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OFFICE OF THE CITY CLERK  
OAKLAND

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## CITY OF OAKLAND BILL ANALYSIS



**Bill Number:** AB 283

**Bill Author:** Assembly Member Wesley Chesbro

### DEPARTMENT INFORMATION

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**Department:** PWA Environmental Services Division

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**RECOMMENDED POSITION:** SUPPORT

### Summary of the Bill

AB 283 would establish an Extended Producer Responsibility Program (Program) for the State of California to shift waste management costs for identified products from local governments and ratepayers to the producers who design, manufacture, and market these products. Rather than implementing extended producer responsibility (EPR) through the current patchwork of individual laws for each product, the Program would establish a "framework" under which one law would give state government the authority, through regulation, to:

- Select products or product categories to be covered under the Program through a public process that identifies priority products based on criteria established under the Program
- Set measurement methods, waste reduction goals, product recovery rates, and/or other requirements (e.g., toxicity reduction) through a public stakeholder process
- Establish oversight in applying the same rules to all producers, including requirements to submit annual reports documenting achievement of Program requirements

The Program would establish performance outcomes and hold producers responsible for determining how to achieve those performance outcomes. Since producers know their products best, they would have the opportunity and incentive to identify the most efficient ways to reduce waste and recover materials from production, use, and disposal of these goods. Producers in a particular product category would be allowed to meet their responsibilities under the Program individually, or join with others in their product category to form a "product stewardship organization" as defined under AB 283. Products, materials, and packaging receiving top priority for inclusion in the Program would be those that are most expensive or difficult to recycle, including Universal Wastes. Universal Wastes, which are banned from landfill disposal in California, include computers, cellular phones, household batteries, and mercury-containing products such as fluorescent lamps.

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### **Positive Factors for Oakland**

AB 283 would establish a comprehensive state-level Extended Producer Responsibility Program (Program) that would incorporate disposal costs into the purchase price of a product paid by consumers of that product. Currently, disposal costs are external to the price of particular goods, and are often borne by local governments or garbage rate-payers in general. For example, Household Hazardous Waste programs are funded by rate-payers and local government rather than the producers and purchasers of hazardous materials. By placing direct financial responsibility for reducing product waste and toxicity with the producers who design, manufacture and market these products, the Program would lower Household Hazardous Waste program surcharges that are included in solid waste rates paid by Oakland ratepayers.

Overall, the Program would benefit Oakland residents and businesses by shifting away from government-run, tax-supported "take-back" programs that can create costly bureaucracies and leave producers with no incentive to re-design or provide for enhanced recovery of discarded products. The Program would also create opportunities for economic growth in Oakland and throughout the state, as recycling and reusing materials encourages new markets and creates new jobs.

The Program that would be developed under AB 283 would significantly advance a key strategy of Oakland's Zero Waste Strategic Plan: "Advocate for Manufacturer Responsibility for Product Waste, Ban Problem Materials" by providing incentives for producers to "design the waste out" so that products are less toxic and more durable, and thus can be more readily reused, repaired, reconditioned, recycled, or composted. AB 283 also directly supports the goal of City Council's adopted Resolution #80390 C.M.S. authorizing the City to pursue extended producer responsibility legislation.

### **Negative Factors for Oakland**

None identified.

### **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:**

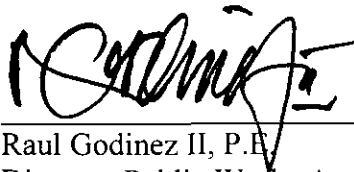
California Product Stewardship Council  
Californians Against Waste

**Known Opposition:**

California Manufacturers and Technology Association

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

Respectfully submitted,



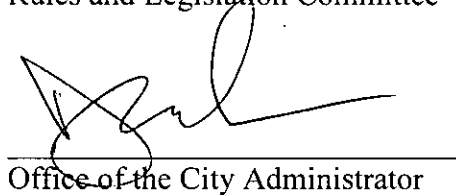
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Approved for Forwarding to  
Rules and Legislation Committee

