



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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January 5, 2015

Bob Peoples, Ph.D.  
Executive Director  
Carpet America Recovery Effort (CARE)  
100 South Hamilton Street  
P.O. Box 2048 Dalton, GA 30720

Re: Plan Addendum

Dear Dr. Peoples:

In response to the Carpet America Recovery Effort (CARE) December 28, 2014, letter that serves as a California Carpet Stewardship Plan addendum (Addendum), I am informing you of my decision to accept the Addendum that provides changes to the Program, with conditions explained below, and as authorized by the Product Stewardship for Carpet law (PRC, sections 42970 – 42983). However, please note that CalRecycle's acceptance of these changes to the Plan does not change the current non-compliant status of the Program.

An addendum to the Plan is used after formal plan approval to address changing conditions and implementation challenges when it is not timely to wait for an Annual Report review. As you know, in September 2014, CalRecycle found the Annual Report submitted by CARE to be non-compliant because it did not meet minimum requirements and demonstrate that the program is making continuous and meaningful improvements toward achievement of its goals, in particular the recycling goal of 16% by 2016. As a result, there is some urgency to implement adjustments and hence CalRecycle is responding as quickly as possible to CARE's request.

CalRecycle finds that the changes to the incentives outlined in the Addendum are within the scope of the currently approved Plan, i.e., that all individual incentives are within the Plan's range of zero to \$0.20 per pound. CARE contends that these and other changes outlined in the Plan and Addendum to the Plan have a high probability to move the Program toward achievement of the recycling and reuse goals. In addition, with respect to increasing the carpet assessment that funds the Program, CARE has explained why the change is justified. Furthermore, the assessment remains relatively low, at about \$0.01 per square foot of carpet. It is reasonable to allow CARE to demonstrate if the market-based incentive approach it has chosen for managing carpet can be successful. CalRecycle understands that CARE will still need several months to set up these changes and a longer time to fully implement them.

CalRecycle will be looking to the next Annual Report and future Annual Reports to evaluate the effects of these changes, in particular whether there is sufficient continuous and meaningful improvement in the recycling rate and other goals or metrics, before it makes any new determination about the program's compliance status. Such a determination could be that: 1) enough progress has been made to consider the program as coming into or having reached compliance, or 2) not enough progress has been made and further enforcement including possible penalties is warranted.



As CARE moves forward with its program, before payouts are made, CARE needs to establish procedures and education/outreach to ensure the integrity of each subsidy and a level playing field for all participants. CalRecycle will monitor the market response and look for the establishment of a sound carpet recycling infrastructure in California. Given that prices of virgin materials impact the prices of carpet-derived materials, with the latter being lower, and that prices for virgin materials have been quite dynamic in a downward direction, it can be anticipated that CARE will need to be constantly vigilant to ensure that incentives are sufficient to tip the balance toward economic viability. Incentives are needed to support carpet recycling infrastructure so it can be maintained and grow.

Currently, increasing yield from collected carpets and developing markets for processed materials are high priorities for CARE. As new processors become established, especially those located in California, sufficient collection is a concern of many stakeholders. CARE has explained its rationale for not providing an incentive in California at this time for collection and sorting activities but also indicated that it could reconsider the need for such incentives if insufficient progress is made. CARE also contends that the new national Voluntary Product Stewardship program will not negatively impact the California program.

Additionally, CalRecycle's understanding is that to date, there has not been a full-time staff person in California; to manage a program of this size without more resources in-state is, in CalRecycle's view, proving to be inadequate. CARE has indicated in its proposed changes that it will increase staffing resources for the California program by adding another full-time resource in California. CalRecycle will consider these factors when it evaluates whether the Program is in compliance.

Attached to this letter are section-by-section comments on the Addendum. In addition, CalRecycle is posting this response on its website to inform stakeholders about CalRecycle's decision to accept these changes and that this decision does not change the non-compliant status of the Program, as well as to solicit stakeholder opinions regarding the changes.

Please do not hesitate to contact CalRecycle regarding any questions discussed above. Questions may be directed to Brenda Smyth (email: [Brenda.Smyth@CalRecycle.ca.gov](mailto:Brenda.Smyth@CalRecycle.ca.gov)) who will seek input from appropriate staff. As the first product stewardship program for carpet, we value working with CARE to continually improve carpet recycling and protect human health and the environment.

Sincerely,



Carol Mortensen  
Director

Cc: Howard Levenson, CalRecycle  
Mark De Bie, CalRecycle  
Brenda Smyth, CalRecycle  
Kathy Frevert, CalRecycle  
Mark Oldfield, CalRecycle

Attachment: California Carpet Plan Addendum, CalRecycle Comments

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The sections below in this letter offer specific comments on each section of the Addendum:

**Guarantee Incentive Availability for at least 12 months**

CalRecycle staff have heard on several occasions that incentives can be more effective if processors and manufacturers know they will be available for an extended time, especially when these businesses are making costly capital expenditures and have loans to pay. CalRecycle does not know if 12 months is sufficient; while this may be reasonable place to start, CalRecycle will continuously monitor this. If there is insufficient response to incentives, then CARE may need to reconsider the length of this guarantee.

