

January 17, 2012

Attention: Kathy Frevert
Department of Resources Recycling and Recovery
1001 I Street
PO Box 4025
Sacramento, CA
carpet@calrecycle.ca.gov

Subject: CPSC Comments on Carpet Stewardship Plan and Regulations

To Ms. Kathy Frevert:

The California Product Stewardship Council (CPSC) is the preeminent California based organization dedicated to product stewardship research, education, and implementation. CPSC has the support of 35 counties, 96 cities, 36 local government associations, and 131 business partners representing virtually every Senate and Assembly district in California. CPSC takes pride in coordinating closely with others to ensure that California policies maintain the integrity of the [Principles of Product Stewardship](#).

CPSC appreciates the opportunity to comment again, on the proposed regulations to implement the first carpet stewardship law in the United States and on the industry stewardship plan submitted by the Carpet America Recovery Effort (CARE) to CalRecycle on January 9, 2012 and dated 12/29/2011, Version 1.4.

As stated in previous comment letters, CPSC supports the current version of the regulations. Therefore, we wish to simply thank the CalRecycle staff for accepting our previous recommendations and for starting with an informal comment period before the formal comment period to allow more time for all the stakeholders to provide input.

The second issue is the Carpet Stewardship Plan (Plan) submitted to CalRecycle by CARE. In the bigger picture of Extended Producer Responsibility (EPR), stewardship plans are the producer's way to communicate to all stakeholders how they plan to meet the goals of the statute. We have reviewed the 63 page Plan carefully and have many comments and questions on how this program will work but we will provide our main comments and issues in brief:

1. The overall tone of this Plan is one of “non-ownership” of the outcome of the program. The entire point of allowing industry anti-trust protections in state law are for the purpose of industry members to work together to develop a stewardship program that will work. In short, producers delegate to the Stewardship Organization, in this case CARE, responsibility to develop a program that works and will own the success or failure to meet the goals. As an example of this “non-ownership” language, on page 16 under the Solid Waste Management Hierarchy and Source Reduction, it reads:

“the average weight of carpet has decreased, and in 2011, it is estimated that the average weight...has declined by 7%. Therefore, incentivizing the strategies and programs for reduction is not within the scope of the CARE stewardship plan but rather is a strategic objective managed by the individual carpet manufacturers.”

CPSC finds this “it’s not my responsibility” approach to source reduction concerning as it is the highest on the waste hierarchy and part of CARE’s responsibility as the stewardship organization. In order to assure source reduction is prioritized by the individual carpet manufacturers, CARE could provide financial incentives to manufacturers who do so when the current Plan offers no financial incentives to producers who are successful at source reduction.

2. Establishing a baseline that is transparent and reasonable is key to then developing a reasonable and achievable recycling goal. We are concerned that on page 13 Table II, the baseline used is **449 million pounds** discarded per year, when the CalRecycle waste composition study of 2008 estimated 3.2% of California discards are carpet equaling **2.6 billion pounds per year**. This is approximately 83% difference in numbers and must be reconciled before this Plan can be approved.
3. Once the baseline is accurate, even using the current baseline assuming 7% recycling rate in 2010, having a goal of 16% by 2016, or increasing the recycling by approximately 2% per year of the total carpet disposed, does not meet the test of “continuous and meaningful” improvement required by AB 2398. The first 25% recovery is the easiest to achieve, so if the best the industry Plan can do is approximately 2% increase per year for the easiest 25% of the carpet to recover, we estimate that achieving a 75% diversion rate would be achieved in 34 years or 2046 (take $75\% - 7\% = 68\%$ recycling rate to achieve/ 2% per year = 34 years). California just enacted law to achieve 75% by 2020 and since carpet is 3.2 percent of what is landfilled, it seems we need to make much faster progress than what is projected in this Plan to meet that goal for this product type. CPSC supports the recommendations of Californian’s Against Waste and Alameda’s StopWaste.Org that a meaningful goal would be 25% by 2016 which compares to the original goal placed on local governments of 25% diversion from 1990 levels by 1995.
4. The funding mechanism has several areas of concern:
 - a. “Unused funds” comprise about 50% of the budget for 2016 which is unreasonable as the fees should primarily be going to implement the program to achieve “continuous and meaningful improvement” in landfill diversion.
 - b. The 5 cent per yard fee equates at current sales levels to about \$5 million per year for the entire State of California and the Plan assumes it staying at 5 cents through 2016. Using an estimate of \$15/yard sales price average, that equals approximately 0.003% of the product price. There is no discussion in the Plan of adjusting that fee if goals are not met and there is currently nothing in the Plan that ensures every fee payer access to carpet recycling program.

Based on our review of the Carpet Stewardship Plan, the legislation allowed for collection of the fee starting one year prior to the program being implemented, **we support CalRecycle’s position that the plan be conditionally approved and the program should begin July 1, 2012.** The Plan needs some work and we will continue to work closely with CalRecycle and CARE to ensure that the Plan is updated to meet the goals and intent of AB 2398 and is approved in a reasonable timeframe.

It is important to recognize this is the first carpet stewardship legislation in the U.S. and we look forward to working with all stakeholders to ensure it works. California needs solutions to its waste and economic problems, and we are trying something new with this program and allowed more flexibility for the producers to design a “market based approach.” It is now critical that the carpet industry design and implement a robust program that benefits everyone that pays the stewardship fee. We need to collect more data in the coming year to determine what is reasonable to expect for performance. We are leading the nation and maybe the world. We know it is not a perfect Extended Producer Responsibility model, but it is a first and a result of compromise. We hope everyone works together to ensure the program starts on time July 1, 2012 and that the Plan is amended to address its current deficiencies.

Thank you again for the opportunity to comment.

Sincerely,



Heidi Sanborn, Executive Director

Cc: Assembly Speaker John Perez
Assemblymember Wesley Chesbro
Senator Joe Simitian