  
Office of the City Administrator

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
April 23, 2009

**ASSEMBLY BILL**

**No. 283**

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

February 12, 2009

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

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

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

The bill, on and after January 1, 2012, would require the board to select covered products, as defined, according to certain requirements. The bill would exempt the selection of covered products from the requirements of the Administrative Law Act. On and after July 1, 2012,

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

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

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

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

1 SECTION 1. Chapter 5 (commencing with Section 48800) is  
2 added to Part 7 of Division 30 of the Public Resources Code, to  
3 read:

4  
5 CHAPTER 5. CALIFORNIA PRODUCT STEWARDSHIP ACT OF 2010

6  
7 Article 1. Findings and Declarations

8  
9 48800. (a) The Legislature finds and declares all of the  
10 following:

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

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

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

12 (4) The CIWMB manages 97 percent of the state's solid waste  
13 stream.

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

18 (6) End-of-life management of solid waste has been the shared  
19 responsibility between the state and local governments with the  
20 financial burden placed on the taxpayer.

21 (7) The CIWMB adopted a final "Extended Producer  
22 Responsibility Framework" policy document in 2008 to guide  
23 efforts to reduce the end-of-life environmental impacts of products  
24 and require that producers share in the responsibility for the  
25 stewardship of their products in order to promote environmental  
26 sustainability.

27 (8) Currently, the state addresses products with end-of-life  
28 management issues through a patchwork of product and material  
29 specific programs that have experienced various levels of success.

30 (9) Establishing the Extended Producer Responsibility  
31 Framework Program under this chapter offers an alternative to the  
32 materials and products approach while providing the flexibility to  
33 customize individual product stewardship plans toward the most  
34 effective and efficient approach for a particular product or product  
35 category.

36 (10) The disposal of solid waste harms natural resources,  
37 negatively impacts the state's environment, prevents materials  
38 from circulating in the state's economy to produce jobs and new  
39 products, and contributes to global warming.

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

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

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

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

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

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

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

1 Article 2. General Provisions

2  
3 48800.1. This act shall be known and may be cited as the  
4 California Extended Producer Responsibility Framework Act of  
5 2010.

6  
7 Article 3. Definitions

8  
9 48800.2. For purposes of this chapter, and unless the context  
10 otherwise requires, the definitions in this article govern the  
11 construction of this chapter.

12 48800.3. "Board" means the California Integrated Waste  
13 Management Board.

14 48800.4. "Brand" means a name, symbol, word, or mark that  
15 identifies a product, rather than its components, and attributes the  
16 product to the owner or licensee of the brand as the producer.

17 48800.5. "Capture rate" is a component of the performance  
18 goals for a covered product and means a quantitative measure that  
19 establishes an amount of product to be collected by the product  
20 stewardship system for that product by an established date.

21 48800.6. "Covered product" means a product used or disposed  
22 of in this state that has been selected by the board pursuant to  
23 Section 48813.

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

30 48800.8. "Department" means the Department of Toxic  
31 Substances Control.

32 48800.9. "Disposition rate" is a component of the performance  
33 goals for a covered product and means a quantitative measure that  
34 establishes the amounts of unwanted product that are reused,  
35 recycled, or recovered, including energy recovery or safe disposal.

36 48800.10. "Extended producer responsibility" means the  
37 extension of the shared responsibility of producers, and all entities  
38 involved in the product chain, to reduce the cradle-to-cradle  
39 impacts of a product and its packaging, with the primary



1 responsibility being with the producer who makes design and  
2 marketing decisions.

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

6 48800.12. “Orphan product” means any one of the following:

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

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

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

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

15 48800.14. “Producer” means one of the following:

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

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

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

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

33 48800.16. “Product stewardship organization” means all of the  
34 following:

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

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

1 48800.17. "Product stewardship plan" means a plan written  
2 by an individual producer or a stewardship organization, on behalf  
3 of a producer, that addresses the environmental impacts of a  
4 covered product over the entire life cycle of that product, including  
5 product design and the collection, transportation, reuse, recycling,  
6 and final disposition of discarded covered products as provided in  
7 this chapter.

8 48800.18. "Reporting period" means the period commencing  
9 January 1 and ending on December 31 of the same calendar year.

