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AB-863 Carpet recycling: producer responsibility organizations: fines: succession: training. (2023-2024)

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Date Published: 09/30/2024 02:00 PM

Assembly Bill No. 863

CHAPTER 675

An act to amend Sections 42972 and 42978 of, to add Sections 42972.3, 42973.7, 42973.9, 42980, and 42983.5 to, and to add Chapter 19.5 (commencing with Section 42968) to Part 3 of Division 30 of, the Public Resources Code, relating to recycling.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 863, Aguiar-Curry. Carpet recycling: producer responsibility organizations: fines: succession: training.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste. The act establishes stewardship programs for various products, including, among others, carpet.

The act requires a manufacturer of carpets sold in this state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to the department, which is required to include specified elements, including achieving specified carpet recycling rates and a funding mechanism that provides sufficient funding to carry out the plan. The act requires the funding mechanism to establish and provide for a carpet stewardship assessment to be added to the purchase price of carpet sold in the state by a manufacturer to a California retailer or wholesaler or otherwise sold for use in the state and requires each retailer and wholesaler to add the assessment to the purchase price of all carpet sold in the state. The act requires a manufacturer or carpet stewardship organization submitting a carpet stewardship plan to pay the department an administrative fee, as determined by the department, and imposes administrative civil penalties upon a person who violates these provisions. The act requires the carpet stewardship organization to provide various reports to ensure compliance with these provisions.

This bill would require a carpet stewardship organization to include nonvoting board members, as specified, and would require the carpet stewardship organization to pay the travel costs and other expenses for those nonvoting members to participate in all board meetings. The bill would require a carpet stewardship organization to be responsible for, and make decisions regarding, a carpet stewardship plan, as specified. The bill would prohibit a carpet stewardship organization from delegating any responsibility of its board of directors or any decisionmaking responsibility to a person who is not a member of its board of directors. The bill would require a carpet stewardship organization to allocate 8% of the assessments it collects for grants to apprenticeship programs, as provided. The bill would authorize the department to audit a carpet stewardship organization and a manufacturer annually. The bill would authorize the department to adopt regulations to bring a carpet stewardship organization or manufacturer into compliance with the product stewardship for carpet program, as specified. The bill would increase the penalties for a violation of the program from \$5,000 per day to \$10,000 per day, and from \$10,000 per day to \$25,000 per day if the violation is intentional, knowing, or negligent.

This bill would make the above-discussed product stewardship for carpet program, as amended by this bill, inoperative upon the completion of specified conditions, including that the department submits a letter to the relevant committees of the Legislature indicating that specified conditions have been met and that the department is prepared to implement a carpet producer responsibility program as discussed below.

This bill would establish a carpet producer responsibility program that would require producers of covered products to form and join a single producer responsibility organization (PRO) for the collection and recycling of a covered product. This bill would define a "covered product" as carpet, as defined. The bill would require the PRO to develop a producer responsibility plan for the collection, transportation, recycling, and the safe and proper management of covered products in the state. The bill would require the PRO to perform specified public outreach regarding the plan before submitting it to the department for approval. The bill would require the PRO to review the plan at least every 5 years after approval. The bill would also require the PRO to submit an annual report to the department. The bill would require all reports and records provided to the department to be provided under penalty of perjury. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill would restrict public access to certain information collected for the purpose of administering this program.

This bill would require the department to post on its internet website a list of producers that are in compliance with the requirements of the program. The bill would require the department to adopt regulations governing the program. The bill would require the PRO to establish and provide for a covered product assessment to be added to the purchase price of covered product sold in the state by a producer to a California retailer or wholesaler or otherwise sold for use in the state and would require each retailer and wholesaler to add the assessment to the purchase price of all covered product sold in the state. The bill would require the PRO to pay fees to the department, not to exceed the department's actual and reasonable regulatory costs to implement and enforce the program. The bill would rename the Carpet Stewardship Account to be the Carpet Responsibility Fund and would rename the Carpet Stewardship Penalty Subaccount to be the Carpet Responsibility Penalty Account. The bill would require the deposit of all moneys received from the PRO into the Carpet Responsibility Fund and would make the moneys in that fund available to the department, upon appropriation by the Legislature, for purposes of the program. The bill would also authorize the department to impose administrative penalties for a violation of the program's requirements, not to exceed \$10,000 per day, or not to exceed \$25,000 per day for an intentional or knowing violation, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 Local Program: yes

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

SECTION 1. Chapter 19.5 (commencing with Section 42968) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 19.5. Carpet Producer Responsibility Program **Article 1. Definitions and General Provisions**

42968. For purposes of this chapter, the following definitions apply:

(a) "Apprenticeship program" means a program approved by the Chief of the Division of Apprenticeship Standards for training apprentice and journey-level carpet installers in proper carpet installation, reuse, and recycling practices to maximize the chances of achieving the goals of the program.

(b) "Approved collection site" means a solid waste facility that has agreed to be a collection site for the producer responsibility organization, as described in Section 42968.23.

(c) "Authorized collector" means a person or entity that has entered into an agreement with the producer responsibility organization to collect covered products.

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

(e) (1) "Carpet" means a floor or stair covering made from thick woven fabric that is used in residential buildings, commercial buildings, conventions, and events, including modular carpet tiles.

(2) Carpet does not include area rugs that are 11 feet by 15 feet in size or smaller.

(f) "Circular economy environmental nongovernmental organization" means a nonprofit organization established to promote a circular economy and to address environmental issues.

(g) "Closed loop recycling" means recycling in which products or materials are reclaimed and returned to the original process or processes in which they were generated and they are reused in the production process.

(h) "Consumer" means a purchaser, owner, or lessee of a covered product, including a person, business, corporation, limited partnership, nonprofit organization, or governmental entity.

(i) (1) "Covered product" means carpet.

(2) "Covered product" does not include carpet that meets the requirements in Section 42357 to be labeled "compostable."

(j) "Department" means the Department of Resources Recycling and Recovery.

(k) "Permanent collection site" means a permanent location in the state where discarded covered product may be returned at no cost, by a consumer or another party on behalf of a consumer, to be reused, recycled, or otherwise managed.

(l) "Postconsumer covered product" means a covered product that is no longer used for its manufactured purpose.

(m) (1) "Postconsumer recycled content" means material derived from postconsumer covered product.

(2) Postconsumer recycled content does not include material derived from recycled beverage containers, as defined in Section 14505.

(n) "Processor" means a company that uses a process, including, but not limited to, shredding, grinding, sheering, or depolymerization, to convert discarded covered products into finished recycled output that is ready to be used as an input material for manufacturing products.

(o) (1) "Producer" means a person who manufactures a covered product and who sells, offers for sale, or distributes a covered product in or into the state under that person's own name or brand.

(2) If there is no person in the state who is the producer for purposes of paragraph (1), the producer of the covered product is the owner or exclusive licensee of a brand or trademark under which the covered product is sold or distributed in or into the state, whether or not the trademark is registered. For purposes of this subdivision, an "exclusive licensee" is a person holding the exclusive right to use a trademark or brand in the state in connection with the manufacture, sale, or distribution for sale in or into the state of the covered product.

(3) If there is no person in the state who is the producer for purposes of paragraph (1) or (2), then the producer of the covered product is the party that imports the covered product into the state for sale, distribution, or installation.

