

**CALIFORNIA COASTAL COMMISSION**

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**W-29**

**DATE:** May 8, 2013

**TO:** Coastal Commissioners and Interested Public

**FROM:** Charles Lester, Executive Director  
 Sarah Christie, Legislative Director

**SUBJECT:** LEGISLATIVE REPORT FOR MAY, 2013

**CONTENTS:** This report provides summaries and status of bills that affect the Coastal Commission and California's Coastal Program as well as bills that staff has identified as coastal-related legislation.

**Note: Information contained in this report is accurate as of 04/27/13. Changes in the status of some bills may have occurred between the date this report was prepared and the presentation date.**<sup>1</sup> The Governor has 30 days from the date of passage to sign or veto enrolled bills. Current status of any bill may be checked by visiting the California Senate Homepage at [www.senate.ca.gov](http://www.senate.ca.gov). This report can also be accessed through the Commission's World Wide Web Homepage at [www.coastal.ca.gov](http://www.coastal.ca.gov)

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 2013 Legislative Calendar

Jan 1	Statutes take effect
Jan 7	Legislature reconvenes
Jan 10	Budget must be submitted by Governor
Jan 25	Last day to submit bill requests to Legislative Counsel
Feb 22	Last day for bill introduction
March 21	Spring Recess begins
April 1	Legislature reconvenes
May 3	Last day for Policy Committees to hear and report 1 <sup>st</sup> House fiscal bills to the Floor
May 10	Last day for Policy Committees to hear and report 1 <sup>st</sup> House non-fiscal bills to the Floor
May 17	Last day for Policy Committees to meet prior to June 7
May 24	Last day for Fiscal Committees to hear and report 1 <sup>st</sup> House fiscal bills to the Floor
May 28-31	Floor Session only. No committees may meet
May 31	Last day to pass bills from house of origin
June 3	Committee meetings may resume
June 15	Budget must be passed by midnight
July 3	Summer Recess begins at the end of session if Budget Bill has been enacted
Aug 5	Legislature reconvenes from Summer Recess
Aug 16	Last day for Policy Committees to hear and report bills to the Floor
Aug 30	Last day for Fiscal Committees to meet and report bills to the Floor
Sept 3-13	Floor session only. No committees may meet
Sept 6	Last day to amend bills on the Floor
Sept 13	Last day for any bill to be passed. Interim Recess begins on adjournment of session

<sup>1</sup> Terms used in this report relating to bill status. 1) "On Suspense" means bill is held in Appropriations because of potential costs to state agency. Bills usually heard by Appropriations near Fiscal Committee Deadline in June. 2) "Held in committee" means bill was not heard in the policy committee this year. 3) "Failed passage" means a bill was heard by policy committee but failed to get a majority vote. Reconsideration can be granted by the committee.

**PRIORITY LEGISLATION**

**AB 158 (Levine) Solid waste: single-use carryout bags**

This bill would prohibit specified retail outlets from providing plastic single-use carryout bags, and require the retail outlets to make reusable or compostable bags available to customers. The bill would allow a city or county to impose administrative civil penalties for violations of this measure, payable to the office that brought the action.

Introduced 01/22/13  
Last Amended 04/09/13  
Status Assembly Appropriations Committee.

**AB 203 (Stone) Coastal Act: compliance first**

This bill would authorize the Coastal Commission to require the resolution of an existing Coastal Act violation through the approval and conditions of a new development application.

Introduced 01/30/13  
Last Amended 03/11/13  
Status Assembly Appropriations Committee

**Commission Position Support**

**AB 248 (Gorell) Energy: power plants: Ventura County**

This bill would require the Public Utilities Commission and the Independent System Operator, in consultation with specified entities including the Coastal Commission, to submit a report to the Legislature by January 1, 2014, detailing recommended legislative actions, policies and incentives necessary to accomplish specific objectives related to once-through-cooling technologies at Ventura County's two coastal power plants.

Introduced 02/07/13  
Last Amended 04/04/13  
Status Assembly Natural Resources Committee.

**AB 521 (Stone) Solid waste: plastic**

This bill would direct the Department of Resources Recycling and Recovery to develop a list of major sources of marine plastics pollution and notify producers of listed items that they are required to design and submit a plan to reduce the producer's proportion of covered items in the marine environment. The producer would be required to meet the marine plastic pollution reduction targets that the producer of the covered item would be required to achieve, as specified in the regulations

Introduced 02/20/13  
Last Amended 04/19/13  
Status Assembly Natural Resources Committee.