10 48800.19. "Retailer" means a person that offers new products  
11 for sale at retail through any means, including remote offerings  
12 such as sales outlets, catalogs, or an Internet Web site.

13 48800.20. "Secondary material" means material that is being  
14 reused or recycled that would otherwise be disposed of in a landfill.

15 48800.21. "Sell" or "sales" means any transfer of title for  
16 consideration, including remote sales conducted through sales  
17 outlets, catalogs, or an Internet Web site or similar electronic  
18 means. Sell or sales does not include leases.

19  
20 Article 4. Extended Producer Responsibility Framework  
21 Program  
22

23 48810. (a) (1) The Extended Producer Responsibility  
24 Framework Program is hereby created.

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

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

31 (b) For purposes of this chapter, the board shall review existing  
32 and proposed international, federal, and state Extended Producer  
33 Responsibility Programs and make reasonable efforts to promote  
34 consistency among the programs established pursuant to this part  
35 and those other programs.

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

39 (d) The board, in addition to any other regulations necessary to  
40 implement this chapter, shall do all of the following:

- 1 (1) Establish definitions.
- 2 (2) Establish a process for selecting covered products and  
3 determining performance goals.
- 4 (3) Establish a process for product stewardship plan  
5 development, review, and submittal.
- 6 (4) Establish a process for providing data and reporting to the  
7 board.
- 8 (5) Prepare recommendations for immediate incentives for  
9 producers that stimulate waste reduction, pollution prevention,  
10 energy efficiency, and increased secondary use of recycled and  
11 reused materials that would otherwise be disposed of. These  
12 incentives may include, but are not limited to, an expedited  
13 approach to permitting facilities needed to implement product  
14 stewardship programs, investments in more market development,  
15 cost-effective energy savings and reducing water usage, tax  
16 incentives for utilizing renewable resources, loans from the  
17 Recycling Market Development Revolving Loan Program pursuant  
18 to Section 42023.1 to qualifying product stewardship organizations  
19 for startup of stewardship programs, and further incentives for  
20 designing products and processing facilities from recycled and  
21 reused materials that would otherwise be disposed of.
- 22 (6) Prepare recommendations for long-term incentives to foster  
23 environmental product design to reduce waste and use of hazardous  
24 materials, to reward businesses for superior environmental  
25 performance that results in significant solid or hazardous waste  
26 reduction or increased use of secondary materials, and for  
27 investments that support longer term change to material markets  
28 and market development.
- 29 (7) Prepare recommendations for funding incentives, by  
30 consulting with product stewardship stakeholders to determine  
31 how to fund additional cradle-to-cradle stewardship initiatives and  
32 disincentives for solid waste disposal as a viable option.
- 33 (8) Establish penalties for violations of this chapter.
- 34 (9) Develop guidelines designed to ensure that activities  
35 undertaken pursuant to this chapter do not interfere with the  
36 following:
  - 37 (A) Efforts by the department undertaken pursuant to Article  
38 14 (commencing with Section 25251) of Chapter 6.5 of Division  
39 20 of the Health and Safety Code.

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

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

6 (D) The State Water Resources Control Board efforts for water  
7 quality protection.

8 (E) The Ocean Protection Council's ocean litter reduction  
9 efforts.

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

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

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

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

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

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

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

39 (2) Products that pose a threat of increased greenhouse gas  
40 emissions.

- 1 (3) Products that impose significant end-of-life management  
2 costs on state or local government.
- 3 (b) The factors the board shall consider in selecting covered  
4 products pursuant to subdivision (a) shall include, but are not  
5 limited to, the following:
- 6 (1) Public health and significant environmental and safety  
7 impacts and benefits.
- 8 (2) Resource recovery and material conservation potential,  
9 including the potential for product redesign to achieve greater  
10 waste reduction, toxicity reduction, water consumption reduction,  
11 increase in recycled content, and greater capability for being  
12 recycled.
- 13 (3) Energy use and conservation potential.
- 14 (4) Climate change impacts and benefits.
- 15 (5) Existing infrastructure capacity for material management  
16 and potential for expansion.
- 17 (6) Success in collecting and processing similar products in  
18 other programs in the United States and other countries.
- 19 (7) The selection of products in extended producer responsibility  
20 programs in other states.
- 21 (8) Ocean pollution impacts.
- 22 (9) Storm water runoff impacts.
- 23 (c) The board may select covered products and set performance  
24 goals over time at regularly scheduled board meetings.
- 25 (d) Through the product selection process, the board shall do  
26 the following:
- 27 (1) Identify and notify potential interested parties for a proposed  
28 covered product.
- 29 (2) Select and define a covered product or covered products.  
30 This may include historic and orphan products in addition to new  
31 products.
- 32 (3) Determine whether the packaging for a covered product  
33 shall be considered part of the covered product.
- 34 (4) Establish any implementation dates for requirements for  
35 covered products.
- 36 (5) Identify unique environmental impacts or management  
37 requirements, if any, for a covered product.
- 38 (6) Set performance goals and timeframes for the covered  
39 product.