(4) If there is no person in the state who is the producer for purposes of paragraph (1), (2), or (3), then the producer of the covered product is the distributor, wholesaler, or retailer who sells the product in or into the state.

(p) "Producer responsibility organization" means either of the following:

(1) An organization that is exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code of 1986, is formed for the purpose of implementing a producer responsibility plan to meet the requirements of this chapter, and is approved by the department pursuant to Section 42968.21.

(2) A carpet stewardship organization, as defined in Section 42971.

(q) "Producer responsibility plan" means the plan developed by the producer responsibility organization that complies with Section 42968.32 and is submitted to the department for approval pursuant to Section 42968.30.

(r) (1) "Recycle" or "recycling" means the process of sorting, cleansing, treating, and reconstituting materials that would otherwise ultimately be disposed of onto land or into water or the atmosphere, and returning them to, or maintaining them within, the economic mainstream in the form of recovered material for new, reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace.

(2) "Recycle" or "recycling" does not include any of the following:

- (A) Combustion.
- (B) Incineration.
- (C) Energy generation.
- (D) Fuel production, except for anaerobic digestion of source separated organic materials.
- (E) Other forms of disposal.

(3) To be considered recycled, covered products shall be sent to a responsible end market.

(s) "Retailer" means a person who offers new covered products in a retail sale, as defined in Section 6007 of the Revenue and Taxation Code, including a retail sale through any means, including remote offerings such as sales outlets, catalogs, or an internet website, online marketplace, or other similar electronic means.

(t) (1) "Sell" or "sale" means a transfer of title of a covered product for consideration, including a remote sale conducted through a sales outlet, catalog, or internet website, online marketplace, or similar electronic means.

(2) "Sell" or "sale" includes a lease through which a covered product is provided to a consumer by a manufacturer, wholesaler, or retailer.

(3) For the purposes of this chapter, the sale of a covered product shall be deemed to occur in the state if the covered product is delivered to the consumer in the state.

(u) "Solid waste facility" means a solid waste facility, as defined in Section 40194, that accepts under its normal operating conditions covered materials for collection, storing, and handling, whether for recycling or disposal.

(v) "Wholesaler" means a person who offers new covered product for sale in this state in a sale that is not a retail sale, as defined in Section 6007 of the Revenue and Taxation Code, and in which the covered product is intended to be resold.

42968.1. The department shall adopt regulations to implement this chapter in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The regulations shall have an effective date no earlier than December 31, 2026.

42968.2. Notwithstanding any other law, the California Environmental Quality Act (Division 13 (commencing with Section 21000)) shall not apply to the requirements of this chapter, including the adoption of a producer responsibility plan, the determination of whether the producer responsibility organization's annual report is compliant, or the performance standards published by the department pursuant to Sections 42968.32 and 42968.34.

42968.3. Nothing in this chapter shall be construed to limit the ability of a permanent collection site that is a solid waste facility from charging for the disposal of a covered product that is contaminated or that will be rejected for recycling by the producer responsibility organization.

42968.4. (a) Subject to subdivision (b), a producer shall publish on its internet website, for each of its covered products, an environmental product declaration that identifies the components and the percentage of each component used in the covered product.

(b) Subdivision (a) does not require a producer to reveal a trade secret, as defined in Section 3426.1 of the Civil Code.

Article 2. Producers and Producer Responsibility Organizations

42968.20. (a) To comply with the requirements of this chapter, a producer shall establish and implement a stewardship program as part of a group of producers through membership in the producer responsibility organization.

(b) No later than 30 days after the effective date of regulations, each producer or the producer responsibility organization on behalf of the producers it represents shall notify the department, in writing, that the producer intends to register with the producer responsibility organization, which will submit a producer responsibility plan to the department.

(c) Each producer covered under the producer responsibility organization shall register with the producer responsibility organization in accordance with the procedures and requirements established by the producer responsibility organization and shall comply with those procedures and requirements.

42968.21. (a) The department shall approve a producer responsibility organization if it meets the requirements of this chapter, including all of the following:

(1) A governing board consisting of producers that represent the diversity of covered products placed in the market by those entities. The governing board shall include nonvoting members with representation from the following types of entities:

(A) A circular economy environmental nongovernmental organization.

(B) A retailer that sells covered products.

(C) A labor representative from a floor covering joint apprenticeship program in northern California that is approved by the Division of Apprenticeship Standards.

(D) A labor representative from a floor covering joint apprenticeship program in southern California that is approved by the Division of Apprenticeship Standards.

(2) The producer responsibility organization shall demonstrate in its producer responsibility plan that it has adequate financial responsibility and financial controls in place, including fraud prevention measures and an audit schedule, to ensure proper management of funds.

(3) The activities of the producer responsibility organization are limited to carrying out the requirements of this chapter.

(b) In the event that the department determines that the producer responsibility organization no longer meets the requirements of this chapter or fails to implement or administer an approved producer responsibility plan in a manner that effectuates the purposes of this chapter, the department may revoke its approval of the producer responsibility plan and may approve another producer responsibility plan pursuant to Section 42968.72.

(c) (1) Upon approval of a producer responsibility plan pursuant to Section 42968.30, or commencing January 1, 2029, whichever is sooner, a producer shall not sell, offer for sale, import, or distribute a covered product in the state unless all the following are met:

(A) The producer is a participant of the producer responsibility organization.

(B) The covered product is accounted for in the producer responsibility plan.

(C) The department has approved the producer responsibility plan.

(2) If a person does not qualify as a producer and is not subject to this chapter before January 1, 2029, but, after January 1, 2029, meets the definition of a producer, then that person shall become a participant of the producer responsibility organization and comply with the requirements of this chapter prior to beginning to sell, offer for sale, import, or distribute covered products in the state.

(d) A producer not in compliance with this chapter is subject to penalties pursuant to this chapter if a covered product sold or offered for sale by the producer is not subject to a producer responsibility plan that has been approved by the department pursuant to Section 42968.30.

42968.22. (a) No later than 180 days after the effective date of this chapter, producers shall provide to the department, in a form and manner established by the department, all the following:

(1) The producer's contact information, including its name, physical and mailing addresses, email address, and phone number.

(2) A list of covered products and brands of covered products that the producer sells, distributes for sale, imports for sale, or offers for sale in or into the state.

(b) A producer shall update the information described in subdivision (a) and provide the updated information to the department on or before January 15 of each year, within 30 days of changes to the information, and upon request of the department.

42968.23. (a) The producer responsibility organization shall establish a method for fully funding the producer responsibility organization in a manner that equitably distributes the producer responsibility organization's costs among participating producers, reflecting California sales volumes. The funding mechanism shall demonstrate adequate funding for all administrative and operational costs of the producer responsibility plan, to be borne by participating producers, and modulate the distribution of participating producers' costs based on the cost of managing their specific covered products according to the approved producer responsibility plan.

(b) (1) The producer responsibility organization shall include as an approved collection site under its producer responsibility plan a solid waste facility that offers in writing to participate in the producer responsibility plan and agrees to comply with any program operator requirements that are consistent with the approved producer responsibility plan.

