*

24 ~~42450.13. (a) In addition to the penalty specified in Section~~  
25 ~~42450.12, the~~

26 *42450.13. (a) The department may impose an administrative*  
27 *civil penalty not to exceed one thousand dollars (\$1,000) per day*  
28 *against a producer, wholesaler, wholesaler or retailer that violates*  
29 *Section 42450.6.*

30 (b) ~~A producer, wholesaler, wholesaler or retailer that removes~~  
31 ~~from sale any household battery within 90 days of discovery that~~  
32 ~~it is not in compliance with this article shall not be deemed to be~~  
33 ~~in violation of Section 42450.6.~~

34 (c) Prior to enforcing any penalty pursuant to this section, the  
35 department shall issue a compliance order to the ~~producer,~~  
36 ~~wholesaler, wholesaler~~ or retailer selling the household battery  
37 allowing 30 days from the date of the compliance order to cease  
38 sales of the household battery.

39 42450.16. This article does not limit, supersede, duplicate, or  
40 otherwise conflict with the authority of the Department of Toxic

- 1 Substances Control under Section 25257.1 of the Health and Safety
- 2 Code to fully implement Article 14 (commencing with Section
- 3 25251) of Chapter 6.5 of Division 20 of the Health and Safety
- 4 Code, including the authority of the department to include
- 5 household batteries *in its household battery registry*.

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# CITY OF OAKLAND

## BILL ANALYSIS



**Date:** May 27, 2010

**Bill Number:** AB 1343

**Bill Author:** Huffman

### DEPARTMENT INFORMATION

**Contact:** Peter Slote  
**Department:** Public Works Agency, Facilities and Environment  
**Telephone:** 238-7432 **FAX #** 238-7286  
**E-mail:** pslote@oaklandnet.com

**RECOMMENDED POSITION: Support**

### Summary of the Bill

AB 1343 would require manufacturers of architectural paint to design, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life management of products they sell in California. It would require, by January 1, 2011, producers of paint to submit to the Department of Resources Recycling and Recovery (CalRecycle) a plan that includes a description of how the producer will provide collection, transport, recycling and or disposal services for paints they sell in California. The plan would be reviewed, approved and monitored by CalRecycle. The producer will be required to submit an annual report describing the activities carried out to implement the plan.

Current state law classifies paint as Universal Waste, and bans it from disposal as solid waste. Because the statewide disposal ban does not allocate resources to provide consumers with convenient opportunities for safe and lawful disposal of paint, local governments must fund collection of paint through household hazardous waste collection facilities and clean-up of illegally dumped paint in streets, parks, and waterways. AB 1343 would shift these cost from local government to the manufacturers of paint, and reduce our reliance on household hazardous waste programs to capture and manage used paint products.

### Positive Factors for Oakland

AB 1343 would result in increased, convenient opportunities for Oakland residents and businesses to safely and legally dispose of unused paint. It would reduce the amount of illegally dumped paint and the fiscal and environmental costs associated with this activity. It would also

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relieve Alameda County Household Hazardous Waste facilities of the cost burden of managing used paint, costs which are funded by Oakland garbage collection rate payers.

Currently, Oakland residents and businesses may dispose of paint at the Alameda County Household Hazardous facility. AB 1343 would expand the scope of safe disposal options by requiring the manufacturers to create and implement programs for safe and convenient collection and disposal options.

AB 1343 would create an extended producer responsibility program that is consistent with the City Council intention to support producer responsibility initiatives and statewide legislation that holds manufacturers responsible for providing proper and safe disposal for their products. AB 1343 would advance this goal by requiring the producers that make and sell paint to create recovery programs through the plans submitted to CalRecycle.

### **Negative Factors for Oakland**

None known.

### **Proposed Amendment**

#### **PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or**  **None** (do not review with City Council, position not required)

#### **Known support:**

Ace Hardware  
California Paint Council  
California Product Stewardship Council  
California Resource Recovery Association  
California Retailers Association  
Central Contra Costa Sanitary District  
City of Cupertino  
City of San Diego  
City and County of San Francisco  
City of Sunnyvale  
County of Tuolumne

Diamond Vogel Paint Company  
Dunn-Edwards Corporation  
Ecology Action of Santa Cruz  
Humboldt Waste Management Authority  
Kelly-Moore Paint Co., Inc.  
National Paint and Coatings Association  
Marin County Hazardous and Solid Waste Management Joint Powers Authority  
PPG Architectural Finishes, Inc.  
San Luis Obispo County Integrated Waste Management Authority  
Santa Clara County Board of Supervisors  
Sierra Club California  
Solid Waste Association of North America  
Sonoma County Waste Management Agency  
Waste Management  
West Contra Costa Integrated Waste Authority

**Known Opposition:**

No known opposition

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**

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

February 27, 2009

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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.~~

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# CITY OF OAKLAND

## BILL ANALYSIS



**Date:** May 27, 2010

**Bill Number:** AB 2139

**Bill Authors:** Chesbro

### DEPARTMENT INFORMATION

**Contact:** Ferial Mosley

**Department:** Public Works Agency, Facilities and Environment

**Telephone:** (510) 238-7433

**FAX #:** (510) 238-7286

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**RECOMMENDED POSITION: SUPPORT**

### Summary of the Bill

Assembly Bill (AB) 2139 as amended would establish the California Product Stewardship Act (Act) by creating an Extended Producer Responsibility (EPR) Framework. The Framework would encourage manufacturers of "covered products" to design the products and packaging for recovery after the product end-of-life, and to create and fund recovery programs through plans submitted to the Department of Resources Recycling and Recovery (CalRecycle). AB 2139 would:

- Internalize costs for "covered products" at the manufacturer level;
- Require manufacturers of "covered products" to meet performance standards;
- Allow manufacturers of "covered products" the flexibility in how to meet performance standards; and
- Require the manufacturers of "covered products" to provide evidence to CalRecycle that they are achieving performance standards.

Specifically AB 2139 through the EPR Framework would:

- Encourage manufacturers to research alternatives during the product design and packaging phases to facilitate proper end-of-life management of products they sell in California;
- Establish three "covered products" to be included in the Act: 1) home-generated medical needles (sharps); 2) pesticides intended for household use; and 3) non-reusable propane containers;
- Require, by September 30, 2011, producers of "covered products" to submit a plan to CalRecycle describing how they will provide collection, transport, recycling and or disposal services for the used "covered products;" and require CalRecycle to approve the plans by January 2012;
- Prohibit the sale of "covered products" by July 2012, unless the manufacturer has submitted a plan to CalRecycle;
- Require beginning June 30, 2013, manufacturers to submit an annual report to CalRecycle describing the activities carried out to implement the plan;

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- Require producers to pay an unspecified administrative fee that would establish an EPR account in CalRecycle Fund; and
- Establish enforcement provisions including a public hearing process and specifying that CalRecycle considers a manufacturer's good faith effort in achieving the activities outlined in the plan.

AB 2139 is consistent with the City Council intention to support producer responsibility initiatives and statewide legislation that holds manufacturers responsible for providing proper and safe disposal for their products. AB 2139 would advance this goal by requiring the manufacturers that make and sell "covered products" including home-generated medical sharps, pesticides for residential use, and non-reusable propane containers to create recovery programs through the plans submitted to CalRecycle.

### **Positive Factors for Oakland**

AB 2139 would establish a comprehensive EPR framework resulting in programs that would place direct financial responsibility for reducing product waste and toxicity with the producers who design, manufacture and market these products, thus shifting the product disposal cost to the producer by internalizing the cost at the manufacturer level. Currently, product disposal costs are not included in the cost of goods, and are often borne by local governments or garbage rate-payers.

Additionally, AB 2139 would provide Oakland residents with additional options for safe and convenient disposal for "covered products" including used sharps, pesticides containers and non-reusable propane containers. These products are hazardous materials and are prohibited from disposal in municipal solid waste and recycling systems. Currently, Oakland residents may dispose of their used sharps, pesticides containers and propane cylinders at the Alameda County Household Hazardous facility. AB 2139 would expand the scope of safe disposal options by requiring the manufacturers to create and implement programs to provide residents with safe and convenient collection and disposal options.

### **Negative Factors for Oakland**

Supporting AB 2139 has no negative factors for Oakland.

### **PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

- Critical (top priority for City lobbyist, city position required ASAP)**
- Very Important (priority for City lobbyist, city position necessary)**
- Somewhat Important (City position desirable if time and resources are available)**
- Minimal or**  **None (do not review with City Council, position not required)**



**Known support:**

CA Resource Recovery Association  
California Product Stewardship Council  
Californians Against Waste  
California Resource Recovery Association  
Contra Costa Solid Waste Management Authority  
City of San Francisco  
Del Norte County Solid Waste Management Authority  
Humboldt County Waste Management Authority  
League of California Cities  
Marin Sanitary Services  
Napa County  
Planning and Conservation League  
Regional Council of Rural Counties  
Santa Clara County  
Sierra Club California  
Solid Waste Association of North America

**Known Opposition:**

BayBio  
BIOCOM  
The California Healthcare Institute  
The Pharmaceutical Researchers and Manufacturers Association  
AdvaMed  
Consumer Specialty Products Association  
Soap and Detergent Association  
American Chemistry Council  
California Chamber of Commerce  
California Grocers Association  
California Manufacturers and Technology Association  
Grocery Manufacturers Association  
Monsanto  
Responsible Industry for a Sound Environment

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2139**

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**Introduced by Assembly Member Chesbro**

February 18, 2010

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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 amended, 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 *home-generated* 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 and nonrefillable propane cylinders, as defined.~~

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, *a collection rate*, 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 bill would require the department, on July 1, 2012, and on January 1 and July 1 annually thereafter, to post on its Internet Web site the covered products that are not in compliance and the bill would require a wholesaler or retailer that distributes or sells covered products to monitor the department's Internet Web site to determine if a covered product is in compliance.* 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~~ *an unspecified amount* when submitting the plan for review and approval and to pay an annual administrative fee of ~~\$1,000~~ *an unspecified amount*. 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:

4  
5 CHAPTER 5. CALIFORNIA PRODUCT STEWARDSHIP PROGRAM

6  
7 Article 1. Findings and Declarations

8  
9 48800. The Legislature finds and declares all of the following:

10 (a) This chapter requires the Department of Resources Recycling  
11 and Recovery to develop, implement, and administer the Product  
12 Stewardship Program.

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

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

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

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

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

5 (g) The Product Stewardship Program established by this chapter  
6 will explore the feasibility and potential environmental, economic,  
7 and social benefits of instituting a permanent product stewardship  
8 program for an extended number of products while still providing  
9 producers with the flexibility to customize individual product  
10 stewardship plans toward the most effective and efficient approach  
11 for a particular product or product category.

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

16  
17 Article 2. General Provisions

18  
19 48800.1. This chapter shall be known and may be cited as the  
20 California Product Stewardship Act.

21  
22 Article 3. Definitions

23  
24 48800.2. For purposes of this chapter, and unless the context  
25 otherwise requires, the definitions in this article govern the  
26 construction of this chapter.

27 48800.3. "Brand" means a name, symbol, word, or mark that  
28 identifies a product, rather than its components, and attributes the  
29 product to the owner or licensee of the brand as the producer.