1 (7) Establish measurement metrics and reporting protocols for  
2 the covered product.

3 (e) The selection process for covered products described in this  
4 section shall not be subject to the requirements of Chapter 3.5  
5 (commencing with Section 11340) of Part 1 of Division 3 of Title  
6 2 of the Government Code. However, selected covered products  
7 and associated performance goals shall be submitted to the Office  
8 of Administrative Law for filing and printing with the Secretary  
9 of State.

10 48814. (a) On and after July 1, 2012, a covered product shall  
11 not be offered for sale or used for promotional purposes in this  
12 state unless the producer or product stewardship organization of  
13 the covered product submits a product stewardship plan in  
14 accordance with this chapter and the regulations adopted pursuant  
15 to subdivision (c) of Section 48810.

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

17 (1) (A) Submit a product stewardship plan or participate in a  
18 stewardship organization.

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

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

24 (B) Covered products that have been determined by the board  
25 not to be recyclable nor reusable shall be disposed of or managed  
26 in properly permitted facilities appropriate for the covered product,  
27 including disposal or management of all hazardous products,  
28 components, or materials in properly permitted hazardous waste  
29 facilities appropriate for the product, component, or material.

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

33 (4) Pay all the administrative and operational costs associated  
34 with the product stewardship plan, including the costs of collection,  
35 transportation, and recycling or disposal, or both, of covered  
36 products.

37 44815. (a) The producer or product stewardship organization  
38 of a covered product shall submit a product stewardship plan to  
39 the board.

- 1 (b) Each product stewardship plan for a covered individual  
2 product shall include, at a minimum, all of the following:
- 3 (1) Contact information for all participating producers.
- 4 (2) A description of the product and associated brand covered  
5 by the plan.
- 6 (3) A detailed description of how the performance goals set by  
7 the board will be achieved.
- 8 (4) A description of methods proposed to be used to maximize  
9 the recycling of packaging that is delivered into the program along  
10 with the discarded covered product.
- 11 (5) A description of the collection system for collecting the  
12 discarded covered product, including, but not limited to, the  
13 following:
- 14 (A) How the discarded covered product will be collected in all  
15 counties of the state.
- 16 (B) The entities that will perform collection services.
- 17 (C) How the collection system is available, convenient,  
18 accessible, and free of charge statewide.
- 19 (D) Locations, hours, and days of operation for collection  
20 locations.
- 21 (6) A description of the processing and disposal system,  
22 including the following:
- 23 (A) How the discarded covered product will be reused and  
24 recycled.
- 25 (B) If the covered product is not reusable nor recyclable, how  
26 the covered product will be disposed of or managed in properly  
27 permitted facilities appropriate to the covered product, including  
28 the disposal or management of hazardous substances.
- 29 (C) The location and permit status of processing or disposal  
30 facilities.
- 31 (D) Processing methods utilized at each facility and how  
32 residuals will be handled.
- 33 (7) How the product stewardship plan will be financed, including  
34 the following:
- 35 (A) The mechanism for securing and dispersing funds to cover  
36 administrative, operational, and capital costs, including the  
37 assessment of charges to producers who participate through a  
38 stewardship organization.
- 39 (B) Adequate insurance and financial assurance for collection,  
40 handling, and disposal operations.