(2) The producer responsibility organization shall include the solid waste facility as an approved collection site within 90 days of receiving the written offer to participate, confirming that the offering entity will comply with any producer responsibility organization requirements that are consistent with an approved producer responsibility plan.

(3) The producer responsibility organization shall not be required to respond to offers pursuant to this subdivision until its producer responsibility plan has been approved by the department.

(c) The producer responsibility organization may suspend or terminate use of an approved collection site that does not comply with all applicable state, federal, or municipal laws and regulations or adhere to the rules and conditions imposed by the producer responsibility organization pursuant to subdivision (h) of Section 42968.32.

(d) A participant of the producer responsibility organization with an approved producer responsibility plan shall comply with the requirements of this chapter. The producer responsibility organization shall notify the department within 30 calendar days of any the following:

(1) The end of any three-month period in which the producer responsibility organization unsuccessfully attempted to obtain a fee, records, or information from a participant producer, or received incomplete or incorrect records or information required by this chapter.

(2) The date a producer no longer participates in the producer responsibility organization's approved producer responsibility plan.

(3) Any instance of noncompliance by a participant producer.

42968.24. (a) The producer responsibility organization shall conduct a transparent and public consultation process with interested parties that may be impacted by this chapter, including, but not limited to, producers, wholesalers, retailers, service providers, consumers, local governments, installers, and public interest groups for all of the following activities:

(1) The development of a producer responsibility plan pursuant to Section 42968.30, which shall include at least two public workshops.

(2) The revision of a producer responsibility plan pursuant to Section 42968.30, which shall include at least two public workshops.

(b) The submittal of an annual report pursuant to Section 42968.62, which shall include at least one public workshop, that is conducted within 30 days after the submittal of each annual report.

(c) The producer responsibility organization shall provide no fewer than 20 days advanced public notice to interested parties to participate in a public workshop. The public notice shall clearly articulate the purpose of the participation, including, but not limited to, the topics that will be discussed.

Article 3. Producer Responsibility Plan

42968.30. (a) Within 12 months of the effective date of the regulations adopted by the department pursuant to Section 42968.1, the producer responsibility organization shall develop and submit to the department a complete producer responsibility plan, in accordance with the requirements of this chapter, for the collection, transportation, recycling, and the safe and proper management of covered products in the state.

(b) (1) The department shall review the producer responsibility plan for compliance with this chapter and may approve or disapprove the producer responsibility plan within 120 days of receipt of the producer responsibility plan.

(2) If the department disapproves a revised producer responsibility plan, the department shall explain how the revised producer responsibility plan does not comply with this chapter and provide written notice to the producer responsibility organization within 60 days of disapproval.

(c) If the department disapproves a producer responsibility plan submitted by the producer responsibility organization, the department shall explain how the producer responsibility plan does not comply with this chapter and provide written notice to the producer responsibility organization within 60 days of disapproval. The producer responsibility organization may resubmit to the department a revised producer responsibility plan within 30 days of the date the written notice was issued, and the department shall review the revised producer responsibility plan within 60 days of its receipt of the resubmittal. The producer responsibility organization shall then revise and resubmit the producer responsibility plan consistent with the department's direction within 30 days, otherwise the disapproval is final and the producer responsibility organization and producers may be subject to penalties. Within 24 months of the effective date of the regulations adopted by the department pursuant to Section 42968.1, the producer responsibility organization shall have a complete producer responsibility plan approved by the department and each producer shall be subject to an approved producer responsibility plan to be in compliance with this chapter.

(d) The approved producer responsibility plan shall be a public record, except that financial or sales data reported to the department by the producer responsibility organization is not a public record for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall not be open to public inspection. The department may release financial, production, or sales data in summary form only so the information cannot be attributable to a specific producer or to any other entity.

(e) For any producer responsibility plan currently in effect as of January 1, 2025, that producer responsibility plan shall continue in effect under its current terms and assessment structure, operating based on the law in effect at the time of producer responsibility plan approval, until that producer responsibility plan expires or is revoked, except that the producer responsibility organization shall submit a producer responsibility plan amendment by July 1, 2025, to conform that producer responsibility plan to the requirements in subdivisions (c) and (j) of Section 42968.32, and Sections 42968.60 and 42968.61.

42968.31. The producer responsibility organization shall implement the approved producer responsibility plan within 12 months of the department's approval of the producer responsibility plan.

42968.32. A producer responsibility plan for covered products shall do all of the following:

(a) Be designed to accept and manage all postconsumer covered products.

(b) Include the name and contact information of each producer and brand covered under the producer responsibility plan. The contact information shall include the producer's email address, phone number, and mailing and physical address.

(c) Explain the producer responsibility organization's funding methods, and explain how those methods will fully fund the producer responsibility organization in a manner that equitably distributes the producer responsibility organization's costs among the producers pursuant to subdivision (a) of Section 42968.23.

(d) (1) Include the fee required by Section 42968.51 and a description of how it is calculated.

(2) Include the fee required by Section 42968.52, a description of how it is calculated, and an explanation of how it complies with Section 42968.52.

(e) Include a five-year budget that establishes a funding level sufficient to operate the producer responsibility organization in a prudent and responsible manner. The budget shall demonstrate how estimated revenues will cover all budgeted costs for each cost category. Budgeted costs shall include, but not be limited to, administrative costs, education and outreach costs, operational costs, capital costs, and a reserve.

(1) Administrative costs shall include the department's actual and reasonable regulatory costs, which include full personnel costs, to implement and enforce this chapter as the criteria for all the costs are defined in the regulations adopted pursuant to Section 42968.1. For purposes of this paragraph, producer responsibility organization implementation begins once the department approves the producer responsibility organization's producer responsibility plan, except the department's costs shall include actual regulatory development costs and other startup costs incurred prior to producer responsibility plan submittal and approval.

(2) The reserve shall include funds to operate the producer responsibility organization should there be unexpected events, losses of income, or large unbudgeted expenses. It shall also protect the recycling infrastructure the producer responsibility organization relies on in its producer responsibility plan during any lapse in producer participation during the life of the program. The reserve cost category shall include a reserve level amount and description justifying the reserve level amount indicated. The producer responsibility organization shall maintain reserve funds sufficient to operate the producer responsibility plan for no less than six months. In the event that a new producer responsibility organization is approved by the department, the producer responsibility organization shall establish its reserve and maintain the required reserve fund balance by the end of the second year of producer responsibility plan operation. In the event that the producer responsibility organization's producer responsibility plan expires or is revoked, the reserve balance shall be transferred to a successor producer responsibility organization or a trustee, pursuant to subdivision (j).

(f) Include quantifiable five-year and annual performance standards and metrics for each covered product category until such time as the department publishes performance standards pursuant to Section 42968.34. The producer responsibility organization shall amend its producer responsibility plan to meet the performance standards published by the department. Performance standards published by the department pursuant to this subdivision shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Performance standards may include, but are not limited to, collection, reduction in disposal, and maximizing recycling.

(g) (1) Describe of how the producer responsibility organization will provide free dropoff and convenient collection system for covered products, which shall include approved collection sites in each county of the state that provide for a reasonable

geographic spread of permanent collection sites and an explanation for the geographic spread.