30 48800.4. "Collection rate" means a quantitative measure  
31 ~~established by the department pursuant to Section 48811 or~~  
32 ~~determined pursuant to Section 48812, as applicable, that~~ that  
33 establishes the amount of a covered product required to be collected  
34 pursuant to a product stewardship plan.

35 48800.5. "Consumer product" means a product that is sold in  
36 this state in a transaction that is a retail sale or in a transaction to  
37 which a use tax applies pursuant to Part 1 (commencing with  
38 Section 6001) of Division 2 of the Revenue and Taxation Code.

1 48800.6. "Covered product" means all of the following  
2 consumer products that are used or discarded in this state, as  
3 defined by the department:

4 (a) "~~Covered product 1~~" means ~~medical sharps, including~~  
5 ~~hypodermic needles, hypodermic needles with syringes, blades,~~  
6 ~~and needles, that are not subject to Article 3.3 (commencing with~~  
7 ~~Section 47115) or Chapter 1 of Part 7: home-generated sharps~~  
8 ~~waste, including, but not limited to, hypodermic needles, pen~~  
9 ~~needles, intravenous needles, lancets, and other devices, that are~~  
10 ~~used to penetrate the skin for the delivery of medications derived~~  
11 ~~from a household, including from a multifamily residence or~~  
12 ~~household.~~

13 (b) (1) "~~Covered product 2~~" means ~~containers used to contain~~  
14 ~~pesticides intended for residential use: pesticides, as defined in~~  
15 ~~Section 12753 of the Food and Agricultural Code, that are intended~~  
16 ~~for residential use, including any of the following:~~

17 (A) *A spray adjuvant.*

18 (B) *A substance or mixture of substances that is intended to be*  
19 *used for defoliating plants, regulating plant growth, or for*  
20 *preventing, destroying, repelling, or mitigating a pest, as defined*  
21 *in Section 12754.5 of the Food and Agricultural Code, that may*  
22 *infest or be detrimental to vegetation, human, animal, or*  
23 *household, or be present in a agricultural or nonagricultural*  
24 *environment whatsoever.*

25 (2) *For purposes of this chapter, pesticides intended for*  
26 *residential use shall be limited to those defined as a consumer*  
27 *product, pursuant to Section 48800.5, but shall exclude those*  
28 *consumer products that are intended primarily for residential*  
29 *cleaning and disinfecting.*

30 (c) "~~Covered product 3~~" means ~~small personal-use propane~~  
31 ~~tanks.~~

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

33 (e) "~~Covered product 5~~" means ~~single-use food packaging that~~  
34 ~~the department determines is a significant source of ocean and~~  
35 ~~beach contamination: nonrefillable propane cylinders, as defined~~  
36 ~~in Section 178.65 of Title 49 of the Code of Federal Regulations.~~

37 48800.7. "Department" means the Department of Resources  
38 Recycling and Recovery.

39 48800.8. "Performance goal" means the collection rate of a  
40 covered product, and may include, but is not limited to, the reuse

1 and recycling rate established by the product stewardship plan for  
2 that covered product.

3 48800.9. "Producer" shall be determined, with regard to a  
4 covered product that is sold, offered for sale, or distributed in the  
5 state, as meaning one of the following:

6 (a) A person who manufactures the covered product and who  
7 sells, offers for sale, or distributes that covered product in the state  
8 under that person's own name or brand.

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

15 (c) If there is no person who is a producer of the covered product  
16 for purposes of subdivisions (a) and (b), the producer of that  
17 covered product is the person who imports the product into the  
18 state for sale or distribution.

19 48800.10. "Product goal" means those qualitative or  
20 quantitative goals determined by the producer to measure  
21 improvements that reduce the life cycle impacts of a covered  
22 product.

23 48800.11. "Product stewardship" means requiring the producer  
24 of a covered product, and all other entities involved in the product  
25 chain, to share in the responsibility of reducing the life cycle impact  
26 of the covered product and its packaging, including requiring the  
27 producer who makes design and marketing decisions for the  
28 covered product to bear the primary responsibility for this  
29 reduction.

30 48800.12. "Product stewardship organization" means an  
31 organization appointed by one or more producers to act as an agent  
32 on behalf of the producer to design, submit, and administer a  
33 product stewardship plan pursuant to this chapter.

34 48800.13. "Product stewardship plan" or "plan" means a plan  
35 written by an individual producer or a product stewardship  
36 organization, on behalf of one or more producers, that includes all  
37 of the information required by Section 48813.

38 48800.14. "Recycling rate" means a quantitative measure that  
39 establishes the amount of a collected covered product that is  
40 recycled as compared to the total amount of the covered product

1 that is collected, including the amount of the covered product that  
2 is discarded for reuse, energy recovery, or safe disposal.

3 48800.15. "Reporting period" means the period commencing  
4 January 1 and ending on December 31 of the same calendar year.

5 48800.16. "Reuse rate" means a quantitative measure that  
6 establishes the amount of a collected covered product that is reused  
7 as compared to the total amount of the covered product that is  
8 collected, including the amount of the covered product that is  
9 discarded by recycling, energy recovery, or safe disposal.

10 48800.17. "Sell" or "sales" means any transfer of title of a  
11 covered product for consideration, including a remote sale  
12 conducted through a sale outlet, catalog, or Internet Web site or  
13 similar electronic means, but does not include a lease.

14  
15 Article 4. Product Stewardship Program

16  
17 48810. This chapter does not limit, supersede, duplicate, or  
18 otherwise conflict with the authority of the Department of Toxic  
19 Substances Control under Section 25257.1 of the Health and Safety  
20 Code to fully implement Article 14 (commencing with Section  
21 25251) of Chapter 6.5 of Division 20 of the Health and Safety  
22 Code, including the authority of the Department of Toxic  
23 Substances Control to include products in its product registry.

24 ~~48811. (a) On or before July 1, 2011, the department shall~~  
25 ~~establish a baseline collection rate for the amount of each covered~~  
26 ~~product that is discarded and subsequently collected, based on~~  
27 ~~existing collection data.~~

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

31 ~~48812. (a) On and after January 1, 2014, the collection rate~~  
32 ~~for a covered product shall be determined in the following manner:~~

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

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

39 ~~(b) A producer may petition the department for an adjustment~~  
40 ~~to the collection rate. The department may grant an adjustment to~~



1 ~~the collection rate only if the department determines there are~~  
2 ~~documented exigent circumstances that are beyond the control of~~  
3 ~~the producer or product stewardship organization.~~

4 48813. (a) On or before September 30, 2011, a producer or a  
5 product stewardship organization that is created by one or more  
6 producers of a covered product shall submit a product stewardship  
7 plan to the department. A product stewardship organization created  
8 pursuant to this section shall be open for participation by all  
9 producers of a covered product.

10 ~~(b) A producer, group of producers, or product stewardship~~  
11 ~~organization shall consult with stakeholders during the~~  
12 ~~development of the product stewardship plan, including soliciting~~  
13 ~~stakeholder comments and responding to stakeholder comments~~  
14 ~~prior to submitting the product stewardship plan.~~

15 (c)

16 (b) Each product stewardship plan for a covered product shall  
17 address the environmental impacts of the covered product over  
18 the entire life cycle of that product, including the product design,  
19 manufacture, and distribution of the covered product, and the  
20 collection, transportation, reuse, recycling, and final disposition  
21 of the discarded covered product, in accordance with this chapter.  
22 The plan shall include, at a minimum, all of the following elements:

23 (1) Contact information for all participating producers.

24 (2) A description of the covered product and associated brands  
25 covered by the plan.

26 (3) Performance goals, including a detailed description of how  
27 the performance goals will be achieved and how results will be  
28 measured, and including ~~both~~ *all* of the following:

29 (A) ~~The collection rate~~ *A collection rate, which shall be included*  
30 *as a performance goal for the covered product.*

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

33 (C) *If the covered product is prohibited from being disposed of*  
34 *at a solid waste disposal facility, the performance goal shall*  
35 *include a schedule to accomplish a 100 percent collection rate.*

36 (4) ~~An overview of the~~ *The* roles and responsibilities of key  
37 players along the product chain.

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

39 (6) Strategies for managing and reducing the life cycle impacts  
40 of the covered product, steps that will be taken to ensure

1 environmentally sound management, and how impacts will be  
2 tracked over time to show continual improvement.

3 (7) Education and outreach activities.

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

6 ~~(9)~~

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

17 48814. (a) On or before January 1, 2012, the department shall  
18 review the product stewardship plan submitted to the department  
19 and either approve or disapprove the plan. If the department does  
20 not approve the plan, the department shall notify the producer or  
21 organization that submitted the plan and the producer or  
22 organization shall revise and resubmit the disapproved product  
23 stewardship plan within 30 days after receiving the notification.

24 (b) All product stewardship plans submitted to the department  
25 shall be available to the public on the department's Internet Web  
26 site.

27 (c) A producer shall notify the department 30 days before  
28 instituting a significant or material change to a product stewardship  
29 plan.

30 48815. (a) On and after July 1, 2012, a producer shall not offer  
31 a covered product for sale in this state or offer a covered product  
32 for promotional purposes in this state unless the producer or a  
33 product stewardship organization consisting of producers of the  
34 covered product has submitted a product stewardship plan to the  
35 department pursuant to Section ~~48816~~ 48813 and the product  
36 stewardship plan is approved by the department pursuant to Section  
37 ~~48817~~ 48814.

38 (b) *On July 1, 2012, and on January 1 and July 1 annually*  
39 *thereafter, the department shall post on its Internet Web site*  
40 *covered products that are not in compliance with this section.*

1 (c) A wholesaler or retailer that distributes or sells covered  
2 products shall monitor the department's Internet Web site to  
3 determine if the sale of a covered product is in compliance with  
4 this section.

5 48816. A producer of a covered product shall do all of the  
6 following when implementing this chapter, including an approved  
7 product stewardship plan:

8 (a) Collect the individual covered product to be reused or  
9 recycled pursuant to the product stewardship plan for the covered  
10 product submitted by the producer or product stewardship  
11 organization pursuant to Section 48813 and approved by the  
12 department pursuant to Section 48814.

13 (b) Meet the performance goals included in the product  
14 stewardship plan, ~~including achieving the collection rate established~~  
15 ~~pursuant to Section 48812.~~

16 (c) Provide collection services, in accordance with Section  
17 48817, for the covered product, that do not charge a fee at the time  
18 when the covered product is collected for either recycling or  
19 disposal.

20 (d) ~~Pay all administrative and operational~~ costs associated with  
21 the product stewardship plan, including the costs of collection,  
22 transportation, and recycling or disposal, or both, of the covered  
23 product.

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

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

30

31

#### Article 5. Reporting

32

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

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

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

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

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

18  
19 Article 6. Financial Provisions

20  
21 48819. (a) The producer or product stewardship organization  
22 submitting a product stewardship plan shall pay the department  
23 an administrative fee in the amount of ~~ten thousand dollars~~  
24 ~~(\$10,000)~~ \_\_\_\_\_ when the plan is submitted for review and approval  
25 and thereafter pay an annual administrative fee of ~~one thousand~~  
26 ~~dollars (\$1,000)~~ \_\_\_\_\_.

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

31 48820. (a) The Product Stewardship Account and the Product  
32 Stewardship Penalty Subaccount are hereby established in the  
33 Integrated Waste Management Fund.