1 (8) Strategies for managing and reducing the life cycle impacts  
2 of covered products and packaging, including through redesign  
3 and how impacts will be tracked over time to show continual  
4 improvement.

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

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

8 (B) Providing information regarding the collection system to  
9 collectors, retailers, and other interested parties.

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

13 (c) Producers shall submit their product stewardship plan, or  
14 updates to the product stewardship plan, to the board within 180  
15 days following the selection of a covered product or 180 days prior  
16 to the sale of a new covered product.

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

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

21 (f) A producer shall notify the board in advance of instituting  
22 a material change to a product stewardship plan.

23  
24 Article 5. Reporting  
25

26 48820. (a) Beginning June 30, 2012, and every subsequent  
27 year thereafter, each producer or stewardship organization  
28 operating a product stewardship plan shall prepare and submit to  
29 the board an annual report describing the activities of the product  
30 stewardship program during the previous reporting period,  
31 including, but not limited to, the following:

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

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

38 (3) The actions undertaken to manage and reduce the life cycle  
39 impacts of the covered products and packaging, from product  
40 design to end-of-life management, including how the formulation,



1 packaging, and distribution of products have been improved to  
2 reduce waste, reduce toxicity, reduce carbon footprint, reduce other  
3 environmental impacts, increase recycled content, increase product  
4 longevity, and make covered products more easily recyclable.

5 (b) All reports submitted to the board are required to be  
6 approved by the board members at a monthly committee or board  
7 hearing.

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

10  
11 Article 6. Financial Provisions  
12

13 44825. (a) All producers shall submit an administrative fee to  
14 the board, according to a fee schedule established by the board.

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

19 48826. (a) The Extended Producer Responsibility Account  
20 and the Extended Producer Responsibility Penalty Subaccount are  
21 hereby established in the Integrated Waste Management Fund.

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

26 (c) All penalties collected pursuant to this chapter shall be  
27 deposited in the Extended Producer Responsibility Penalty  
28 Subaccount and may be expended by the board, upon appropriation  
29 by the Legislature, to cover the board's costs to implement this  
30 chapter.

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

34  
35 Article 7. Enforcement  
36

37 48830. (a) Civil liability in an amount of up to fifty thousand  
38 dollars (\$50,000) may be administratively imposed by the board  
39 against a producer for any violation of this chapter. The board shall

1 deposit all penalties in the Extended Producer Responsibility  
2 Penalty Subaccount.

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

6 48831. The board, or its designee, is authorized to inspect,  
7 audit, or require and review third-party audits of producers, product  
8 stewardship organizations, and service providers including  
9 collectors and recyclers that are utilized to fulfill the requirements  
10 of a product stewardship plan.

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OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

  
City Attorney

2009 APR -8 PM 5:22 RESOLUTION NO. \_\_\_\_\_ C.M.S.

## RESOLUTION IN SUPPORT OF AB 283 (CHESBRO) - "EXTENDED PRODUCER RESPONSIBILITY PROGRAM" THAT WOULD ESTABLISH A COMPREHENSIVE APPROACH TO REDUCING PRODUCT WASTE

**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 producers incentives for redesigning products to make them less toxic, and shift the cost for recycling and proper disposal of products from local governments and ratepayers to the producers and distributors of products; 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, Ban Problem Materials"; 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 or physical responsibility for safely managing and disposing their product wastes; and

**WHEREAS**, the State of California currently addresses issues related to managing products, packaging and materials at the end of their useful life through a patchwork of specific laws, regulations, and programs that have experienced various levels of success; and

**WHEREAS**, in 2008 the California Integrated Waste Management Board adopted an "Extended Producer Responsibility Framework" policy as the preferred approach for reducing the environmental impacts of products, packaging and materials at the end of their useful life, and for requiring that producers share responsibility for the stewardship of the products they design, manufacture, and market; and

**WHEREAS**, AB 283 (Chesbro) would establish an Extended Producer Responsibility Program for the State of California based on the "Extended Producer Responsibility Framework" policy adopted by the California Integrated Waste Management Board; now, therefore be it

**RESOLVED:** The City of Oakland declares its support for AB283 (Chesbro); and be it

**FURTHER RESOLVED:** That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for the above position in 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