(2) The department may by regulation adjust the minimum number of required approved collection sites described in paragraph (1) to ensure that consumers have sufficient convenient access to approved collection sites, applicable to a producer responsibility plan addressing collection of covered products, if the department has substantial evidence that allowing for this adjustment will increase the collection of covered products or is otherwise justified considering the population or geographic attributes of the county. For counties bordering another state, the number of approved collection sites within that county may include a facility located in an adjacent state if that facility is regularly involved in the management of that county's solid waste and recyclables.

(h) Describe how approved collection sites will be authorized and managed, including all of the following:

(1) The process by which the producer responsibility organization will provide for the collection, storage, and transport of covered products from the approved collection sites to an authorized recycling facility.

(2) How the producer responsibility organization will ensure the cost-effective sorting of covered products using the best available technology to avoid any recyclable materials from being disposed.

(3) How the producer responsibility organization will maintain all collection and transport records and make them available to the department upon request.

(4) A list of all proposed rules, conditions, and requirements for authorized collectors, including a template proposed agreement.

(5) How the producer responsibility organization will maximize the recycling of covered products, including prioritizing reuse and closed loop recycling.

(6) How the producer responsibility organization will maximize the collection and reuse of convention carpet, including no less than 20 percent reuse by 2028.

(7) The process by which covered products will be managed following collection at approved collection sites, including:

(A) How covered products will be handled and managed according to the waste hierarchy as defined in Section 40051.

(B) How the producer responsibility organization will maximize the recycling of covered products.

(C) How the producer responsibility organization will minimize disposal of covered products collected by the producer responsibility organization.

(8) A description of the producer responsibility organization's annual assessment and the metrics it will use to determine how collection, sorting, and transportation outcomes aligned with projections.

(9) How the producer responsibility organization will improve the collection, processing, and recycling operations for covered products, including, but not limited to, pilot programs to test new processes, methods, or equipment.

(10) How approved collection sites will be operated to ensure that covered products are collected at no cost, safely, and handle covered product in accordance with all applicable state and federal law.

(i) (1) Describe the statewide education and outreach program's efforts to various audiences, including, but not limited to, consumers, commercial building owners, covered product installation contractors, construction and demolition contractors, retailers, and wholesalers to promote their participation in achieving the purposes of the producer responsibility plan. These education and outreach materials shall include, but are not limited to, any of the following:

(A) Signage that is prominently displayed and easily visible.

(B) Written materials and templates of materials to be provided to covered product installation contractors and consumers at the time of purchase or delivery or both.

(C) Promotional materials or activities, or both, that explain the purpose of the producer responsibility organization and the means by which it is being carried out.

(D) An internet website that publicizes the location of approved collection sites and provides information on how to drop off covered products at the free and convenient network of approved collection sites offered by the producer responsibility organization, including any information reasonably necessary to safely and conveniently access the collection and recycling services offered by the producer responsibility organization.

(E) All signage and materials required for approved collection sites by the producer responsibility organization, and a description of the method by which approved collection sites can access replacement materials at no cost to the approved collection site.

(F) A description of efforts to support participation by all California communities, including a description of efforts to communicate in languages other than English.

(G) A description of strategies, goals, and metrics used to determine the success of the producer responsibility plan implementation and statewide education and outreach program.

(2) The statewide education and outreach program shall promote the safe and proper management of covered products, including source reduction and environmentally preferable purchasing of covered products.

(3) The statewide education and outreach plan program shall include information for consumers about how to avoid improper disposal of covered products.

(4) The statewide education and outreach program shall include a survey to consumers and contractors regarding their awareness of the producer responsibility plan, their use of resources available to them under the producer responsibility plan, including collection sites, and why they do or do not use those resources. The survey shall occur once every three years.

(j) Include a contingency plan that takes effect in the event the producer responsibility plan expires or is revoked. The contingency plan shall guarantee that the contracts, financial data, and other necessary authority and assets to operate the program shall vest in a trustee approved by the department. The trustee shall operate the most recently approved producer responsibility plan, subject to the direction of the department, until that time as a new producer responsibility plan is approved. Upon producer responsibility plan expiration or revocation of the producer responsibility plan, the balance of the producer responsibility organization's operating reserves collected pursuant to subdivision (d) shall be transferred to the control of the trustee within five calendar days, along with all documents, digital records, contracts, and files related to the operation of the producer responsibility plan.

(k) Allocate annual grants to apprenticeship programs for training apprentices and journey-level carpet installers in proper carpet recycling techniques, including installation and removal techniques that maximize the recyclability of carpet. The producer responsibility plan shall provide for annual grants to joint apprenticeship programs approved by the Division of Apprenticeship Standards to train carpet installers, with the amount divided evenly between programs in northern California and southern California.

(l) (1) Prioritize expenditure of assessments collected pursuant to Section 42972 on activities to carry out the producer responsibility plan in California.

(2) Consistent with paragraph (4) of subdivision (a) of Section 42972, commencing with the fiscal year beginning July 1, 2025, and for each fiscal year thereafter, the program shall allocate 8 percent of assessments collected pursuant to Section 42972, as determined by the department, for grants to apprenticeship programs, subject to the requirements and conditions of this section. Any portion of the 8 percent that is not awarded and used in a fiscal year shall be credited to the amount to be allocated or awarded in the following fiscal year pursuant to this section, thereby reducing the amount allocated or awarded in the following fiscal year by the amount of the credit.

(3) An apprenticeship program shall apply to the producer responsibility organization for a grant. The apprenticeship program shall submit a report to the producer responsibility organization and the department outlining its expenditure of the grant funds for purposes of this program prior to receipt of new grants.

(m) Provide for the payment to an approved collection site for accepting, collecting, storing, transporting, and handling covered products in an amount determined by the approved collection site and the producer responsibility organization. Payment of these costs shall be reflected in the budget pursuant to subdivision (e).

(n) Explain how producers will, on and after January 1, 2027, through the use of a standardized stamping or some other means, provide a visual mark on the back of a covered product that is a synthetic material to allow expeditious sorting of the carpet, by 2027.

(o) Require carpet to contain 5 percent of postconsumer recycled carpet content by 2028. The department may, for the year 2029 and any year thereafter, set the rate for postconsumer recycled carpet to be required in carpet.

(p) Include written certification by an authorized representative of the producer responsibility organization that, at the time of submission to the department, the producer responsibility plan, including all aspects of the producer responsibility plan related to the collection, transportation, and management of covered products, is in compliance with all applicable state and federal laws and regulations.

42968.33. A producer of a covered product sold, offered for sale, imported, or distributed in or into the state shall achieve the performance standards published by the department pursuant to Section 42968.34 with respect to each covered product.

42968.34. (a) The department may establish, review, and may adjust performance standards based on information included in the producer responsibility plan and annual reports, other information provided by the producer responsibility organization, department waste characterization studies, and economic and any other relevant information.

(b) The department shall use sales data to establish the performance standard for recycling carpet. The department may decide how many years of sales data to use for establishing the performance standard and the producer responsibility organization may appeal that decision pursuant to appellate procedures established by the department in regulation.

42968.35. (a) The producer responsibility organization shall review its producer responsibility plan at least every five years after approval by the department and determine whether revisions to the producer responsibility plan are necessary.