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

38 (c) All penalties collected pursuant to this chapter shall be  
39 deposited in the Product Stewardship Penalty Subaccount and may  
40 be expended by the department, upon appropriation by the

1 Legislature, to cover the department's costs to implement this  
2 chapter.

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

6  
7  
8

Article 7. Enforcement

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

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

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

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

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

O

# CITY OF OAKLAND

## BILL ANALYSIS



**Date:** May 27, 2010

**Bill Number:** AB 2176

**Bill Author:** Blumenfield

### DEPARTMENT INFORMATION

**Contact:** Peter Slote

**Department:** Public Works Agency, Facilities and Environment

**Telephone:** 238-7432

**FAX #** 238-7286

**E-mail:** pslote@oaklandnet.com

**RECOMMENDED POSITION: Support**

### Summary of the Bill

AB 2176 would require manufacturers of mercury-containing lamps (generally energy efficient lamps such as compact florescent lamps) to create, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life management of products they sell in California, through plans submitted to the Department of Resources Recycling and Recovery (CalRecycle).

AB 2176 would require, by September 30, 2011, producers of mercury-containing lamps to submit to the CalRecycle a plan that includes a description of how the producer will provide collection, transport, recycling and or disposal services for their products. The plan would be reviewed, approved and monitored by CalRecycle. The producer will be required to submit an annual report describing the activities carried out to implement the plan.

AB 2176 would also place a fee on lamps that do not contain mercury and are less energy efficient. This fee would go to a state-administered Energy Efficiency Research Fund supporting research and projects related to improving lighting efficiency and reducing environmental impacts of lighting technologies.

Current state law classifies mercury-containing lamps as Universal Waste, and bans them from disposal as solid waste. Because the statewide disposal ban does not allocate resources to provide consumers with safe, convenient opportunities for lawful disposal of mercury-containing lamps, local governments must fund collection of mercury-containing lamps through household hazardous waste collection facilities. AB 2176 would shift these costs from local government to

Item: \_\_\_\_\_

Rules & Legislation Comte  
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the manufacturers of mercury-containing lamps, and reduce our reliance on the Alameda County Household Hazardous Waste Programs to capture and manage used mercury-containing lamps.

**Positive Factors for Oakland**

AB 2176 would result in increased, convenient opportunities for Oakland residents and businesses to safely and legally dispose of mercury-containing lamps. It would reduce the future potential environmental liabilities of mercury-containing lamps improperly disposed to landfills. It would also relieve Alameda County Household Hazardous Waste facilities, which are funded by Oakland garbage collection rate payers, of the cost burden of managing mercury-containing lamps.

**Negative Factors for Oakland**

None known.

**Proposed Amendment**

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or \_\_\_\_\_ None** (do not review with City Council, position not required)

**Known support:**

Natural Resources Defense Council (Sponsor)  
Breast Cancer Fund  
California Association of Environmental Health Administrators  
California League of Conservation Voters  
Californians Against Waste  
California Product Stewardship Council  
California Resource Recovery Association  
Central Contra Costa Solid Waste Authority  
City and County of San Francisco  
County of Santa Clara- Board of Supervisors  
Environmental Defense Fund  
Environmental Working Group  
Environment California  
Napa County  
Planning and Conservation League  
Stop Waste.Org

Support if amended

Pacific Gas and Electric  
Southern California Edison

**Known Opposition:**

General Electric Lighting  
OSRAM Sylvania, Inc.  
Phillips  
San Diego Gas and Electric (conveyed an opposed, support and a support if amended position)

**Attach bill text and state/federal legislative committee analysis, if available.**



AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2176**

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**Introduced by Assembly Member Blumenfield**

February 18, 2010

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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 amended, Blumenfield. Hazardous waste: lighting products.

(1) 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. A violation of the hazardous waste control law is a crime.

This bill would enact the California Lighting Toxics Reduction and Jobs Act and would define terms, including defining a "class 1 lamp" as a lamp containing mercury and a "class 2 lamp" as a lamp that produces less than a specified amount of light per watt.

The bill would require the producer of a class 1 lamp, by September 30, 2011, to submit a product stewardship plan with regard to the collection of class 1 lamps to the department, either individually or jointly with other producers, or by entering into an agreement with a

stewardship organization. The bill would require the plan to reasonably demonstrate how the program would contribute to the recycling of all class 1 lamps, including the program's fair share of orphan lamps, on or before January 1, 2020. The department would be required to approve the plan pursuant to a specified procedure and the producer would be required to implement the approved plan by January 1, 2012. The bill would provide for the updating of the plan and would require the plan operator, by April 1, 2013, and on or before each April 1 annually thereafter, to prepare and submit to the department a report for the immediately preceding reporting period.

The bill would require an entity submitting a plan to enter into an agreement with the department to pay the costs incurred by the department associated with the review and enforcement of the plan. The bill would require the funds to be deposited in the Lighting Product Stewardship Subaccount, which the bill would establish in the Hazardous Waste Control Account, and would authorize the department to expend the funds in the Lighting Product Stewardship Subaccount, upon appropriation by the Legislature, for those costs.

The bill would require the producer of a class 2 lamp, by January 30, 2012, and on or before January 1 annually thereafter, to pay to the commission a fee in an amount established by the commission pursuant to a specified procedure. The commission would be required to deposit the fee revenues in the Energy Efficiency Research Fund, which the bill would create in the State Treasury, and the commission would be authorized to expend the funds in the Energy Efficiency Research Fund, upon appropriation by the Legislature, for specified research and projects relating to improving class 2 lamps' lighting efficiency and reducing environmental impacts from class 2 lamps.

The bill would prohibit a producer, wholesaler, or retailer from selling or offering for sale a class 1 lamp or class 2 lamp to a person in this state on and after January 1, 2012, unless, with regard to the class 1 lamp, the producer is participating in a product stewardship program, or, on or after February 1, 2012, with regard to a class 2 lamp, unless the producer has paid the required fee. The bill would also specify procedures for the enforcement of the act. Since a violation of the hazardous waste control laws is a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*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  
5 (commencing with Section 25210.9) to Chapter 6.5 of Division  
6 20 of the Health and Safety Code, has put the state on a path of  
7 transition to more energy-efficient lighting, including substantially  
8 increased utilization of fluorescent lighting.

9 (b) Lighting products introduce hazardous waste into the  
10 environment by containing hazardous substances, such as mercury,  
11 in the lighting product itself, and by the release of hazardous  
12 substances from the production of energy, which the lighting  
13 product utilizes.

14 (c) Electricity generation, particularly from coal, releases  
15 mercury into the atmosphere, which contaminates waterways and  
16 fish, causing a public health risk.

17 (d) The less efficient a lamp is, the more hazardous waste,  
18 including mercury, is released into the atmosphere from the  
19 electricity generation associated with its use.

20 (e) High-efficiency bulbs, such as compact fluorescent lamps,  
21 contain mercury within the product but because these bulbs use  
22 less energy, they are responsible for smaller hazardous emissions  
23 from energy production.

24 (f) Low-efficiency bulbs, such as incandescent bulbs, contain  
25 no mercury but are responsible for greater hazardous substance  
26 emissions from energy production.

27 (g) Low-efficiency bulbs also cause greater emissions of  
28 greenhouse gases and other harmful air pollutants. The efficiency  
29 of a lamp is a reasonable indicator of its total environmental impact.

30 (h) The state prohibits the disposal of lighting products  
31 containing hazardous levels of metal in the solid waste stream.

32 (i) The hazardous waste generated by waste lighting products  
33 can be reduced and managed through recycling, but recycling

1 opportunities are currently inconvenient or nonexistent for most  
2 consumers.

3 (j) Even though some types of fluorescent lighting products  
4 deliver the same level of light at the same level of efficiency as  
5 other types of these products, they may have varying levels of  
6 mercury. The Department of General Services has adopted a  
7 procurement preference favoring low-mercury fluorescent lamps.

8 (k) In 2007, the Legislature enacted the California Lighting  
9 Efficiency and Toxics Reduction Act which directed the  
10 Department of Toxic Substances Control to convene a lighting  
11 task force to consider and make policy recommendations to the  
12 Legislature for designing a statewide collection program for  
13 end-of-life fluorescent lamps.

14 (l) On September 1, 2008, the task force submitted  
15 recommendations to the Legislature on the need and options for a  
16 convenient statewide system for the collection and recycling of  
17 fluorescent lamps for residential generators.

18 (m) The purpose of this act is to establish a system for the  
19 recycling of fluorescent lamps generated by households and small  
20 businesses that is free and convenient for end users and to promote  
21 the rapid development and uptake of more efficient and  
22 low-toxicity lighting products to minimize the public health impacts  
23 from lighting.

24 (n) The responsibility for the end-of-life management of  
25 products and materials rests primarily with the producers who  
26 designed and profited from the product, thereby incorporating life  
27 cycle costs into the total product costs to reduce the impact on the  
28 taxpayers and ratepayers of the state and reduce the impact on  
29 human health and the environment.

30 (o) (1) The imposition of the fee pursuant to Section 25210.20  
31 of the Health and Safety Code would not result in the imposition  
32 of a tax within the meaning of Article XIII A of the California  
33 Constitution because the amount and nature of the fee have a fair  
34 and reasonable relationship to the environmental, public health,  
35 and societal burdens imposed by the use of inefficient lamps and  
36 there is a sufficient nexus between the fees imposed and the use  
37 of those fees to support programs.

38 (2) There is a clear nexus between the type and the amount of  
39 the fees imposed pursuant to this act and the environmental, public  
40 health, and societal costs resulting from inefficient lamps.

1 (3) It is the intent of the Legislature that the fees imposed  
2 pursuant to Section 25210.20 of the Health and Safety Code be  
3 consistent with the California Supreme Court's decision in Sinclair  
4 Paint. Co. v. State Bd. of Equalization (1997) 15 Cal.4th 866.

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

8  
9 Article 10.03. California Lighting Toxics Reduction and Jobs  
10 in Recycling Act  
11

12 25210.13. For the purposes of this article, the following terms  
13 have the following meanings:

14 (a) "Brand" means a name, symbol, word, or mark that identifies  
15 a product, rather than its components, and attributes the product  
16 to the owner of the brand as the producer.

17 (b) "Commission" means the State Energy Resources  
18 Conservation and Development Commission.

19 (c) "Covered entity" means the residential end user of a class  
20 1 lamp who delivers not more than 15 class 1 lamps to a collection  
21 site or service operating pursuant to an approved product  
22 stewardship program for class 1 lamps.

23 (d) "Covered lamp" means all lamps defined under "class 1  
24 lamps" and "class 2 lamps," either individually or as an item within  
25 a covered lamp category, including all materials that make up the  
26 covered product.

27 (1) "Class 1 lamp" means a lamp containing mercury.

28 (2) "Class 2 lamp" means a lamp that produces fewer than 45  
29 lumens per watt.

30 (3) A lamp that is both a class 1 lamp and a class 2 lamp shall  
31 be subject to all of the requirements that apply to those lamps.

32 (e) "Lamp" has the same meaning as "general purpose lights,"  
33 as defined in Section 25210.10.

34 (f) "Orphan lamp" means a covered lamp that meets any of the  
35 following conditions:

36 (1) The covered lamp lacks a producer's brand.

37 (2) The producer of that covered lamp is no longer in business  
38 and has no successor in interest.

39 (3) The covered lamp bears a brand for which the department  
40 cannot identify an owner.