**Commission Position Recommend support, analysis attached**

**AB 551 (Ting) Local government: Urban Agricultural Incentive Zones**

This bill would allow a county to establish by ordinance an “Urban Agriculture Incentive Zone” for the purpose of supporting urban agriculture. The bill defines Urban Agriculture Incentive Zones (UAIZ) as an area within a county that is comprised of individual properties designated by the county as an agricultural preserve for farming. The bill would allow a county to enter into voluntary enforceable agreements with landowners for the use of lands for small-scale agriculture. Contracts are required to have a term of at least 10 years and the land must be at least one tenth of an acre in size.

Introduced 02/20/13  
Last amended 04/09/13  
Status Assembly Local Government Committee.

**AB 691 (Muratsuchi) State lands: granted trust lands: sea level rise**

This bill would require a local trustee whose gross public trust annual revenues average \$250,000 annually to prepare an assessment describing how it proposes to address sea level rise on state tidelands. The report would be submitted to the State Lands Commission by July 1, 2019.

Introduced 02/21/13  
Last Amended 04/22/13  
Status Assembly Natural Resources Committee.

**AB 727 (Stone) Public trust lands: dredging**

This bill would require a grantee of public trust tidelands to notify the State Lands Commission, in writing, if the grantee intends to undertake dredging activities, and provide specified information regarding the project. The State Lands Commission would make a determination whether or not the proposal requires a subsequent lease.

Introduced 02/21/13  
Last Amended 03/21/13  
Status Assembly Appropriations Committee.

**AB 754 (Muratsuchi) Income taxes: voluntary contributions: California Beach and Coastal Enhancement Account**

This bill would authorize California state taxpayers to make a voluntary contribution in excess of their tax liability to the California Beach and Coastal Enhancement Account, to augment the Coastal Commission’s Whale Tail Grants Program.

Introduced 02/22/13  
Last Amended 03/14/13  
Status Assembly Appropriations Committee  
**Commission Position Support**

**AB 881 (Chesbro) Oil spill prevention and administrative fee**

This bill would increase the existing \$0.08 fee on barrels of crude oil or petroleum products landed at a marine terminal, eliminate the sunset on the existing fee of \$0.065, allow the OSPR Administrator to adjust the fee annually based on the California Consumer Price Index, and transfer up to \$2,000,000 from fees collected to the Oiled Wildlife Care Network

Introduced 02/22/13  
Last Amended 04/22/13  
Status Assembly Natural Resources Committee & Water, Parks and Wildlife  
**Commission Position Support**

**AB 976 (Atkins) Coastal resources:**

This bill would authorize the Commission to impose administrative penalties for violations of the Coastal Act. All funds collected under this provision would be deposited in the Coastal Act Services Fund.

Introduced 02/22/13  
Last Amended 03/19/13  
Status Assembly Appropriations Committee  
**Commission Position Support**

**AB 1142 (Bloom) State beaches and parks: smoking ban**

This bill would make it an infraction to smoke a tobacco product on a state coastal beach or in a unit of the state park system.

Introduced 02/22/13  
Last Amended 03/21/13  
Status Assembly G.O. Committee

**AB 1223 (Stone) Safe Drinking Water Act**

This is a spot bill.

Introduced 02/22/13  
Status Assembly Rules Committee

**SB 40 (Pavley) Safe, Clean, and Reliable Drinking Water Act of 2012**

This bill declares that it is the intent of the Legislature to amend the Safe, Clean, and Reliable Drinking Water Act of 2012 for the purpose of reducing and potentially refocusing the \$11,140,000,000 bond.

Introduced 12/10/12  
Last Amended 01/17/13  
Status Senate Natural Resources and Water Committee

**SB 241 (Evans) Oil Severance Tax Law**

This bill would impose a severance tax of 9.9% of the gross value of each barrel of oil extracted from California after January 1, 2014, for deposit into the Oil Severance Fund, which this bill creates. The Department of Conservation would allocate those revenues to the UC Regents, the California State University Trustees, the Board of Governors for the Community Colleges, and the Department of Parks and Recreation.