(b) If the producer responsibility organization determines that revisions to the producer responsibility plan are necessary, the producer responsibility organization shall submit to the department a revised producer responsibility plan for review and approval employing the procedures set forth in Section 42968.30. The producer responsibility organization shall submit the revised producer responsibility plan pursuant to this subdivision at least 12 months prior to the deadline described in subdivision (a). The revised producer responsibility plan shall include a cover letter that summarizes the revisions to the producer responsibility plan.

(c) If the producer responsibility organization determines that no revisions to the producer responsibility plan are necessary, the producer responsibility organization shall send a letter to the department no later than 12 months prior to the review deadline described in subdivision (a), explaining that the producer responsibility organization has reviewed the producer responsibility plan and determined that no revisions are needed. The department may disapprove the producer responsibility organization's determination within 30 days of receipt of that determination if the department concludes that the producer responsibility organization cannot implement the objectives of this chapter without revising the producer responsibility plan. In the event the department disapproves the producer responsibility organization's determination, the producer responsibility organization shall submit to the department a revised producer responsibility plan for review and approval. The producer responsibility organization shall submit the revised producer responsibility plan pursuant to this subdivision within 60 days of receipt of the department's disapproval, unless the department determines that additional time is needed.

Article 4. Mandatory Sorting

42968.40. (a) No later than January 1, 2029, a person that, as part of the installation of a covered product, removes a covered product from a residence or business shall transport, or contract to transport, all of the removed covered products to an approved collection site. Covered material collected at an approved collection site shall be transported to a recycling facility designated by the producer responsibility organization.

(b) An approved collection site shall ensure that covered products are collected in the prescribed conditions required by the approved producer responsibility plan. The conditions shall include, but are not limited to, the following requirements:

(1) A covered product shall be kept in a location that allows it to remain dry at all times.

(2) A container holding a collected covered product shall be free of all contaminated discarded waste items.

(3) An approved collection site shall permit a processor's prescribed container to be housed on site for loading and for pickup at the approved collection site, if the processor is approved by the producer responsibility plan.

Article 5. Financial Provisions

42968.50. (a) No later than 90 days before a producer responsibility plan is submitted to the department, the department shall notify the producer responsibility organization of its estimated regulatory costs, including its full personnel costs, related to implementing and enforcing this chapter. This shall include the actual and reasonable costs associated with regulation development pursuant to Section 42968.1 and other startup activities prior to producer responsibility plan submittal and approval.

(b) (1) The producer responsibility organization shall, on a schedule determined by the department, pay the department fees for its incurred costs as described in subdivision (a).

(2) The department shall deposit all fees received from the producer responsibility organization pursuant to this section into the Carpet Responsibility Fund.

(c) (1) The Carpet Stewardship Account, previously established in the Integrated Waste Management Fund, shall be known as the Carpet Responsibility Fund. The Carpet Stewardship Penalty Subaccount shall be known as the Carpet Responsibility

Penalty Account.

(2) Upon appropriation by the Legislature, moneys in the Carpet Responsibility Fund shall be expended by the department to implement and enforce this chapter, as well as to reimburse any outstanding loans made from other funds used to finance regulation development and startup costs of the department's activities pursuant to this chapter. The money in the Carpet Responsibility Fund shall not be expended for any other purpose.

42968.51. (a) The producer responsibility organization shall pay the department a quarterly administrative fee. The department shall set the fee at an amount that, when paid is adequate to cover the department's full costs of administering and enforcing this chapter, including any program development costs or regulatory costs incurred by the department prior to a producer responsibility plan being submitted. The department may establish a variable fee based on relevant factors.

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

(c) The department shall identify the direct development or regulatory costs it incurs pursuant to this chapter prior to the submittal of a producer responsibility plan and shall establish a fee in an amount adequate to cover those costs, which shall be paid by the producer responsibility organization.

(d) The department shall deposit the fees collected pursuant to this section into the Carpet Responsibility Fund.

42968.52. (a) In recognition that the material makeup and construction of a covered product affects the technical and economic recyclability of a covered product, the funding mechanism required pursuant to subdivision (c) of Section 42968.32 shall establish and be composed of a system of differential assessments that takes into account the financial burden that a particular covered product has on the producer responsibility plan, and the amount of postconsumer recycled content contained in a particular covered product. Based on market history and modeling, if a certain covered product requires a higher subsidy to incentivize use in the marketplace, then that material shall have a proportionally higher assessment assigned to it. The assessment shall be remitted to the producer responsibility organization on a quarterly basis and the producer responsibility organization may expend the assessment only to carry out the producer responsibility plan.

(b) The amount of the assessment and the anticipated revenues from the assessment shall be specified in the producer responsibility plan and shall be approved by the department as part of the producer responsibility plan. The amount of the assessment shall be sufficient to meet, but not exceed, the anticipated cost of carrying out the producer responsibility plan. The amount of the assessment shall not create an unfair advantage in the marketplace.

(c) The assessment established pursuant to this section is exempt from the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code and shall meet both of the following requirements:

(1) The assessment shall be added by a producer to the purchase price of all covered products sold by producers to a California retailer or wholesaler or otherwise sold for use in the state. The assessment shall be clearly visible on invoices or functionally equivalent billing documents as a separate line item and shall be accompanied by a brief description of the assessment or a label approved by the department.

(2) Each retailer and wholesaler shall add the assessment to the purchase price of all covered products sold in the state. The assessment shall be clearly visible on invoices or functionally equivalent billing documents as a separate line item and shall be accompanied by a brief description of the assessment or a label approved by the department.

(d) It is the intent of the Legislature that the amount of the assessment be reduced by the producer responsibility organization as the producer responsibility program is implemented over time and becomes more efficient.

(e) (1) If the amount of the assessment is insufficient to fund the producer responsibility program, the producer responsibility organization shall submit a revision to the producer responsibility plan, pursuant to Section 42968.35, to increase the assessment.

(2) If the assessment generates a fund balance at the end of a program year that is greater than one year's operating costs of the producer responsibility plan, the producer responsibility organization shall submit a revision to the producer responsibility plan, pursuant to Section 42968.35, to decrease the assessment.

(f) The producer responsibility organization shall not expend funds from the assessment for any of the following purposes:

(1) Penalties imposed pursuant to this chapter.

(2) Costs associated with litigation against the state.

(3) Engineered municipal solid waste conversion, as defined in Section 40131.2, the use of cement kilns to burn covered product, or transformation, as defined in Section 40201.

Article 6. Records, Audits, and Reports

42968.60. (a) The producer responsibility organization shall keep board minutes, books, and records that clearly reflect the activities and transactions of the producer responsibility organization.

(b) The producer responsibility organization shall include in its producer responsibility plan a process by which the financial activities of the organization or individual producers that are related to implementation of the producer responsibility plan will be subject to an independent audit consistent with Generally Accepted Accounting Principles (GAAP), which shall be reviewed by the department.

(c) The department may audit the producer responsibility organization or an individual producer annually.

(d) It is a violation of this chapter for the producer responsibility organization, producer, or their respective agent who holds records to fail to produce, as part of a department audit or review of a third-party audit, documents or data that is requested by the department or documents or data that is required to be collected or generated to carry out operation of the producer responsibility plan in the form and manner determined by the department.