1 (g) “Plan operator” means a producer who either individually  
2 or jointly with other producers, implement the product stewardship  
3 program plan approved by the department pursuant to Section  
4 25210.16, or, if the producer enters into an agreement with a  
5 product stewardship organization to submit the plan, on the  
6 producer’s behalf, the product stewardship program that  
7 implements the plan approved by the department pursuant to  
8 Section 25210.16.

9 (h) “Producer” shall be determined, with regard to a covered  
10 lamp, as one of the following:

11 (1) The person who manufactures the covered lamp and who  
12 sells, offers for sale, or distributes the product in the state under  
13 the manufacturer’s own brand.

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

19 (3) If there is no person who is a producer of the covered lamp  
20 for purposes of paragraph (1) or (2), the producer of the covered  
21 lamp is the person who imports the covered lamp into the state for  
22 sale or distribution.

23 (i) “Product stewardship” means the requirement imposed  
24 pursuant to this article upon a producer of a class 1 lamp to manage  
25 and reduce adverse safety, health, and environmental impacts of  
26 the class 1 lamp throughout the life cycle of the covered lamp,  
27 including financing and providing for the collection, transporting,  
28 reusing, recycling, processing, and final disposition of the class 1  
29 lamp.

30 (j) “Product stewardship plan” or “plan” means the detailed  
31 plan prepared pursuant to Section 25210.15 describing the manner  
32 in which a product stewardship program will be implemented.

33 (k) “Product stewardship program” or “program” means a  
34 program established pursuant to this article pursuant to a product  
35 stewardship plan that is financed and managed or provided by the  
36 producer of a class 1 lamp and that includes

37 provisions for the collection, transportation, recycling, processing  
38 and final disposition of class 1 lamps, including the collection and  
39 recycling of the program’s fair share of orphan lamps, as specified  
40 in subdivision (c) of Section 25210.15.

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

3 (m) "Residuals" means nonrecyclable materials left over from  
4 processing an unwanted covered product.

5 (n) "Retailer" means a person who offers covered lamps for  
6 retail sale, as defined in Section 6007 of the Revenue and Taxation  
7 Code, through any means including, but not limited to, remote  
8 offerings such as sales outlets, catalogs, or the Internet, but does  
9 not include a sale that is a wholesale transaction between a  
10 distributor and a retailer.

11 (o) "Stakeholder" means a person who may have an interest in  
12 or be affected by a product stewardship program.

13 (p) "Stewardship organization" is an entity appointed by a  
14 producer to act as an agent on behalf of the producer to administer  
15 a product stewardship program.

16 (q) "Unwanted product" means a covered lamp that is no longer  
17 wanted, has been abandoned or discarded, or is intended to be  
18 discarded by its owner.

19 (r) "Wholesale sale" means a sale that is not a retail sale, as  
20 defined in Section 6007 of the Revenue and Taxation Code.

21 (s) (1) "Wholesaler" means a person who engages in the sale  
22 of covered lamps for resale, in a sale that is a wholesale sale.

23 (2) If a person is a producer of a covered lamp and also a  
24 wholesaler, the person shall comply with the provisions of this  
25 article that apply to producers.

26 25210.14. (a) This article shall be known, and may be cited,  
27 as the California Lighting Toxics Reduction and Jobs in Recycling  
28 Act.

29 (b) The Legislature hereby finds and declares that it is the intent  
30 of this article to require the recycling of all unwanted class 1 lamps,  
31 including orphan lamps, by January 1, 2020, through expanded  
32 public education and the development of a comprehensive, safe,  
33 and convenient collection system that includes use of residential  
34 curbside collection programs, mail-back containers, increased  
35 support for household hazardous waste facilities, and a network  
36 of additional collection locations.

37 25210.15. (a) On or before September 30, 2011, a producer  
38 of a class 1 lamp shall submit a product stewardship program plan  
39 to the department in accordance with this section.

1 (b) A producer shall either individually or jointly with other  
2 producers, submit a product stewardship program plan pursuant  
3 to this section or may enter into an agreement with a stewardship  
4 organization to submit, on the producer's behalf, a product  
5 stewardship program pursuant to this section.

6 (c) The product stewardship *program* plan submitted to the  
7 department shall meet all of the following requirements:

8 (1) Include information, including full contact information,  
9 regarding all of the following:

10 (A) The organization submitting the plan.

11 (B) A list of all participating producers and their brands  
12 including a trademark, if applicable.

13 (C) If the program is to be operated by a stewardship  
14 organization, a description of management, administration, and  
15 tasks to be performed by the stewardship organization.

16 (2) Include a collection system, including all of the following:

17 (A) Location of collection sites and other collection services to  
18 be used by the program.

19 (B) How unwanted products from all covered entities will be  
20 collected in all cities in the state with populations greater than  
21 10,000 and in all counties of the state.

22 (C) How collected unwanted products will be transported to  
23 processing facilities.

24 (3) Include educational and outreach efforts, including, but not  
25 limited to, all of the following:

26 (A) A public service announcement promoting the proper  
27 management for class 1 lamps, which shall include providing a  
28 copy of the public service announcement to the department and  
29 posting the public service announcement on the stewardship  
30 organization or producer's Internet Web site.

31 (B) The establishment of a public Internet Web site, which shall  
32 include the posting of templates of all educational materials on the  
33 Internet Web site that is in a form and format that can be easily  
34 downloaded, and providing a link to the Internet Web site to the  
35 department.

36 (C) Methods to engage other stakeholders, such as waste,  
37 demolition, and lighting retailers and contractors, and appropriate  
38 state agencies and local governments to secure support and  
39 participation to encourage the proper management of class 1 lamps  
40 throughout the state.



1 (D) Strategies to work with utilities participating in energy  
2 conservation programs involving the replacement of old lighting  
3 technologies for new class 1 lamps and to encourage their  
4 participation in the collection and proper management of class 1  
5 lamps.

6 (E) Strategies to encourage support and participation by retailers  
7 and other outlets to educate consumers on the proper management  
8 of class 1 lamps.

9 (4) Include a processing and disposal system, which shall meet  
10 all of the following requirements:

11 (A) All class 1 lamps collected by the system shall be recycled.

12 (B) The mercury and mercury-bearing residuals from recycling  
13 of class 1 lamps collected by the system shall be ~~disposed of at a~~  
14 ~~mercury repository, issued a permit pursuant to this chapter, or~~  
15 ~~managed at a hazardous waste facility operating in accordance~~  
16 *stored at a mercury repository or disposed or recycled at a*  
17 *permitted hazardous waste treatment, storage, or disposal facility*  
18 *that is operating in accordance with this chapter.*

19 (C) The plan shall include the locations, permit status, and record  
20 of any penalties, violations, or regulatory orders received in the  
21 previous five years by processing and disposal facilities proposed  
22 to be used by the program, including all downstream processing  
23 and disposal facilities handling hazardous waste generated under  
24 the program and those involved in the final disposition of the  
25 hazardous waste.

26 (D) The processing and disposal system shall collect, free of  
27 charge, unwanted class 1 lamps from covered entities for reuse,  
28 recycling, processing, and final disposition.

29 (E) The processor of the class 1 lamps subject to the plan shall  
30 submit an annual report to the department in a format provided by  
31 the department that includes the number and type of class 1 lamps  
32 received.

33 (F) The processor of the class 1 lamps subject to the plan shall  
34 agree to allow the department, or its designee, to inspect, audit, or  
35 review audits of processing and disposal facilities used to fulfill  
36 the requirements of a product stewardship program.

37 (G) Federal or state prison labor shall not be used for processing  
38 class 1 lamps subject to the plan.

39 (5) *Include a description of the financing system to cover the*  
40 *entire product stewardship program, including how costs will be*

1 apportioned among, and assessed upon, producers participating in  
2 the program. The plan shall require the producer, group of  
3 producers, or stewardship organization to pay all administrative  
4 and operational costs associated with the program.

5 (6) Include plans for minimizing the environmental impacts of  
6 the covered lamp throughout the product's life cycle.

7 (7) Include a list of collection sites and other collection services  
8 to be used by the program, sorted by city and county.

9 (8) Reasonably demonstrate how the product stewardship  
10 program will contribute toward achieving the goal of recycling all  
11 unwanted class 1 lamps, including the collection and recycling of  
12 the program's fair share of orphan lamps, on or before January 1,  
13 2020.

14 (9) Comply with the regulations for managing universal waste  
15 contained in Chapter 23 (commencing with Section 66273.1) of  
16 Division 4.5 of Title 22 of the California Code of Regulations, as  
17 applicable.

18 25210.16. (a) Within 60 days after receiving a proposed  
19 product stewardship plan pursuant to Section 25210.15, the  
20 department shall determine whether the plan complies with this  
21 article.

22 (b) If the department approves the plan, the department shall  
23 notify the applicant of its approval.

24 (c) If the department rejects a plan, the department shall notify  
25 the applicant of its decision and its reasons for rejecting the plan.  
26 An applicant whose plan has been rejected by the department shall  
27 submit a revised plan to the department within 60 days after  
28 receiving notice of the rejection to maintain compliance with this  
29 article.

30 (d) On or before January 1, 2012, a producer shall either  
31 individually or jointly with other producers, implement the product  
32 stewardship program plan approved by the department, or, if the  
33 producer enters into an agreement with a stewardship organization  
34 to submit the plan, on the producer's behalf, the product  
35 stewardship program shall, on or before January 1, 2012,  
36 implement the plan approved by the department pursuant to this  
37 section.

38 25210.17. (a) At least once every four years, the plan operator  
39 shall update the product stewardship plan approved by the

1 department pursuant to Section 25205.16 and shall submit the  
2 updated plan to the department for review.

3 (b) The department shall determine the status of an updated plan  
4 within 60 days of its submittal. If the department rejects an updated  
5 plan, the department shall notify the plan operator, who shall  
6 resubmit the plan within 60 days of that notification. If the plan is  
7 not resubmitted within that time period, the plan operator and the  
8 producer subject to the plan shall be deemed in violation of this  
9 article.

10 (c) A proposed change to a product stewardship plan shall be  
11 submitted to the department for approval, except for the following:

12 (1) Additions or changes to collection locations for unwanted  
13 products.

14 (2) Additions of producers to a product stewardship program.

15 (d) The plan operator shall inform the department of changes  
16 specified in subdivision (c) no less than 15 days before the changes  
17 occur.

18 25210.18. (a) On or before April 1, 2013, and on or before  
19 each April 1 annually thereafter, the plan operator shall prepare  
20 and submit to the department a report for the immediately  
21 preceding reporting period describing all of the following:

22 (1) Information, including full contact information, regarding  
23 all of the following:

24 (A) The organization submitting the report.

25 (B) A list of all participating producers and their brands and  
26 trademarks, if applicable.

27 (2) The recovery rates of the class 1 lamps subject to the plan,  
28 including all of the following:

29 (A) The amount, by weight, of unwanted class 1 lamps collected  
30 from covered entities in each county in the state, including  
31 documented collection and recycling or disposal of that material.

32 (B) A list of collection locations for unwanted products, sorted  
33 by city and county.

34 (C) Progress toward achieving the goal of recycling all unwanted  
35 class 1 lamps sold by the producer or group of producers, and the  
36 program's fair share of orphan lamps pursuant to paragraph (8) of  
37 subdivision (c) of Section 25210.15, and what actions the plan  
38 operator will take during the next reporting period, including how  
39 it will improve effective and measurable outreach and education  
40 efforts.