Introduced 02/12/13  
Status Senate Governance and Finance Committee

**SB 257 (Hancock) Coastal resources: physical adaptations to climate change**

This bill states that it is the intent of the Legislature to enact legislation to address coastal physical adaptations to climate change.

Introduced 02/13/13  
Status Senate Rules Committee

**SB 279 (Hancock) San Francisco Bay Restoration Authority**

This bill would amend Government Code to clarify the San Francisco Bay Restoration Authority's (SFBRA) ability to provide uniform ballot measures across nine counties within the SFBRA's jurisdiction. It would clarify governing law and the ballot process by specifying who prepares ballot material, how the materials are to be prepared, and where the measure will appear on the ballot to ensure uniformity across counties.

Introduced 02/20/13  
Last Amended 04/19/13  
Status Senate Governance and Finance Committee

**SB 387 (Wright) Coastal resources: once through cooling**

This bill would require the State Water Resources Control Board to authorize once-through-cooling systems for existing power plant facilities, consistent with federal laws and regulations.

Introduced 02/20/13  
Status Environmental Quality Committee. Hearing cancelled at request of author.

**SB 418 (Jackson) Nuclear Energy Planning and Responsibility Act**

This bill would require the PUC to require an applicant for relicensing a nuclear power generating facility submit a detailed study of the full needs and costs of relicensing to assess cost effectiveness of continued operation.

Introduced 02/20/13  
Last Amendment 04/08/13  
Status Senate Energy, Utility and Commerce Committee

**SB 461 (Leno) State tide and submerged lands: mineral extraction leases: revenues.**

This bill creates the Coastal Adaptation Fund through re-allocation of up to \$15,000,000 in state tidelands revenues to state coastal management agencies, including the Coastal Commission for work related to sea level rise.

Introduced 02/13/13  
Last Amended 04/16/13  
Status Senate Appropriations Committee

**SB 511 (Lieu) Natural resources: Climate change: grants**

This bill would require the Secretary of Resources and the California Air Board, to develop guidelines for the awarding of grants for projects that enhance the reduction of greenhouse gas emissions and sequestration associated with natural resources.

Introduced 02/21/13  
Last Amended 04/01/13  
Status Senate Natural Resources Committee

**SB 671 (Monning) California Coastal Act of 1976: natural shorelines**

This bill states that seawalls, groins and revetments shall be designed to account for sea level rise.

Introduced 02/22/13  
Status Senate Natural Resources and Water Committee

**SB 700 Wolk Natural resources: parks: carryout bags**

This bill would require retail establishments to charge a \$.05 fee for single-use carryout bags. A portion of the fee would be deposited into the Local Environmental Enhancement Fund (LEEF), which would be created by this bill. Funds from the LEEF would be available for expenditure by the Natural Resources Agency, upon appropriation by the Legislature, as grants to local governments for parks maintenance and litter abatement.

Introduced 02/22/13  
Last Amended 04/15/13  
Status Senate Environmental Quality Committee

**SB 814 (Natural Resources Committee) Administration of Natural Resources**

This is an omnibus committee bill. It makes several non-controversial and code maintenance amendments to the Public Resources Code. Relevant to the Coastal Commission is an amendment to Section 30333 to delete an incorrect cross reference to Section 11371 of the Government Code.

Introduced 02/25/13  
Last Amended 04/11/13  
Status Senate Natural Resources and Water Committee

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**BILL ANALYSIS**  
**AB 521 (Stone)**

As Introduced, April 19, 2013

**SUMMARY**

AB 521 would create the Plastic Pollution Reduction Producer Responsibility Act, requiring producers of some plastic products and packaging to be responsible for disposal and/or recycling for the entire lifecycle of their products.

**PURPOSE OF THE BILL**

The purpose of the bill is to reduce the amount of plastic material in the waste stream.

**EXISTING LAW**

Under the Integrated Waste Management Act of 1989 (IWMA) cities and counties are required to divert 50% of their solid waste by 2000. The IWMA provides various programs to reduce litter and educate consumers about the importance of recycling. (§40000 et seq.) The state does not currently require product manufacturers to assume responsibility for packaging and containers, but some manufacturers are making voluntary efforts.