42968.61. (a) The producer responsibility organization shall retain an independent public accountant, certified in the United States, to annually audit the accounting books of the producer responsibility organization. The department shall review the independent certified public accountant audit for compliance with this chapter and consistency with the producer responsibility organization's producer responsibility plan and annual report, submitted pursuant to this chapter. After the department conducts its own review of the audit, the department shall notify the producer responsibility organization of any conduct or practice that does not comply with this chapter and of any inconsistencies identified in the review of the audit. The producer responsibility organization may obtain copies of the department's review of the audit, including proprietary information contained in the department's review of the audit, upon request. The department shall withhold from disclosure confidential proprietary information to the extent allowed under Section 1040 of the Evidence Code and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The items submitted to the department as part of the review of the audit shall include all of the following:

(1) Financial statements audited in accordance with Generally Accepted Accounting Principles (GAAP).

(2) An audit of the producer responsibility organization's compliance with this chapter.

(3) An audit of the producer responsibility organization's adherence to, execution of, and consistency with its producer responsibility plan.

(b) No later than 18 months after the department approves the producer responsibility organization's producer responsibility plan, the producer responsibility organization shall include the independent audit in the annual report submitted to the department pursuant to Section 42968.62. The department shall review the audit for compliance with this chapter and consistency with the producer responsibility organization's producer responsibility plan.

42968.62. On or before July 1 of each year, the producer responsibility organization shall submit in the form and manner determined by the department an annual report and make the report publicly available on the producer responsibility organization's internet website. The report shall include all of the following information for the preceding calendar year:

(a) The producer responsibility organization's revenues and costs, with the costs according to the cost categories established in the producer responsibility plan.

(b) A summary of any anticipated changes to allocations in cost categories for the following calendar year.

(c) Any changes to the distribution of participating producer's costs pursuant to subdivision (a) of Section 42968.23.

(d) The square footage, yardage, weight, or other metric, as determined by the department, of covered products, by carpet type, for each of the following:

(1) Covered product that was collected.

(2) Covered product that was processed.

(3) Covered product that was recycled.

(4) Covered product that was disposed.

- (e) A list of the producer responsibility organization's collection sites, by name, location, and type.
- (f) An updated list of the names and contact information, including email address, phone number, and physical and mailing addresses of producers.
- (g) A description of methods used to collect, transport, recycle, and divert covered products by the producer responsibility organization including a description of all of the following:
 - (1) How the producer responsibility organization handled and managed covered products according to the priority of waste management practices provided in Section 40051.
 - (2) How the producer responsibility organization maximized recycling of all covered products.
 - (3) How the producer responsibility organization minimized disposal of all covered products collected by the producer responsibility organization.
 - (4) Results of the producer responsibility organization's assessment of the efficacy of the collection, sorting, and transportation process pursuant to paragraph (8) of subdivision (h) of Section 42968.32.
- (h) A description of how the producer responsibility organization improved the collection, processing, and recycling operations for covered products, including, but not limited to, pilot programs to test new processes, methods, or equipment.
- (i) A description of outreach efforts and education, including, but not limited to, education and outreach provided by the producer responsibility organization for the purpose of promoting the collection, reuse, and recycling of covered products. This includes messaging on environmentally preferable purchasing.
- (j) Findings from the evaluation of the comprehensive statewide education and outreach program required by subdivision (i) of Section 42968.32.
- (k) A report on activities the producer responsibility organization has undertaken to prioritize the use of sorting and recycling facilities located closer to the point of generation to minimize transportation emissions and increase accountability for the ultimate disposition of collected covered products.
- (l) Any other information deemed relevant by the producer responsibility organization for the department to determine compliance with the approved producer responsibility plan.
- (m) Any other information required by regulations adopted pursuant to Section 42968.1.

42968.63. (a) No later than 120 days after the date the department receives the annual report submitted by the producer responsibility organization pursuant to Section 42968.62, the department shall notify the producer responsibility organization if the annual report is compliant or noncompliant.

(b) If the department determines that the annual report is noncompliant due to failure to meet the requirements of this chapter, then the department may require the resubmittal of the annual report or take enforcement action.

Article 7. Enforcement

42968.70. (a) Within 24 months of the effective date of regulations pursuant to Section 42968.1, and on or before July 1 of each year thereafter, the department shall post on its internet website a list of producers that are in compliance with this chapter. The department shall list, as appropriate, the reported brands of covered products for each producer.

(b) A producer that is not listed on the department's internet website pursuant to subdivision (a) that demonstrates compliance with this chapter before the next list is posted by the department may either be added to the internet website or be provided a certification letter from the department stating that the producer of a covered product is in compliance with this chapter.

(c) (1) A retailer, importer, distributor, or wholesaler of a covered product shall monitor the department's internet website to determine if a producer, brand, or covered product is in compliance with this chapter for that brand of covered product.

(2) Except as provided in subdivision (d), on and after the date a producer responsibility plan is approved by the department pursuant to Section 42968.30, a retailer, importer, distributor, or wholesaler shall not sell, distribute, offer for sale, or import a covered product in or into the state for sale in the state unless the producer of the covered product is listed as in compliance pursuant to this section for that brand and covered product.

(d) Notwithstanding paragraph (2) of subdivision (c), a retailer, importer, or distributor may sell, offer for sale, import, or distribute a covered product if, on the date the retailer or distributor sells or offers for sale the covered product in or into the state, the producer, brand, or covered product was listed as compliant on the department's internet website.

(e) Notwithstanding paragraph (2) of subdivision (c), a retailer or distributor may, for any inventory in stock before the initial list was posted by the department pursuant to subdivision (a), sell or distribute that inventory for sale in or into the state.

(f) If the department determines a producer is not in compliance with this chapter, the department shall remove the producer from the list of compliant producers posted on the department's internet website pursuant to subdivision (a).

(g) The department shall list on its internet website a producer, along with its brands and covered products, if the department subsequently determines that the producer is in compliance with this chapter.

42968.71. (a) An administrative penalty up to the following amounts may be administratively imposed by the department on the producer responsibility organization or a producer who is in violation of any provision of this chapter:

(1) Ten thousand dollars (\$10,000) per day.

(2) Twenty-five thousand dollars (\$25,000) per day if the violation is intentional or knowing.

(b) In assessing or reviewing the amount of an administrative penalty imposed pursuant to subdivision (a) for a violation of this chapter, the department or the court shall consider all of the following:

(1) The nature and extent of the violation.

(2) The number and severity of the violation or violations.

(3) The economic effect of the penalty on the violator.

(4) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.

(5) The willfulness of the violator's misconduct.

(6) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.

(7) Any other factor that justice may require.

(c) Upon a written finding that a producer responsibility organization, producer, importer, distributor, wholesaler or any other party regulated has not met a material requirement of this chapter, in addition to any other penalties authorized under this chapter, the department may take one or both of the following actions to ensure compliance with the requirements of this chapter, after affording the producer responsibility organization, producer, importer, distributor, wholesaler, or any other party regulated a reasonable opportunity to respond to, or rebut, the finding:

(1) Revoke the producer responsibility organization's producer responsibility plan approval or require the producer responsibility organization to resubmit the producer responsibility plan.

(2) Require additional reporting relating to compliance with the material requirement of this chapter that was not met.