1 (3) The processing and disposal system, including both of the  
2 following:

3 (A) A list of processing and disposal facilities used and  
4 locations, the weight of unwanted products processed at each  
5 processing facility and disposed at each disposal facility, and a  
6 description of the methods used at each processing facility.

7 (B) Any penalties, violations, or regulatory orders received  
8 during the reporting period by each processing facility or disposal  
9 facility that was used to implement the plan.

10 (4) Costs associated with the recovery of unwanted product and  
11 total and per pound costs.

12 (b) All reports submitted to the department shall be made  
13 available to the public on the department's Internet Web site and  
14 at the department's headquarters.

15 25210.19. (a) A producer, a group of producers, or a  
16 stewardship organization that submits a plan to the department  
17 shall enter into an agreement with the department to pay the  
18 department for the costs incurred by the department associated  
19 with the review of the product stewardship plan, including the  
20 implementation and enforcement of the plan.

21 (b) The department shall deposit the amounts paid pursuant to  
22 this section into the Lighting Product Stewardship Subaccount,  
23 which is hereby established in the Hazardous Waste Control  
24 Account and which may be expended by the department, upon  
25 appropriation by the Legislature, for the costs specified in  
26 subdivision (a).

27 25210.20. (a) On or before January 30, 2012, and on or before  
28 January 1 annually thereafter, a producer of a class 2 lamp shall  
29 pay to the commission the fee established by the commission  
30 pursuant to this section.

31 (1) On or before June 30, 2011, and on or before June 1 annually  
32 thereafter, a producer of a class 2 lamp shall provide to the  
33 commission a written report with the number and efficiency, in  
34 lumens per watt, of each model of class 2 lamps sold in the state  
35 during the previous calendar year.

36 (2) On or before December 1, 2011, the commission shall adopt  
37 regulations for determining the total environmental impact of a  
38 class 2 lamp according to the relative efficiency of each type of  
39 class 2 lamp and for setting the amount of the fee based on the  
40 total environmental impact of that type of class 2 lamp according

1 to the relative efficiency of that class 2 lamp. The regulations shall  
2 require the commission to set the amount of the payment at a level  
3 necessary to provide sufficient funds to implement this section,  
4 including administrative costs.

5 (3) Based on the information submitted pursuant to paragraph  
6 (1) and pursuant to the regulations adopted pursuant to paragraph  
7 (2), the commission shall assess the total environmental impact of  
8 each class 2 lamp, based on its relative efficiency.

9 (4) The commission shall assess the fee upon each producer of  
10 a class 2 based on the total sales of class 2 lamps by that producer  
11 in the state.

12 (b) The commission shall deposit all fee revenues collected  
13 pursuant to this section in the Energy Efficiency Research Fund,  
14 which is hereby created in the State Treasury.

15 (c) The funds in the Energy Efficiency Research Fund may be  
16 expended by the commission, upon appropriation by the  
17 Legislature, to provide grants, based on an annual competitive  
18 solicitation, for all the following purposes:

19 (1) Research to improve the lighting efficiency of class 2 lamps.

20 (2) Research to reduce environmental impacts from lighting  
21 technologies used by class 2 lamps.

22 (3) Projects to reduce, remediate, and mitigate the impact of  
23 class 2 lamps on public health and the environment.

24 (d) The commission shall provide information on compliance  
25 with this section as necessary to the department for the purpose of  
26 enforcement of this article.

27 25210.21. (a) On or before January 1, 2012, the department  
28 shall issue a report concerning the status of the collective product  
29 stewardship programs *established pursuant to this article* and post  
30 the report on the department's Internet Web site.

31 (b) On or before October 1, 2013, and on or before October 1  
32 annually thereafter, the department shall invite comments from  
33 local governments, communities, and citizens to report their  
34 satisfaction with services provided by product stewardship  
35 programs *established pursuant to this article*. The department shall  
36 use this information to determine if the plan operator is meeting  
37 the plan's requirements and in reviewing the proposed updates or  
38 changes to product stewardship plans.

39 25210.22. (a) Except as provided in subdivision (f), on and  
40 after January 1, 2012, a producer, wholesaler, or retailer shall not

1 sell or offer for sale a class 1 lamp to a person in this state unless  
2 the producer of that class 1 lamp is participating in a product  
3 stewardship program under a plan approved by the department.

4 (b) Except as provided in subdivision (f), on and after February  
5 1, 2012, a producer, wholesaler, or retailer shall not sell or offer  
6 for sale a class 2 lamp to a person in this state unless the producer  
7 of that class 2 lamp has paid the fee required by Section ~~25250.20~~  
8 *25210.20*.

9 (c) The department shall provide, on its Internet Web site, lists  
10 of all of the following:

11 (1) All producers of class 1 lamps participating in an approved  
12 product stewardship program.

13 (2) All producers of class 2 lamps that have paid the fee imposed  
14 pursuant to Section ~~25201.20~~ *25210.20*.

15 (3) All producers identified by the department as noncompliant  
16 with this article and the regulations adopted to implement this  
17 article.

18 (d) On May 1, 2012, and on the following January 1 and May  
19 1 annually thereafter, the department shall post on its Internet Web  
20 site producers of covered lamps that are not in compliance with  
21 this article.

22 (e) A wholesaler or a retailer that distributes covered lamps  
23 shall monitor the department's Internet Web site to determine if a  
24 producer's lamps are in compliance with this article.

25 (f) (1) A person primarily engaged in the business of reuse and  
26 resale of a used product is not subject to this article with regard to  
27 the sale of a used working covered product, for use in the same  
28 manner and purpose for which it was originally purchased.

29 (2) A covered product that is owned by a retailer on January 1,  
30 2012, is not subject to this section and the retailer may exhaust  
31 that existing stock through sales to the public.

32 *25210.23.* (a) The department shall send a written notification  
33 to a retailer known to be selling a product in the state from a  
34 producer or wholesaler who is not in compliance with this article.

35 (b) A retailer that removes from sale any covered lamp within  
36 90 days of discovery that it is not in compliance with this article  
37 shall not be in violation of this section.

38 *25210.24.* If, after holding a public hearing, the department  
39 finds that a producer has failed to make a good faith effort to  
40 comply with this article, including, but not limited to, failing to

1 submit or implement a plan pursuant to Section 25210.15, the  
2 department shall issue a compliance order with a schedule for  
3 achieving compliance.

4 25210.25. This article does not limit, supersede, duplicate, or  
5 otherwise conflict with the authority of the department to fully  
6 implement Article 14 (commencing with Section 25251), including  
7 the authority of the department to include products in a product  
8 registry that the department adopts pursuant to that article.  
9 Notwithstanding subdivision (c) of Section 25257.1, a covered  
10 lamp shall not be considered as a product category already  
11 regulated or subject to pending regulation for purposes of Article  
12 14 (commencing with Section 25251).

13 SEC. 3. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section 17556 of  
19 the Government Code, or changes the definition of a crime within  
20 the meaning of Section 6 of Article XIII B of the California  
21 Constitution.

# CITY OF OAKLAND

## BILL ANALYSIS



**Date:** May 27, 2010

**Bill Number:** AB 2398

**Bill Author:** Perez

### DEPARTMENT INFORMATION

**Contact:** Peter Slote  
**Department:** Public Works Agency, Facilities and Environment  
**Telephone:** 238-7432 **FAX #** 238-7286  
**E-mail:** pslote@oaklandnet.com

**RECOMMENDED POSITION: Support**

### Summary of the Bill

AB 2398 would require manufacturers of carpet to design, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life management of products they sell in California. AB 2398 would require, by September 30, 2011, producers of carpet to submit to the Department of Resources Recycling and Recovery (CalRecycle) a plan that includes a description of how the producer will provide collection, transport, recycling and or disposal services for their products. The plan would be reviewed, approved and monitored by CalRecycle.

Carpet is a bulky and difficult to manage material at landfills, and currently has a very limited recycling market. It has a large greenhouse gas (GHG) footprint as it is made primarily from petroleum. AB 2398 would reduce the landfill disposal of carpet by increasing carpet recycling. Increased carpet recycling also reduces GHG emissions by replacing emissions-intensive virgin materials to manufacture new carpet with more energy-efficient recycled feedstock from recycled carpet.

### Positive Factors for Oakland

AB 2398 would result in increased, convenient opportunities for Oakland residents and businesses to safely and legally dispose of carpet, which would reduce the landfill disposal of this material and contribute to Oakland's landfill disposal reduction goals. It could also reduce the amount of illegally dumped carpet and the fiscal and environmental costs associated with abating this activity. It would provide contractors complying with Oakland's Construction and Demolition Debris Recycling Ordinance new opportunities to recycle this common debris type.

Item: \_\_\_\_\_  
Rules & Legislation Comte  
May 27, 2010



**Negative Factors for Oakland**

None known.

**Proposed Amendment**

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or**  **None** (do not review with City Council, position not required)

**Known support:**

- Californians Against Waste
- California Resource Recovery Association
- California Retailers Association
- Clean Water Action
- League of California Cities

**Known Opposition:**

- Atlas Carpet Mills
- California Manufacturers & Technology Association
- Cal-Tax
- Fabrica International, Inc.
- Royalty Carpet Mills, Inc.
- The Dixie Group, Inc.
- World Floor Covering Association
- W. F. Taylor

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2398**

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**Introduced by Assembly Member John A. Perez**

February 19, 2010

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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 amended, 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~~ *carpet* 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 product~~ *product* goals ~~as to the~~ *and a* collection rate for ~~a compact the carpet subject to the plan, calculated in a specified manner. By January 1, 2012, the~~ *The* department would be required to review ~~and either approve or disapprove a~~ carpet stewardship ~~plans~~

*plan submitted to the department and deem the plan either complete or incomplete within 45 days after receipt.*

The bill would prohibit a producer, *wholesaler*, 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~~ *plan for that carpet is deemed complete* by the department. The act would require a producer of carpet *or the carpet stewardship organization to collect the carpet pursuant to implement the carpet stewardship plan and to meet the performance goals included in the carpet stewardship plan, including achieving the collection rate.*

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 administrative fee~~ when submitting the plan for review and approval and to pay an annual administrative fee, *as determined as an unspecified percentage of the costs of implementing the plan by the department.* 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, *wholesaler*, 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.

10 (d) The California carpet industry memorandum of  
11 understanding targets a recycling rate of between 20 and 25 percent  
12 by 2012.