**Reserve**

CARE is now formally establishing a reserve to provide fund stability and to help insure that a major and unanticipated jump in recycled output will not deplete the fund. The amount of the reserve is determined as a two quarter running average (i.e., sum the last four quarterly total payouts and divide by two). CalRecycle finds that the size of the reserve is reasonable and in-line with reserves used by other non-profit organizations.

**Changes to Incentives**

**End User Non-Nylon Tier 2.**

A very significant challenge facing carpet recycling is the lack of markets for non-nylon materials, in particular PET. Virgin PET has very low prices and recycled PET is not able to complete without subsidies. CARE is providing two forms of subsidies for non-nylon materials. First, the existing subsidy payment will go from \$0.10 per /pound to \$0.17 per pound, and second, CARE is adding a growth bonus for non-nylon of \$0.10 per pound. The bonus is structured so that it only applies if a specific target is reached. The growth target will be based on 2014 results to be evaluated in Q1 2015.

CalRecycle agrees that developing markets for PET is especially critical given the increasing portion of carpets that are made from PET. Furthermore, given that PET is substantially less expensive than nylon, we anticipate that this subsidy will be needed long-term.

Given that some carpets demand more subsidy payments than others to support diversion and recycling, CARE should consider if carpets that require less financial support should have the same assessment as carpets that need considerably more support. A pound of PET can receive a subsidy at the processing stage and at the manufacturing stage, unlike nylon that can only receive a subsidy at the processing stage, yet the assessment is the same for both PET and nylon. Having an assessment in line with what it costs to recycle a product also could help incentivize recyclability, a Plan goal. CalRecycle is tasked with providing a level playing field and this will be considered further in future evaluations.

**Carpet Tile Reuse / Recycling**

CARE is offering an incentive to advance reuse, which was lacking in the Plan. A new subsidy is being established for carpet tile reuse or recycling of \$0.10 per pound.

CalRecycle is encouraged that CARE is establishing an incentive to advance reuse, which is higher on the solid waste management hierarchy than recycling. Carpet tile in good condition can be cleaned and reused to provide a quality product and environmental benefits. Additionally, to our understanding, when carpet tile is recycled, the whole tile is processed and used in new carpet backing without residual waste. CARE should track this new incentive separately for reuse and recycling given the distinct environmental benefits associated with each. Additionally, it is important for CARE to modify report forms to ensure carpet tile reuse and carpet tile recycling are not confused with Type 1 Recycling Materials nor End-user Non-nylon incentives and that this inadvertently results in double counting and/or double incentive payments.

#### **Calcium Carbonate as raw material**

CARE is offering a subsidy placed on calcium carbonate (CC) that is sufficiently cleaned for use as a raw material at \$0.07 per pound. This subsidy has the potential to stimulate the recycling of CC in carpet backing and for the production of Portland cement. CARE clearly states this is a raw material use credit and is not a fuel for kilns.

CalRecycle understands that virgin CC has very low prices and that some subsidy is necessary for it to be recycled. CalRecycle has concerns as to how CARE will know that CC is really used as a raw material, rather than as part of a fuel, when it is purchased by a cement kiln. Also, it is unclear what quality control specification will be used to define CC as a raw material. This would need to be established before implementing the change.

Overall while CalRecycle accepts the changes and incentive presented, before payments are made CARE needs to establish procedures and education/outreach to ensure the integrity of each subsidy and a level playing field for all participants. This includes, but is not limited to, updating report forms, application forms, definitions/specifications for eligible materials, and methods to verify that materials sold and shipped are eligible for a subsidy (e.g. CC is being used as a raw material, not a fuel, to receive the raw material subsidy), and educating potential participants.

### **Support for Program Activities**

#### **In-state Program Resources**

CalRecycle finds that in-state resources are a basic need that has been unmet with a part-time in-state program manager and is encouraged that CARE will be increasing staffing support for the California Program by adding a fulltime resource by the end of Q1, 2015.

#### **Marketing, Education & Outreach**

CARE says it will continue to support market development, education and outreach activities that started in 2014. This also is fundamental and specifically identified in statute. When new processing facilities are established in California there will be a need for marketing, education, and outreach to support these new processors along with existing ones. CalRecycle will be reviewing how CARE supports new facilities as a sufficient level of carpet collection and sorting will be needed when those facilities are operational. With the exception of a necessary prudent reserve for subsidy payments, accumulated funds should be expended to support and expand the recycling infrastructure in California.

### **Increase to the Assessment**

CARE requests that CalRecycle accept an increase in the assessment from \$0.05 to \$0.10 per square yard of carpet sold in order to fund the incentives and other essential activities as described above. CARE seeks to implement the increase by April 1, 2015 and prior to implementation CARE will need 60 days to educate the retailers and mills on this assessment change and to make the necessary modification to billing systems for implementation.

CalRecycle believes this request should be accepted because the current program is not demonstrating continuous and meaningful improvements in the Plan goals, as required per statute, and funds have not been sufficient to support higher incentives that are needed to support higher recycling rates, education and outreach, market development and procurement activities, and maintain a prudent reserve to ensure the Program is fiscally sustainable. Furthermore, the size of the assessment is a very small fraction of the purchase price, about one cent per square foot and less than a half of a percent of the purchase price. Additionally, CalRecycle finds that compared to other recycling programs, CARE is implementing a program with substantially lower resources than other products with dedicated recycling programs. For example, the California Paint Stewardship Program received \$35 million to collect and manage paint and implement its program.