(d) The department shall establish, through regulations adopted pursuant to Section 42968.1, a process that shall include an informal hearing process by which the penalties will be assessed.

(e) The department shall deposit all penalties collected pursuant to this section into the Carpet Responsibility Penalty Account. Upon appropriation by the Legislature, moneys in the Carpet Responsibility Penalty Account shall be available for expenditure by the department on activities related to the collection and recycling of covered products, grants for related purposes, and the administration and enforcement of this chapter.

(f) The Administrative Adjudication Bill of Rights, as set forth in Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, applies to hearings conducted under this chapter and mandates minimum due process.

42968.72. (a) If the producer responsibility organization violates this chapter three or more times, the department may determine the producer responsibility organization permanently ineligible to act as the producer responsibility organization on behalf of producers to design, submit, and administer a producer responsibility plan pursuant to this chapter.

(b) If the producer responsibility organization becomes ineligible pursuant to subdivision (a), then the department may revoke approval of the producer responsibility organization pursuant to paragraph (1) of subdivision (c) of Section 42968.71.

42968.73. (a) A producer responsibility organization, producer, retailer, importer, distributor, and wholesaler shall do both of the following:

(1) Upon request, provide the department access to its facilities and operations to determine compliance with this chapter.

(2) Upon request, provide the department relevant records necessary to determine compliance with this chapter.

(b) The records required by this chapter shall be maintained and accessible for five years. All reports and records provided to the department pursuant to this chapter shall be provided under penalty of perjury.

(c) The department may impose administrative penalties pursuant to Section 42968.71 on a producer, producer responsibility organization, distributor, retailer, importer, or wholesaler that fails to provide the department with the access required pursuant to this section.

(d) The department may post a notice on the department's internet website that is maintained pursuant to Section 42968.70 that a producer has failed to provide the department with access pursuant to this section and is no longer in compliance with this chapter, along with the producer's brands and covered products.

42968.74. After the time for judicial review under Section 11523 of the Government Code has expired, the department may apply to the small claims court or superior court, depending on the jurisdictional amount and any other remedy sought, in the county where the penalties, restitution, or other remedy was imposed by the department, for a judgment to collect any unpaid penalties or restitution or to enforce any other remedy provided by this chapter. The application, which shall include a certified copy of the final agency order or decision, shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall have the same force and effect as and shall be subject to all the provisions of law relating to a judgment in a civil action and may be enforced in the same manner as any other judgment of the court. The court shall make enforcement of the judgment a priority.

Article 8. Antitrust Immunity

42968.80. (a) An action specified in subdivision (b) that is taken by a producer or producer responsibility organization that relates to any of the following is not a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code).

(b) Subdivision (a) applies to all of the following actions taken by the producer responsibility organization:

(1) The creation, implementation, or management of a producer responsibility plan approved by the department and the determination of the types or quantities of covered products recycled, collected, or otherwise managed pursuant to a producer responsibility plan.

(2) The determination of the cost and structure of an approved producer responsibility plan.

(3) The establishment, administration, collection, or disbursement of a charge associated with funding the implementation of this chapter.

SEC. 2. Section 42972 of the Public Resources Code is amended to read:

42972. (a) On or before September 30, 2011, a manufacturer of carpets sold in this state shall, individually or through a carpet stewardship organization, submit a carpet stewardship plan to the department that will do all of the following:

(1) Achieve the purposes of this chapter, as described in Section 42970, and meet the requirements of Section 42975.

(2) Achieve a 24-percent recycling rate for postconsumer carpet by January 1, 2020, and any other recycling rate established by the department pursuant to Section 42972.2. The carpet stewardship plan shall include quantifiable five-year goals and annual goals for how the recycling rate will be achieved and how the carpet stewardship organization or manufacturer plans to do the following:

(A) Increase the weight of postconsumer carpet that is recycled and reduce the disposal of postconsumer carpet.

(B) Increase the collection convenience for the recycling of postconsumer carpet and increase the collection of postconsumer carpet for recycling.

(C) Expand and incentivize markets for products made from postconsumer carpet.

(D) Increase processor capacity, including processor capacity in California.

(E) Increase the recyclability of carpet.

(3) Describe proposed measures that will enable the management of postconsumer carpet in a manner consistent with the state's solid waste management hierarchy, including, but not limited to, source reduction, source separation and processing to segregate and recover recyclable materials, and environmentally safe management of materials that cannot feasibly be recycled.

(4) (A) Include a funding mechanism, consistent with subdivision (c), that provides sufficient funding to carry out the plan, including the administrative, operational, and capital costs of the plan, the requirements of Section 42972.7, payment of fees pursuant to Section 42977, and incentive payments that will advance the purposes of this chapter, including incentives or grants to state-approved apprenticeship programs for training apprentice and journey-level carpet installers in proper carpet recycling practices. Any grants or subsidies provided for the recycling of postconsumer carpet shall be structured to incentivize the recycling of carpet materials that have the highest recyclability. The funding mechanism shall account for the need to provide the industry, including carpet installation contractors, with fair notice of changes to the amount of the carpet stewardship assessment established pursuant to subdivision (c).

(B) Consistent with subparagraph (A), commencing with the fiscal year beginning July 1, 2025, and for each fiscal year thereafter, the program shall allocate 8 percent of assessments collected pursuant to subdivision (c), as determined by the department, for grants to apprenticeship programs, subject to the requirements and conditions of this section. Any portion of the 8 percent that is not awarded and used in a fiscal year shall be credited to the amount to be allocated or awarded in the following fiscal year pursuant to this section, thereby reducing the amount allocated or awarded in the following fiscal year by the amount of the credit.

(C) An apprenticeship program shall apply to the producer responsibility organization for a grant. The apprenticeship program shall submit a report to the producer responsibility organization and the department outlining its expenditure of the grant funds for purposes of this program prior to receipt of new grants.

(5) Include education and outreach efforts to consumers, commercial building owners, carpet installation contractors, and retailers to promote their participation in achieving the purposes of the carpet stewardship plan as described in paragraph (1). These education and outreach materials may include, but are not limited to, any of the following:

(A) Signage that is prominently displayed and easily visible to the consumer.

(B) Written materials and templates of materials for reproduction by retailers to be provided to carpet installation contractors and consumers at the time of purchase or delivery or both.

(C) Promotional materials or activities, or both, that explain the purpose of carpet stewardship and the means by which it is being carried out.

(6) Include a process by which the financial activities of the organization or individual manufacturer that are related to implementation of the plan will be subject to an independent audit consistent with Generally Accepted Accounting Principles (GAAP), which shall be reviewed by the department.

(7) (A) Include a contingency plan should the plan expire without approval of a new plan or should the plan be revoked. The contingency plan shall demonstrate how the activities in the plan will continue to be carried out in the absence of a plan by the department through some other entity, such as an escrow company, consistent with Section 42972.7.

(B) The contingency plan shall guarantee that the contracts, financial data, and other necessary authority and assets to operate the program shall vest in a trustee approved by the department. The trustee shall operate the most recently approved carpet stewardship plan, subject to the direction of the department, until that time as a new carpet stewardship plan is approved. Upon the carpet stewardship plan expiration or revocation of the carpet stewardship plan, the balance of the carpet stewardship organization's operating reserves collected pursuant to this chapter shall be transferred to the control of the trustee within five calendar days, along with all documents, digital records, contracts, and files related to the operation of the carpet stewardship plan.