**PROGRAM BACKGROUND**

The Coastal Commission, through its Public Education Program, California Coastal Cleanup Day, and the Adopt-A-Beach Program, has been educating the public about the dangers of marine debris for almost three decades. Coastal Act Section 30232 requires that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Furthermore, the California Coastal Act directs the California Coastal Commission to:

carry out a public education program that includes outreach efforts to schools, youth organizations, and the general public for the purpose of promoting understanding of, fostering a sense of individual responsibility for, and encouraging public initiatives and participation in programs for, the conservation and wise use of coastal and ocean resources. (Public Resources Code, Section 30012(b)(1)).

Since 1985, the Coastal Commission has sought to fulfill this directive through large volunteer efforts to clean the California Coast and its adjoining waterways. California

Coastal Cleanup Day, now the state's largest volunteer event, is entering its 29<sup>th</sup> year. In that time, over 1.2 million volunteers have removed over 19 million pounds of debris from the state's coast and inland waterways. The Commission now has over 25 years of data from Coastal Cleanup Day that has shown clearly what the major categories and items of debris are. Various forms of plastic packaging, such as bags, wrappers, and bottles, make up the second largest category of items found, outnumbered only by cigarette butts.

Smoke-free beaches, plastic bag bans, and expanded polystyrene bans that have been enacted in many municipalities across California have been inspired or supported by the Cleanup data, as have storm water regulations in the Los Angeles and San Francisco regions that regulate how much debris is allowed to be discharged. The State Water Board is in the process of writing a statewide permit requirement for trash discharge that will become part of every storm water permit renewal in California in the future.

## **ANALYSIS**

Ocean debris is a significant threat to the world's oceans. Of the many types of litter that end up in the ocean, plastic products have some of the most serious impacts on marine life. A 2012 study by the Convention on Biological Diversity found that 663 marine species have been impacted by marine plastic litter through entanglement and ingestion—a two-thirds increase in species from a similar study in 1998.

Approximately 90% of floating marine debris is comprised of plastic, and 80% is land-based. Because plastic is non-biodegradable, buoyant, and inherently toxic, it is particularly harmful to marine wildlife. Plastic items break-down into smaller plastic pieces, and remain in the environment and accumulate in waterways until reaching the ocean. Birds, fish and mammals often mistake plastic for food. Pelagic sea birds are particularly prone to feeding plastic marine debris to their young. With plastic filling their stomachs, animals have a false feeling of satiety, and may die of starvation. Plastic consumed by marine life either passes through the digestive tract intact, if it is small enough, or remains in the animal, blocking the intestinal tract, causing death. When the animal dies, the plastic is either released to be eaten again, or it is swallowed by a predator eating the plastic-ridden prey. In the case of seabirds, many of them simply perish on shore with their stomach contents eventually being the only thing to remain.

The "Great Pacific Garbage Patch" is an area of extremely high debris concentration of in the center of North Pacific Subtropical Gyre. It is not actually "patch" or a floating "island" of debris, but it rather a "plastic soup" where the plastic is distributed throughout the water column. The first studies of this vortex showed high concentrations of plastic that spanned across hundreds of miles.

Marine plastic pollution also imposes substantial costs on taxpayers and local governments through cleanup efforts and lost tourism revenue. A 2012 report by the US EPA found California's coastal cities and counties spend about \$420 million each year to combat litter and curtail marine debris.



AB 521 would enlist producers of goods that become marine debris in the effort to reduce the amount of those items that are improperly lost to the ocean. This would lift the burden of addressing marine debris from only the shoulders of the people consuming those items – the taxpayers – to include those who produce the items as well. AB 521 would reduce, but not eliminate, the volume of debris that finds its way into the waste stream, and would therefore reduce the volume of debris ending up in the marine environment.

If AB 521 is enacted, packaging from outside of California as well as other types of non-biodegradable plastics will still contribute to ocean debris, but some percentage of manufacturers will enact programs to assume responsibility for package recycling.

AB 521 would require California to adopt a statewide goal to reduce marine plastic pollution by 75% by 2020 and by 95% by 2024. The bill would direct CalRecycle, in coordination with OPC and SWRCB, to establish a program that would:

- Identify the items that are the top contributors to marine plastic pollution
- Set reduction targets for these items
- Require producers of these items to meet the targets within established timeframes
- Require the producers to pay for the administration of this program

Within guidance provided by the agencies, producers have flexibility to determine the methods by which to achieve the established targets, such as improved product design and increased recycling.