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

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

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

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

31

32 CHAPTER 20. PRODUCT STEWARDSHIP FOR CARPETS

33

34 42970. For purposes of this chapter, and unless the context  
35 otherwise requires, the definitions in this chapter govern the  
36 construction of this chapter:

- 1 (a) "Brand" means a name, symbol, word, or mark that identifies  
2 the carpet, rather than its components, and attributes the carpet to  
3 the owner or licensee of the brand as the producer.
- 4 (b) "Carpet" means \_\_\_\_\_.
- 5 ~~(c) "Collection rate" means a quantitative measure that~~  
6 ~~establishes the amount of carpet required to be collected by the~~  
7 ~~carpet stewardship system for that carpet by an established date.~~  
8 ~~The collection rate is included as a component of the performance~~  
9 ~~goals for a carpet.~~
- 10 (b) (1) "Carpet" means a manufactured article that is used in  
11 commercial or residential buildings affixed or placed on the floor  
12 or building walking surface as a decorative or functional building  
13 interior feature and that is primarily constructed of a top visible  
14 surface of synthetic face fibers or yarns or tufts attached to a  
15 backing system derived from synthetic or natural materials.
- 16 (2) "Carpet" includes, but is not limited to, a commercial or a  
17 residential broadloom carpet or modular carpet tiles.
- 18 (3) "Carpet" does not include a rug, pad, cushion, or  
19 underlayment used in conjunction with, or separately from, a  
20 carpet.
- 21 (c) "Carpet producer stewardship" means requiring the  
22 producer of a carpet, and all other entities involved in the  
23 distribution chain of a carpet, to share in the responsibility of  
24 reducing the life cycle impact of the carpet and its packaging,  
25 including requiring the producer who makes design and marketing  
26 decisions for the carpet to bear the primary responsibility for this  
27 reduction.
- 28 (d) "Carpet stewardship organization" or "organization" means  
29 an organization appointed by one or more producers to act as an  
30 agent on behalf of the producer to design, submit, and administer  
31 a carpet stewardship plan pursuant to this chapter.
- 32 (e) "Carpet 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 42971.
- 36 (f) "Collection rate" means a quantitative measure established  
37 in the carpet stewardship plan that establishes the amount of carpet  
38 required to be collected by the carpet stewardship system for that  
39 carpet by an established date. The collection rate is included as  
40 a component of the product goals for a carpet.

- 1     ~~(d)~~  
2     (g) “Department” means the Department of Resources Recycling  
3 and Recovery.  
4     ~~(e)~~ “Performance goal” means the collection rate of carpets and  
5 may include, but is not limited to, the reuse and recycling rates  
6 established by the carpet stewardship plan for that carpet.  
7     ~~(f)~~  
8     (h) “Producer” shall be determined, with regard to a carpet that  
9 is sold, offered for sale, or distributed in the state, as meaning one  
10 of the following:  
11     (1) The person who manufactures the carpet and who sells,  
12 offers for sale, or distributes that carpet in the state under that  
13 person’s own name or brand.  
14     (2) If there is no person who sells, offers for sale, or distributes  
15 the carpet in the state under the person’s own name or brand, the  
16 producer of the carpet is the owner or licensee of a trademark or  
17 brand under which the carpet is sold or distributed in the state,  
18 whether or not the trademark is registered.  
19     (3) If there is no person who is a producer of the carpet for  
20 purpose of paragraphs (1) and (2), the producer of that carpet is  
21 the person who imports the carpet into the state for sale or  
22 distribution.  
23     ~~(g)~~  
24     (i) “Product goal” means those qualitative or quantitative goals  
25 determined by the producer to measure improvements that reduce  
26 the life cycle impacts of a carpet.  
27     ~~(h)~~ “Product stewardship” means requiring the producer of a  
28 carpet, and all other entities involved in the distribution chain of  
29 a carpet, to share in the responsibility of reducing the life cycle  
30 impact of the carpet and its packaging, including requiring the  
31 producer who makes design and marketing decisions for the carpet  
32 to bear the primary responsibility for this reduction.  
33     ~~(i)~~ “Product stewardship organization” means an organization  
34 appointed by one or more producers to act as an agent on behalf  
35 of the producer to design, submit, and administer a carpet  
36 stewardship plan pursuant to this chapter  
37     ~~(j)~~ “Product stewardship plan” or “plan” means a plan written  
38 by an individual producer or a carpet stewardship organization,  
39 on behalf of one or more producers, that includes all of the  
40 information required by Section 42973.

1 (j) "Program" means the system for the collection,  
2 transportation, recycling, and disposal of carpets pursuant to a  
3 completed carpet stewardship plan that is financed and managed  
4 or provided by an individual producer or collectively by one or  
5 more producers.

6 (k) "Recycling rate" means a quantitative measure that  
7 establishes the amount of a collected carpet that is recycled as  
8 compared to the total amount of the carpet that is collected,  
9 including the amount of the carpet that is discarded for reuse,  
10 energy recovery, or safe disposal.

11 (l) "Reporting period" means the period commencing January  
12 1 and ending on December 31 of the same calendar year.

13 (m) "Retailer" means a person ~~that~~ who offers new carpet in a  
14 retail sale, as defined in Section 6007 of the Revenue and Taxation  
15 Code, including a retail sale at retail through any means, including  
16 remote offerings such as sales outlets, catalogs, or an Internet Web  
17 site.

18 (n) "Reuse rate" means a quantitative measure that establishes  
19 the amount of a collected carpet that is reused as compared to the  
20 total amount of the covered carpet that is collected, including the  
21 amount of the carpet that is discarded by recycling, energy  
22 recovery, or safe disposal.

23 (o) "Sell" or "sales" means ~~any~~ a transfer of title of a carpet for  
24 consideration, including a remote sale conducted through a sale  
25 outlet, catalog, or Internet Web site or similar electronic means,  
26 but does not include a lease.

27 (p) "Wholesaler" means a person who offers new carpets for  
28 sale in this state in a sale that is not a retail sale, as defined in  
29 Section 6007 of the Revenue and Taxation Code, and in which the  
30 carpet is intended to be resold.

31 ~~42971. On or before January 1, 2012, the department shall~~  
32 ~~establish a baseline collection rate for the amount of carpets that~~  
33 ~~are discarded and subsequently collected, based on existing~~  
34 ~~collection data.~~

35 ~~42972. (a) The collection rate for a carpet shall be determined~~  
36 ~~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 42971.~~

1 ~~(2) On and after January 1, 2014, the collection rate for each~~  
2 ~~carpet shall increase by no less than 5 percent annually until a 95~~  
3 ~~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 carpet stewardship organization.~~

9 ~~42973. (a) On or before September 30, 2011, a producer or~~  
10 ~~the carpet stewardship organization of a carpet shall submit a carpet~~  
11 ~~stewardship plan to the department. A carpet stewardship~~  
12 ~~organization created pursuant to this section shall be open for~~  
13 ~~participation by all producers of carpet.~~

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

19 ~~(c) Each carpet stewardship plan for an identified carpet shall~~  
20 ~~address the environmental impacts of a carpet over the entire life~~  
21 ~~cycle of that carpet, including carpet design, manufacture, and~~  
22 ~~distribution, and the collection, transportation, reuse, recycling,~~  
23 ~~and final disposition of discarded carpet, in accordance with this~~  
24 ~~chapter. The plan shall include, at a minimum, all of the following~~  
25 ~~elements:~~

26 ~~(1) Contact information for all participating producers.~~

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

28 ~~(3) Performance goals, including a detailed description of how~~  
29 ~~the performance goals will be achieved and how results will be~~  
30 ~~measured and including both of the following:~~

31 ~~(A) The collection rate shall be included as a performance goal~~  
32 ~~for a carpet.~~

33 ~~(B) The reuse rate and recycling rate for that carpet shall be~~  
34 ~~included in the performance goal.~~

35 ~~(4) An overview of the roles and responsibilities of key players~~  
36 ~~along the distribution chain for that carpet.~~

37 ~~(5) Financing methods for the carpet stewardship plan.~~

38 ~~(6) Strategies for managing and reducing the life cycle impacts~~  
39 ~~of the carpet, steps that will be taken to ensure environmentally~~



1 sound management, and how impacts will be tracked over time to  
2 show continual improvement.

3 ~~(7) Education and outreach activities.~~

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

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

15 ~~(10) Procedures for notifying all retailers engaged in the sale  
16 of that carpet.~~

17 ~~42974. (a) On or before January 1, 2012, the department shall  
18 review any plan submitted to the department and either approve  
19 or disapprove the carpet stewardship plan submitted to the  
20 department. If the department does not approve the plan, the  
21 department shall notify the producer or organization that submitted  
22 the plan and the producer or organization shall revise and resubmit  
23 the disapproved carpet stewardship plan within 30 days after  
24 receiving the notification.~~

25 ~~(b) All carpet stewardship plans submitted to the department  
26 shall be available to the public on the department's Internet Web  
27 site.~~

28 ~~(c) A producer shall notify the department 30 days before  
29 instituting a significant or material change to a carpet stewardship  
30 plan.~~

31 ~~(d) The carpet stewardship plan shall be implemented upon the  
32 approval of the department by the producer or the carpet  
33 stewardship organization that submitted the plan.~~

34 ~~42975. On and after January 1, 2012, a producer or retailer  
35 shall not offer a carpet for sale in this state or offer a carpet for  
36 promotional purposes in this state unless the producer or carpet  
37 stewardship organization of the carpet has submitted a carpet  
38 stewardship plan to the department pursuant to Section 42973 and  
39 the carpet stewardship plan is approved by the department pursuant~~

1 to Section 42974 and being implemented pursuant to Section  
2 42976:

3 ~~42976. A producer of a carpet shall do all of the following~~  
4 ~~when implementing this chapter, including when implementing~~  
5 ~~an approved carpet stewardship plan:~~

6 ~~(a) Collect the individual carpets to be reused or recycled~~  
7 ~~pursuant to the carpet stewardship plan for that carpet submitted~~  
8 ~~by the producer or carpet organization pursuant to Section 42973~~  
9 ~~and approved by the department pursuant to Section 42974.~~

10 ~~(b) Meet the performance goals included in the carpet~~  
11 ~~stewardship plan, including achieving the collection rate established~~  
12 ~~pursuant to Section 42973.~~

13 ~~(c) Provide collection services, in accordance with Section~~  
14 ~~42977, for the carpet that does not charge a fee at the time when~~  
15 ~~the carpet is collected for either recycling or disposal.~~

16 ~~(d) Pay all administrative and operational costs associated with~~  
17 ~~the carpet stewardship plan, including the costs of collection,~~  
18 ~~transportation, and recycling or disposal, or both, of the carpet,~~  
19 ~~including the amount determined pursuant to Section 42979.~~

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

21 ~~42977. A carpet shall be handled and recycled, or, if not~~  
22 ~~feasible to be recycled, disposed of, in accordance with all state~~  
23 ~~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 ~~42978. (a) On or before January 1, 2012, the department shall~~  
27 ~~adopt regulations specifying the information required to be included~~  
28 ~~in annual carpet stewardship plan reports. Notwithstanding~~  
29 ~~subdivision (b), the department may include, in those regulations,~~  
30 ~~alternative reporting requirements for purposes of those annual~~  
31 ~~reports:~~

32 ~~(b) Beginning one year after a carpet stewardship plan is~~  
33 ~~approved or no later than January 1, 2013, whichever date is earlier,~~  
34 ~~and every subsequent year thereafter, each producer or stewardship~~  
35 ~~organization implementing a carpet stewardship plan shall prepare~~  
36 ~~and submit to the department an annual report describing the~~  
37 ~~activities carried out pursuant to the carpet stewardship plan during~~  
38 ~~the previous reporting period. The report, unless required otherwise~~  
39 ~~by the department pursuant to the regulations adopted pursuant to~~

1 ~~subdivision (a), shall include, but is not limited to, all of the~~  
2 ~~following:~~

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

8 ~~(2) Whether the producer or carpet stewardship organization,~~  
9 ~~in implementing the plan, attained the carpet goals for the carpet,~~  
10 ~~and if the carpet goals were not met, what actions the producer or~~  
11 ~~stewardship organization will take during the next reporting period~~  
12 ~~to achieve those carpet goals.~~

13 ~~(3) A description of the outreach and education activities~~  
14 ~~undertaken during the reporting period to inform consumers and~~  
15 ~~other stakeholders of the collection opportunities and safe carpet~~  
16 ~~handling described in the carpet stewardship plan.~~

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

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

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

24 ~~(c) The department shall review a report submitted pursuant to~~  
25 ~~this section and shall approve the report if the department~~  
26 ~~determines the report contains the information required by this~~  
27 ~~section.~~

28 ~~(d) The department shall make all reports submitted to the~~  
29 ~~department pursuant to this section available to the public on the~~  
30 ~~department's Internet Web site.~~

31 ~~42979. (a) The producer or carpet stewardship organization~~  
32 ~~submitting a carpet stewardship plan shall pay the department an~~  
33 ~~administrative fee in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) when the~~  
34 ~~plan is submitted for review and approval and thereafter pay an~~  
35 ~~annual administrative fee of \_\_\_\_\_ percent of the carpet stewardship~~  
36 ~~program costs as reported under paragraph (6) of subdivision (b)~~  
37 ~~of Section 42978.~~

38 ~~42971. (a) On or before September 30, 2011, a producer or~~  
39 ~~the carpet stewardship organization of a carpet shall submit a~~  
40 ~~carpet stewardship plan to the department.~~

1 (b) A producer, group of producers, or carpet stewardship  
2 organization shall consult with stakeholders during the  
3 development of the carpet stewardship plan, including soliciting  
4 stakeholder comments and responding to stakeholder comments  
5 prior to submitting the carpet stewardship plan.