(8) A mechanism for submitting a successor carpet stewardship plan to the department no less than 12 months before the expiration of the submitted carpet stewardship plan. If a carpet stewardship organization fails to submit a successor carpet stewardship plan at least 12 months before the expiration of the carpet stewardship plan, then the carpet stewardship organization shall, upon the expiration of the submitted carpet stewardship plan, cease being the stewardship organization, for purposes of this chapter.

(b) The plan prepared pursuant to this section shall be designed to accept and manage all suitable postconsumer carpet, regardless of polymer type or primary materials of construction.

(c) (1) In recognition that the material makeup and construction of postconsumer carpet affects the technical and economic recyclability of carpet, the funding mechanism required pursuant to paragraph (4) of subdivision (a) shall establish and be composed of a system of differential assessments that takes into account the financial burden that a particular carpet material has on the stewardship program, and the amount of postconsumer recycled content contained in a particular carpet. Based on market history and modeling, if a certain carpet material requires a higher subsidy to incentivize use in the marketplace, then that material shall have a proportionally higher assessment assigned to it. The assessment shall be remitted to the carpet stewardship organization on a quarterly basis and the carpet stewardship organization may expend the assessment only to carry out the plan.

(2) The amount of the assessment and the anticipated revenues from the assessment shall be specified in the plan and shall be approved by the department as part of the plan. The amount of the assessment shall be sufficient to meet, but not exceed, the anticipated cost of carrying out the plan. The amount of the assessment shall not create an unfair advantage in the marketplace.

(3) The assessment established pursuant to this subdivision is exempt from the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code and shall meet both of the following requirements:

(A) The assessment shall be added by a manufacturer to the purchase price of all carpet sold by manufacturers to a California retailer or wholesaler or otherwise sold for use in the state. The assessment shall be clearly visible on invoices or functionally equivalent billing documents as a separate line item and shall be accompanied by a brief description of the assessment or a label approved by the department.

(B) Each retailer and wholesaler shall add the assessment to the purchase price of all carpet sold in the state. The assessment shall be clearly visible on invoices or functionally equivalent billing documents as a separate line item and shall be accompanied by a brief description of the assessment or a label approved by the department.

(4) It is the intent of the Legislature that the amount of the assessment be reduced by the stewardship organization as the carpet stewardship program is implemented over time and becomes more efficient.

(5) (A) If the amount of the assessment is insufficient to fund the carpet stewardship program, the stewardship organization shall submit a plan update to the department for approval, conditional approval, or disapproval to increase the assessment.

(B) If the assessment generates a fund balance at the end of a program year that is greater than one year's operating costs of the carpet stewardship program, the stewardship organization shall submit a plan update to the department for approval, conditional approval, or disapproval to reduce the assessment.

(6) A carpet stewardship organization shall not expend funds from the assessment for any of the following purposes:

(A) Penalties imposed pursuant to Section 42978.

(B) Costs associated with litigation against the state.

(C) Engineered municipal solid waste conversion, as defined in Section 40131.2, the use of cement kilns to burn carpet, or transformation, as defined in Section 40201.

(d) A carpet stewardship organization that submits a plan pursuant to this section shall consult with retailers and wholesalers in the development of the plan, in order to minimize the impacts of the plan on retailers and wholesalers.

(e) A carpet stewardship organization shall notify the department within 30 days after instituting a significant or material change to an approved carpet stewardship plan.

SEC. 3. Section 42972.3 is added to the Public Resources Code, to read:

42972.3. (a) The department may audit the carpet stewardship organization or an individual manufacturer annually.

(b) It is a violation of this chapter for the carpet stewardship organization, manufacturer, or their respective agent who holds records to fail to produce, as part of a department audit or review of a third-party audit, documents or data that is requested by the department or documents or data that is required to be collected or generated to carry out operation of the carpet stewardship plan in the form and manner determined by the department.

SEC. 4. Section 42973.7 is added to the Public Resources Code, to read:

42973.7. (a) A carpet stewardship organization shall include nonvoting board members with representation from the following types of entities:

(1) A circular economy environmental nongovernmental organization.

(2) A retailer that sells covered products.

(3) A labor representative from a floor covering joint apprenticeship program in northern California that is approved by the Division of Apprenticeship Standards.

(4) A labor representative from a floor covering joint apprenticeship program in southern California that is approved by the Division of Apprenticeship Standards.

(b) A carpet stewardship organization shall pay the travel costs and other expenses for the nonvoting members identified in subdivision (a) to participate in all board meetings.

SEC. 5. Section 42973.9 is added to the Public Resources Code, to read:

42973.9. A carpet stewardship organization shall be responsible for a carpet stewardship plan and shall make decisions regarding the implementation of a carpet stewardship plan, consistent with this chapter. A carpet stewardship organization shall not delegate any responsibility of its board of directors, or any decisionmaking responsibility regarding a carpet stewardship plan, to a person who is not a member of its board of directors.

SEC. 6. Section 42978 of the Public Resources Code is amended to read:

42978. (a) A civil penalty up to the following amounts may be administratively imposed by the department on any person who is in violation of any provision of this chapter:

(1) Ten thousand dollars (\$10,000) per day.

(2) Twenty-five thousand dollars (\$25,000) per day if the violation is intentional, knowing, or negligent.

(b) In assessing or reviewing the amount of a civil penalty imposed pursuant to subdivision (a) for a violation of this chapter, the department or the court shall consider all of the following:

(1) The nature and extent of the violation.

(2) The number and severity of the violation or violations.

(3) The economic effect of the penalty on the violator.

(4) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.

(5) The willfulness of the violator's misconduct.

(6) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.

(7) Any other factor that justice may require.

SEC. 7. Section 42980 is added to the Public Resources Code, to read:

42980. If the department determines that a carpet stewardship organization or manufacturer has not complied with one or more of the requirements of this chapter, the department may, through a public process, adopt regulations that establish requirements for carpet stewardship organizations and manufacturers to take specific actions in order to bring the carpet stewardship organization or manufacturer into compliance with this chapter.

SEC. 8. Section 42983.5 is added to the Public Resources Code, immediately following Section 42983, to read:

42983.5. This chapter shall become inoperative when all the following are met:

(a) The department has adopted regulations pursuant to Section 42968.1.

(b) The department has approved a producer responsibility plan, as defined by Section 42968, for the purposes of Chapter 19.5 (commencing with Section 42968).

(c) The department has provided notice to the producer responsibility organization of its intent to send the letter described in subdivision (d) at least 90 days before sending the letter.

(d) The department has submitted to the relevant committees of the Legislature a letter indicating that the conditions in subdivisions (a) to (c), inclusive, have been met, that the department is prepared to implement Chapter 19.5 (commencing with

Section 42968), and that the producer responsibility organization is prepared to implement the producer responsibility plan. The department shall post the letter on its internet website.

SEC. 9. The Legislature finds and declares that Section 1 of this act, which adds Sections 42968.30 and 42968.61 to the Public Resources Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

It is in the best interest of the public to provide limited protection of certain financial, production, and sales data of program participants, in order to protect the interests of businesses and the privacy of their data regarding their customers.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.