AB 521 would help reduce the amount of plastic garbage that pollutes California waterways and coastlines. The bill would establish a new program to prevent plastic pollution from reaching California's marine environment by requiring producers of the most prevalent items to be responsible for the reduction of this pollution.

## SUPPORT/OPPOSITION

### **Support:**

Aquarium of the Bay

Azul

Californians Against Waste

California Coastkeeper Alliance

California Teamsters Public Affairs Council

ChicoEco/ChicoBag

City of Monterey

Clean Water Action

Communities for a Better Environment

Environment California

Farallones Marine Sanctuary Association

Bill Analysis  
AB 521 (Stone)

Green Sangha  
Heal the Bay  
Long Beach Coalition for a Safer Environment  
MBA Polymers  
Monterey Bay Aquarium  
Natural Resources Defense Council  
Ocean Advocates  
Ocean Voyages Institute  
Oceana  
Plastic Pollution Coalition  
Planning and Conservation League  
Project Kaisei  
San Francisco Commission on the Environment  
Save Our Shores  
Seventh Generation Advisors  
Surfrider Foundation  
The 5 Gyres Institute  
Turtle Island Restoration Network  
WildCoast/Costa Salvaje

**Opposition:**

American Chemistry Council  
American Cleaning Institute  
California Chamber of Commerce  
California Manufacturers and Technology Association  
California Restaurant Association  
Consumer Specialty Products Association  
Dart Container Corporation  
Grocery Manufacturers Association  
National Federation of Independent Business  
Pactiv Corporation  
SPI: The Plastics Industry Trade Association  
Toy Industry Association  
Western Plastics Association

**RECOMMENDED POSITION**

Staff recommends the Commission **Support** AB 521

BILL NUMBER: AB 521 AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY APRIL 19, 2013  
AMENDED IN ASSEMBLY APRIL 10, 2013

INTRODUCED BY Assembly Member Stone  
(Principal coauthor: Senator Hueso)

FEBRUARY 20, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 521, as amended, Stone. Recycling: marine plastic pollution.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria.

This bill would require the department, by June 1, 2014, in coordination with the Ocean Protection Council and the State Water Resources Control Board, to adopt regulations to implement the bill. The department would be required, by July 1, 2014, in consultation with the council and the state water board, to adopt a list that specifies those items, or categories of items, that the department finds are the major sources of marine plastic pollution and, therefore, would be a covered item for purposes of the bill, *and to revise the list, as specified* .

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

the fees into that subaccount, and would authorize the department to expend those fees, upon appropriation by the Legislature, to cover the department's costs to implement the bill.

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

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

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

Article 1. Definitions

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

- (a) "Council" means the Ocean Protection Council.
- (b) "Covered item" or "*category of covered items*" means a source of marine plastic pollution listed by the department pursuant to Section 42985.2.
- (c) "Marine plastic pollution" means plastic that is found in rivers, streams, riparian habitats, beaches, and the marine environment.
- (d) "Producer" means one of the following:
  - (1) A person that manufactures a covered item and sells, offers for sale, distributes, or uses that covered item in a commercial enterprise under the person's own brand.

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

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

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

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

*(2) Recovery does not include transformation.*

*(g) (1) "Transformation" means the conversion, combustion, or other processing of solid waste by incineration, pyrolysis destructive distillation, or gasification, or to chemically or biologically process solid waste, for the purposes of volume reduction, synthetic fuel production, or energy recovery.*

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

## Article 2. Covered Items

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

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

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

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

(3) In setting the reduction targets, the department shall use as its goals an overall reduction in the amount of marine plastic pollution from land-based sources by 75 percent in the year 2020

and 95 percent by 2025, as compared to the *baseline* amount on June 1, 2014. *The departments shall establish the baseline using the best available information against which the reduction targets can be measured.*

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

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

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

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

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

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

### Article 3. Marine Plastic Pollution Reduction Plan

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

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

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

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

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

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

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

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

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

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

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

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

#### Article 4. Alternative Compliance Program

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

(b) The department shall set the amount of the alternative compliance fee in the regulations adopted pursuant to Section 42985.2, which shall be no greater than the amount that the producer

would expend in complying with the requirements of Article 3 (commencing with Section 42985.5). *The department shall periodically revise the amount of the alternative compliance fee.*

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

(1) Innovative product design for the covered item.

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

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