6 (c) Each carpet stewardship plan shall include, at a minimum,  
7 all of the following elements:

8 (1) Contact information for all participating producers.

9 (2) The collection rate for the carpets subject to the plan, which  
10 shall be calculated in the following manner, except as provided  
11 in Section 42973:

12 (A) For the calendar year commencing January 1, 2014, the  
13 collection rate shall be 50 percent of the carpets sold by the  
14 producers subject to the plan during the previous calendar year.

15 (B) On and after January 1, 2017, the collection rate shall be  
16 70 percent of the carpets sold by the producers subject to the plan  
17 during the previous calendar year.

18 (C) The plan shall have a target of achieving a 95 percent  
19 collection rate.

20 (3) A description containing all of the following elements:

21 (A) Brands of the carpets covered by the plan.

22 (B) How the product goals will be achieved.

23 (C) The annual schedule for achievement of the collection rate.

24 (D) Convenient collection opportunities for consumers in all  
25 counties of the state.

26 (E) Reuse rate and recycling rate for carpets.

27 (F) Roles and responsibilities of key players along the  
28 distribution chain.

29 (G) Procedures to be used for notifying retailers and  
30 wholesalers of the program.

31 (4) Financing method selected to sustainably fund the  
32 implementation of the plan.

33 (5) Education and outreach activities to maximize collection  
34 rates.

35 (d) A producer or carpet stewardship organization shall contact  
36 cities, counties, districts, and regional agencies, in whose  
37 jurisdictions the program will be implemented, to do either, or  
38 both, of the following:

39 (1) Enter into an agreement to reimburse the local public agency  
40 for the cost of collecting carpets.

1 (2) Provide the local public agency with the location, hours,  
2 and contact information for the convenient collection points for  
3 carpets that are located within the county where the local agency  
4 is located and are consistent with the plan.

5 42972. (a) A carpet stewardship program shall be considered  
6 in compliance with this article only if it achieves the collection  
7 rate specified in a plan that has been deemed complete by the  
8 department pursuant to Section 42974.

9 (b) If a program achieves a collection rate of 95 percent, the  
10 producer or carpet stewardship organization shall not be required  
11 to pay the annual fee imposed pursuant to subdivision (a) of Section  
12 42979.

13 42973. A producer may petition the department for an  
14 adjustment to the collection rate. The department may grant an  
15 adjustment to the collection rate only if the department determines  
16 there are documented exigent circumstances that are beyond the  
17 control of the producer or carpet stewardship organization.

18 42974. (a) The department shall review a plan within 45 days  
19 after the date the plan is received and either deem the plan  
20 complete or incomplete. If the department does not deem the plan  
21 complete, the department shall notify the producer or organization  
22 that submitted the plan of the deficiencies and the producer or  
23 organization shall revise and resubmit the plan within 45 days  
24 after receiving the notification. If the department deems the plan  
25 complete, the department shall, within 45 days after receipt, notify  
26 the producer or organization that the submitted plan is complete.

27 (b) The department shall make all carpet stewardship plans  
28 submitted to the department available to the public on the  
29 department's Internet Web site.

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

33 (d) On or before July 1, 2012, and on or before July 1 annually  
34 thereafter, the department shall post on its Internet Web site a  
35 listing of the brands of carpets for which the producer is in  
36 compliance with this article.

37 42975. On and after January 1, 2012, a producer, wholesaler,  
38 or retailer shall not offer a carpet for sale in this state or offer a  
39 carpet for promotional purposes in this state unless the plan  
40 submitted by the producer or carpet stewardship organization of

1 that carpet has been deemed complete by the department pursuant  
2 to Section 42974.

3 42976. Upon receiving notification from the department  
4 pursuant to Section 42974 that a plan is complete, the producer  
5 or the carpet stewardship organization shall do all of the following:

6 (a) Implement the plan, including, but not limited to, achieving  
7 the collection rate specified in the plan.

8 (b) Pay the administrative fees imposed pursuant to subdivision  
9 (a) of Section 42979.

10 (c) Submit the annual report required by Section 42978.

11 42977. A wholesaler or a retailer that distributes or sells  
12 carpets shall monitor the department's Internet Web site to  
13 determine if the sale of a producer's carpets is in compliance with  
14 this article.

15 42978. (a) On or before April 1, 2013, and every subsequent  
16 year thereafter, each producer or carpet stewardship organization  
17 implementing a plan shall prepare and submit to the department  
18 an annual report describing the activities carried out pursuant to  
19 the plan during the previous calendar year. The annual report  
20 shall include, but is not limited to, all of the following:

21 (1) The extent to which each element of the plan specified in  
22 subdivision (c) of Section 42971 is attained, including, but not  
23 limited to, achieving the collection rate specified in the plan.

24 (2) The actions that the producer will take during the next  
25 reporting period to meet the product goals specified in the plan  
26 that have not been met.

27 (3) A report of the total sales data for carpets sold in the state  
28 for the previous calendar year.

29 (b) The department shall review an annual report submitted  
30 pursuant to this section and shall deem it complete if the  
31 department determines the report contains the information required  
32 by this section.

33 (c) If the department does not act on a report within 45 days of  
34 receipt, the report shall be deemed to be complete.

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

38 (e) If the collection rate for the carpets subject to the plan meets  
39 the collection rate specified in subdivision (b) of Section 42972,  
40 the report shall be submitted once every two years.

1 42979. (a) *The producer or carpet stewardship organization*  
2 *submitting a carpet stewardship plan shall pay the department an*  
3 *annual administrative fee. The department shall set the fee at an*  
4 *amount that, when paid by every producer and carpet stewardship*  
5 *program that submits a carpet stewardship plan, is adequate to*  
6 *cover the department's full costs of administering and enforcing*  
7 *this chapter. The department may establish a variable fee based*  
8 *on relevant factors including, but not limited to, the portion of*  
9 *carpets produced by the fee payer compared to the total amount*  
10 *of carpet produced by all producers or stewardship organizations*  
11 *submitting a carpet stewardship plan.*

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

16 42980. (a) The Carpet Stewardship Account and the Carpet  
17 Stewardship Penalty Subaccount are hereby established in the  
18 Integrated Waste Management Fund.

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

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

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

31 42981. (a) If, after holding a public hearing, the department  
32 finds that a producer has failed to make a good faith effort to  
33 comply with this chapter, including, but not limited to, failing to  
34 submit a plan pursuant to Section-42973 42971 or failing to submit  
35 an annual report pursuant to Section 42978, the department shall  
36 issue a compliance order with a schedule for achieving compliance.

37 (b) If, after issuing an order and schedule for compliance  
38 pursuant to subdivision-(e) (a), the department finds that the  
39 producer has failed to make a good faith effort to comply with this  
40 chapter, the department may impose an administrative civil penalty

1 of ~~ten thousand dollars (\$10,000)~~ *five thousand dollars (\$5,000)*  
2 per day until the producer achieves compliance.

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

7 42982. (a) In addition to the penalty specified in Section  
8 42981, the department may impose an administrative civil penalty  
9 of ~~ten thousand dollars (\$10,000) per day against a producer or of~~  
10 *five thousand dollars (\$5,000) per day against a producer,*  
11 *wholesaler, or retailer who violates Section 42975.*

12 (b) *A producer, wholesaler, or retailer that removes from sale*  
13 *any carpet within 90 days of discovery that it is not in compliance*  
14 *with this chapter shall not be deemed to be in violation of Section*  
15 *42975.*

16 (b) ~~Prior to enforcing a penalty pursuant to this section, the~~

17 (c) ~~Prior to enforcing any penalty pursuant to this section, the~~  
18 department shall issue a compliance order to the producer or retailer  
19 selling the carpet allowing 30 days from the date of the compliance  
20 order to cease sales of the carpet.

21 ~~42983. (a) The department, or its designee, may inspect, audit,~~  
22 ~~or require and review third-party audits of producers, carpet~~  
23 ~~stewardship organizations, and service providers, including~~  
24 ~~collectors and recyclers, that are utilized to fulfill the requirements~~  
25 ~~of a carpet stewardship plan.~~

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

31 ~~42984. The department shall adopt regulations for the~~  
32 ~~imposition of administrative civil penalties pursuant to this chapter.~~

33 ~~42985.~~

34 42983. This article does not limit, supersede, duplicate, or  
35 otherwise conflict with the authority of the Department of Toxic  
36 Substances Control under Section 25257.1 of the Health and Safety  
37 Code to fully implement Article 14 (commencing with Section  
38 25251) of Chapter 6.5 of Division 20 of the Health and Safety



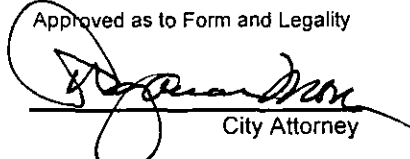
- 1 Code, including the authority of the department to include a carpet
- 2 in its product registry.

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OFFICE OF THE CITY CLERK  
OAKLAND

2010 MAY 13 PM 1:44

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

---

**RESOLUTION TO SUPPORT CALIFORNIA SENATE BILL 1100 WHICH  
WILL REQUIRE MANUFACTURERS TO CREATE, FUND AND OPERATE  
A PROGRAM TO RECYCLE AND/OR DISPOSE OF HOUSEHOLD  
BATTERIES THEY SELL IN CALIFORNIA AFTER THEIR USEFUL LIFE**

**WHEREAS**, current state law classifies household batteries as Universal Waste, and bans them from disposal as solid waste, but does not allocate resources to provide consumers with convenient opportunities for safe and lawful disposal of household batteries; and

**WHEREAS**, the statewide disposal ban burdens local governments including Oakland with the cost of designing and implementing programs for the collection of household batteries; and

**WHEREAS**, SB 1100 (Corbett) would require household battery manufacturers to create, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life recycling and/or disposal of household batteries they sell in California; and

**WHEREAS**, SB 1100 would result in increased, convenient opportunities for Oakland residents, and businesses to safely and legally dispose of household batteries; and

**WHEREAS**, SB 1100 would relieve Alameda County Household Hazardous Waste facilities of the cost burden of recycling and/or disposal of household batteries, costs which are funded by Oakland garbage collection rate payers; and

**WHEREAS**, SB 1100 would shift these costs from local government to the manufacturers of household batteries, and reduce reliance on public household hazardous waste programs to capture and recycling and/or disposal of household batteries; and

**WHEREAS**, in 2007 the City Council adopted Resolution No. 80390 C.M.S. to support Extended Producer Responsibility (EPR) legislation that would hold manufacturers responsible for the recycling and/or disposal of post-consumer waste products; now, therefore be it

**RESOLVED:** The City of Oakland declares its support for SB 1100 (Corbett) to require manufacturers of household batteries to create, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life recycling and/or disposal of household batteries they sell in California; and be it

**FURTHER RESOLVED:** That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for enacting SB 1100 with the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

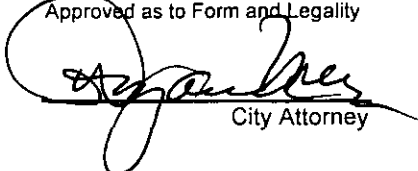
ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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OAKLAND

2010 MAY 13 PM 1:44

Approved as to Form and Legality  
  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

---

**RESOLUTION TO SUPPORT CALIFORNIA ASSEMBLY BILL 1343  
WHICH WILL REQUIRE MANUFACTURERS TO CREATE, FUND AND  
OPERATE A PROGRAM TO RECYCLE AND/OR DISPOSE OF  
ARCHITECTURAL PAINT THEY SELL IN CALIFORNIA AFTER ITS  
USEFUL LIFE**

**WHEREAS**, current state law classifies architectural paint (paint) as Universal Waste, and bans it from disposal as solid waste, but does not allocate resources to provide consumers with convenient opportunities for safe and lawful disposal of paint; and

**WHEREAS**, the statewide disposal ban burdens local governments including Oakland with the collection of paint through household hazardous waste collection facilities and the clean-up of illegally dumped paint in streets, parks, and waterways; and

**WHEREAS**, AB 1343 (Huffman) would require paint manufacturers to design, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life management of the paint they sell in California; and

**WHEREAS**, AB 1343 would result in increased, convenient opportunities for Oakland residents and businesses to safely and legally dispose of unused paint; and

**WHEREAS**, AB 1343 would reduce the amount of illegally dumped paint and the fiscal and environmental costs associated with this activity, and relieve Alameda County Household Hazardous Waste facilities of the cost burden of disposing and/recycling used paint, costs which are funded by Oakland garbage collection rate payers; and

**WHEREAS**, AB 1343 would shift these costs from local government to the manufacturers of paint, and reduce our reliance on public household hazardous waste programs to capture and dispose and/or recycle paint; and

**WHEREAS**, in 2007 the City Council adopted Resolution No. 80390 C.M.S. to support extended producer responsibility legislation that would hold manufacturers responsible for the disposal and/or recycling of post-consumer waste products; now, therefore be it

**RESOLVED:** The City of Oakland declares its support for AB 1343 (Huffman) to require that manufacturers of architectural paint design, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life disposal and/or recycling of paint they sell in California; and be it

**FURTHER RESOLVED:** That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for enacting AB 1343 with the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

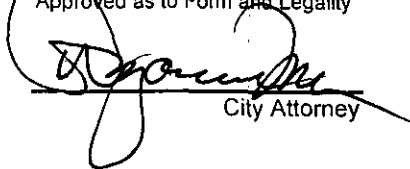
ABSTENTION -

ATTEST: \_\_\_\_\_

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

2010 MAY 13 PM 1:44

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

---

**RESOLUTION TO SUPPORT CALIFORNIA ASSEMBLY BILL 2139  
WHICH WILL REQUIRE MANUFACTURERS TO CREATE, FUND AND  
OPERATE A PROGRAM TO RECYCLE AND/OR DISPOSE OF  
HOUSEHOLD MEDICAL NEEDLES, HOUSEHOLD PESTICIDES, AND  
HOUSEHOLD SINGLE-USE BUTANE CONTAINERS THEY SELL IN  
CALIFORNIA AFTER THEIR USEFUL LIFE**

**WHEREAS**, in 2007 the City Council approved Resolution No. 80390 C.M.S. adopting an Extended Producer Responsibility policy to pursue legislation that would give manufacturers/producers incentives to redesign products to make them less toxic, and shift the cost for recycling and proper disposal of products from local governments and rate payers to the manufacturers and distributors of products; and

**WHEREAS**, in 2007 the City Council approved Resolution No. 80747 C.M.S., adopting an Environmentally Preferable Purchasing Policy that favors products manufactured by companies that take financial and physical responsibilities for safely managing, recycling and disposing of their product wastes; and

**WHEREAS**, in 2006 the City Council approved Resolution No. 80286 C.M.S. adopting a Zero Waste Strategic Plan that includes strategies to advocate for manufacturer responsibility for product waste and bans problem materials; and

**WHEREAS**, SB 1305 of January 2008 amended the Medical Waste Management Act and made it unlawful for home-generated medical needles (sharps) to be disposed into either the municipal solid waste and recycling systems; and

**WHEREAS**, existing State law classify pesticides for household use and non-reusable propane containers as universal waste and prohibits these used products from being disposed of in the municipal waste stream; and

**WHEREAS**, AB 2139 would establish the California Product Stewardship Act and create an Extended Producer Responsibility Framework in which manufacturers/producers must assume direct responsibility for the products they design, manufacture and market, and develop safe disposal and recovery programs for the products they make in California;

**WHEREAS**, AB 2139 would establish three “covered products” including home-generated sharps, pesticides for household use and non-reusable propane containers to be included in the Act; and

**WHEREAS**, AB 2139 would require manufacturers of the “covered products” to provide the California Department of Resources Recycling and Recovery plan that includes a description of recovery programs that residents and consumers can use to safely and conveniently dispose of used sharps, pesticides for household use and non-reusable propane containers; and

**WHEREAS**, the City of Oakland is charged with protecting the public health and welfare of its residents and workers and assumes the authority and responsibility to comply with the California Health and Safety Code Chapter 6.95; therefore be it

**RESOLVED**: that the City of Oakland declares its support for AB 2139 (Chesbro); and be it

**FURTHER RESOLVED**: that the City Council hereby directs the City Administrator and the City’s legislative lobbyist to advocate for enacting AB 2139 with the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

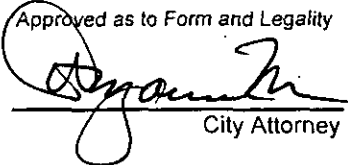
ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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OAKLAND

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Approved as to Form and Legality  
  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

---

**RESOLUTION TO SUPPORT CALIFORNIA ASSEMBLY BILL 2176  
WHICH WILL REQUIRE MANUFACTURERS TO CREATE, FUND AND  
OPERATE A PROGRAM TO RECYCLE AND/OR DISPOSE OF MERCURY-  
CONTAINING LAMPS THEY SELL IN CALIFORNIA AFTER THEIR  
USEFUL LIFE**

**WHEREAS**, current state law classifies mercury-containing lamps as Universal Waste, and bans them from disposal as solid waste, but does not allocate resources to provide consumers with convenient opportunities for safe and lawful disposal of mercury-containing lamps; and

**WHEREAS**, the statewide disposal ban burdens local governments including Oakland with the collection of mercury-containing lamps through household hazardous waste collection facilities; and

**WHEREAS**, AB 2176 (Blumenfield) would require mercury-containing lamp manufacturers to design, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life management of the mercury-containing lamps they sell in California; and

**WHEREAS**, AB 2176 would result in increased, convenient opportunities for Oakland residents and businesses to safely and legally dispose of mercury-containing lamps; and

**WHEREAS**, AB 2176 would relieve Alameda County Household Hazardous Waste facilities of the cost burden of disposing or recycling mercury-containing lamps, costs which are paid for by Oakland garbage collection rate payers; and

**WHEREAS**, AB 2176 would shift these costs from local government and Oakland's garbage rate payers to the manufacturers of mercury-containing lamps, and reduce our reliance on public household hazardous waste programs to capture and dispose or recycle mercury-containing lamps; and

**WHEREAS**, in 2007 the City Council adopted Resolution No. 80390 C.M.S. to support Extended Producer Responsibility (EPR) legislation that would hold manufacturers responsible for the disposal or recycling of management of post-consumer waste products; now, therefore be it



**RESOLVED:** The City of Oakland declares its support for AB 2176 (Blumenfeld) to require manufacturers of architectural mercury-containing lamps to design, fund, and operate an EPR program for proper end-of-life disposal and/or recycling of the mercury-containing lamps they sell in California; and be it

**FURTHER RESOLVED:** That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for enacting AB 2176 with the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

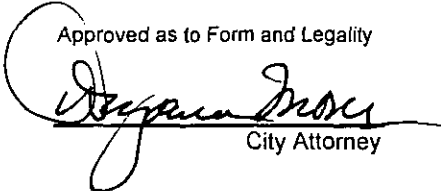
ATTEST: \_\_\_\_\_

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

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City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

---

**RESOLUTION TO SUPPORT CALIFORNIA ASSEMBLY BILL 2398  
WHICH WILL REQUIRE MANUFACTURERS TO CREATE, FUND AND  
OPERATE A PROGRAM TO RECYCLE AND/OR DISPOSE OF CARPET  
THEY SELL IN CALIFORNIA AFTER ITS USEFUL LIFE**

**WHEREAS**, carpet is a bulky and difficult to manage material at landfills, and currently has a very limited recycling market; and

**WHEREAS**, carpet has a large greenhouse gas (GHG) footprint as it is made primarily from petroleum; and

**WHEREAS**, carpet is a common component of construction and demolition projects subject to Oakland's Construction and Demolition Debris Recycling Ordinance; and

**WHEREAS**, AB 2398 (Perez) would require carpet manufacturers to design, fund, and operate an Extended Producer Responsibility (EPR) program for proper end-of-life recycling and/or disposal of the carpet they sell in California; and

**WHEREAS**, AB 2398 would reduce the landfill disposal of carpet by increasing carpet recycling opportunities for Oakland businesses complying with Oakland's Construction and Demolition Debris Recycling Ordinance, other businesses and residents; and

**WHEREAS**, increased carpet recycling reduces GHG emissions by replacing emissions-intensive virgin materials to manufacture new carpet with more energy-efficient recycled feedstock from recycled carpet; and

**WHEREAS**, AB 2398 would reduce the amount of illegally dumped carpet and the fiscal and environmental costs associated with this activity; and

**WHEREAS**, AB 2398 would shift these costs from local government to the manufacturers of carpet; and

**WHEREAS**, in 2007 the City Council adopted Resolution No. 80390 C.M.S. to support extended producer responsibility legislation that would hold manufacturers responsible for the recycling and/or disposal of post-consumer waste products; now, therefore be it

**RESOLVED:** The City of Oakland declares its support for AB 2398 (Perez) to require manufacturers of carpet to design, fund, and operate an EPR program for proper end-of-life recycling and/or disposal of the carpet they sell in California; and be it

**FURTHER RESOLVED:** That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for enacting AB 2398 with the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

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