PROPOSED PRODUCT STEWARDSHIP FOR CARPET REGULATIONS

TITLE 14: NATURAL RESOURCES
DIVISION 7. DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY
CHAPTER 11. PRODUCT STEWARDSHIP
ARTICLE 1. PRODUCT STEWARDSHIP FOR CARPETS

Section 18940. Purpose.

The purpose of this Article is to clarify existing statute and establish administrative procedures to efficiently and effectively implement the department's responsibilities under the law for product stewardship for carpets and to provide a uniform competitive business environment to all carpet manufacturers, retailers, and wholesalers pursuant to §42970 of the Public Resources Code.

Note: Authority cited: Sections 40502 and 42970, Reference: Section 42970, Public Resources Code.

Section 18941. Definitions.

(a) The following definitions shall only apply to this Article and ~~E~~except as otherwise noted, the definitions of this Article supplement and are governed by the definitions set forth in Chapter 20 (commencing with §42970), Part 3, Division 30 of the Public Resources Code:

(1) "Must" or "shall" means a provision is mandatory.

(2) "May" means a provision is permissive.

(b) "Administrative fee" means payments from the carpet assessment ~~manufacturer or stewardship organization~~ to the department that cover the costs of its administrative, oversight, and enforcement services necessary for manufacturers or stewardship organizations to effectively implement carpet stewardship plans. The administrative fee

will be paid by the individual manufacturer or stewardship organizations submitting a stewardship plan.

(c) "Assessment" means the amount added to the purchase price of carpet that is subsequently remitted to a stewardship organization or manufacturer, and shall be spent on implementing the carpet stewardship plan.

(d) "Aggregate Assessment" means the sum of all assessments collected in the state of California in a calendar year.

(e) "Carpet as Alternative Fuel" (CAAF): Fuel that has been produced from source-separated, and sorted post-consumer carpet and processed, including (1) extraction of components for recycling if at all possible; and (2) size reduction, shredding, and/or blending with coal fines, etc. CAAF is not a type recycling, but it is a type of diversion for the purpose of this Article.

(f) "Diversion" or "divert" means ~~any combination of waste prevention (source reduction), recycling, reuse, and composting~~ activities ~~that~~ which reduce~~s~~ or eliminate the amount of solid waste dispose~~d~~al at landfills ~~at permitted landfills and transformation facilities~~ in a manner consistent with the state's hierarchy for waste management pursuant to Section 40051. ~~for purposes of Division 30, including Article 1 (commencing with Section 41780) of Chapter 6 of the Public Resources Code.~~ Nothing in this definition is intended to change the definition of diversion that applies to jurisdictions pursuant to section 40192(b) of the Public Resources Code or the applicability of that definition through Part 2 of Division 30 of the Public Resources Code (commencing with section 40900).

(g) "Indoor/outdoor carpet" means a type of carpet, regardless of construction, made of synthetic materials that have been especially designed or treated to withstand moisture, extremes of temperature, ultra-violet rays, and other types of exposures. Indoor/outdoor carpet may be broadloom or carpet tiles that are applied in building interiors as well as exteriors. Indoor/outdoor carpet is defined as carpet for the purpose of this Article.

(h) "Reporting period" means the period that commences in January and ends in December, and represents twelve consecutive months in the preceding calendar year.

(i) "Rug" means a loose laid (not installed or attached at wall base) soft floor covering manufactured from natural or synthetic fiber, including carpet cut into room or area dimensions, that is not intended to cover the entire floor.

(j) "Significant or Material Change" means any change in a required element of the carpet stewardship plan or annual report.

(k) "Synthetic turf" means a primarily outdoor synthetic product manufactured to look like natural grass for use as a sports playing surface and/or alternative to lawns. Synthetic turf is not carpet.

(l) "Transformation" means incineration, pyrolysis, distillation, or biological conversion other than composting. "Transformation" does not include composting, gasification, or biomass conversion.

Note: Authority cited: Sections 40502 and 42971, Reference: Sections 40124, 40127, 40180, 40191, 40192, 40201, 41780, 42970, 42971, Public Resources Code.

Section 18942. Submittals.

(a) A corporate officer, acting on behalf of a manufacturer or stewardship organization, shall register with the department. The registration process shall include, but not be limited to, the following information:

(1) Contact information of the corporate officer responsible for submitting stewardship plan and annual report documents to the department and for overseeing carpet stewardship program activities, including, but not limited to:

(A) Contact Name

(B) Title

(C) Name of Company or Stewardship Organization

(D) Mailing address and physical address

(E) Phone number

(F) E-mail address

(G) Web address, if applicable

(H) Location and custodian of records

(2) List each manufacturer participating in the stewardship organization, including, but not limited to:

(A) Contact Name

(B) Title

(C) Name of Company or Stewardship Organization

(D) Mailing address and physical address

(E) Phone number

(F) E-mail address

(G) Web address, if applicable

(H) Location and custodian of records

(3) List of brands covered under the stewardship plan.

(b) The stewardship plan must be submitted electronically according to instructions provided by the department. A hard copy signed by a corporate officer of a manufacturer or stewardship organization, under the penalty of perjury, must also be submitted to the department.

(1) The information submitted in a stewardship plan shall address the criteria for approval in §18943 and be organized according to this standard outline:

(A) Contact Information

(B) Scope

(C) Performance Goals and Activities

(D) Solid Waste Management Hierarchy

(E) Collection System

(F) Market Development

(G) Financing Mechanism

(H) Education and Outreach

(I) Program Performance Measurement

(J) Stakeholder Consultation

(K) Audits

(2) <u>The department may approve, disapprove, or conditionally approve a stewardship plan. A manufacturer or stewardship organization has 60 days to</u>

resubmit a plan or any supplemental information requested by the department when a plan is disapproved or conditionally-approved.

(3) ~~(2)~~ Plans shall be updated within 30 days of a significant or material change.

(4) ~~(3)~~ The approved stewardship plan shall be a public record, except that financial, production, or sales data reported to the department by a manufacturer or stewardship organization is not a public record under the California Public Records Act, as described in Chapter 3.5 (commencing with §6250) of Division 7 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 that cannot be attributable to a specific manufacturer.

(c) The annual report shall be submitted by a corporate officer acting on behalf of a manufacturer or stewardship organization that is operating a carpet stewardship program under a department-approved stewardship plan.

(1) The annual report must be submitted electronically to the department, according to instructions provided by the department. A hard copy, signed by a corporate officer of a manufacturer or stewardship organization under the penalty of perjury, must also be submitted.

(2) The information submitted in an annual report shall address the criteria for a finding of compliance per 42976 as outlined in §18944 Annual Report Compliance Criteria and be organized according to this standard outline:

(A) Contact Information
(B) Executive Summary
(C) Scope
(D) Program Outline
(E) Description of Goals and Activities
(F) Market Development
(G) Financing Mechanism
(H) Education and Outreach
(I) Audits

Note: Authority cited: Sections 40502, Reference: Sections 42972, 42975, 42976, Public Resources Code.

Section 18943. Criteria for Plan Approval.

(a) Product stewardship plans must contain the following:

(1) Contact information. Identify the manufacturer or designated stewardship organization responsible for the plan submittal.

(2) Scope. The program described in the stewardship plan is:

(A) Designed to accept and manage all applicable post-consumer carpet, regardless of polymer type or primary materials of construction.

(B) The stewardship plan submitted follows the standard outline (see §18942 Stewardship Submittal Instructions).

(3) Performance Goals and Activities. The program described in the stewardship plan shall contain a set of performance goals and criteria that include, but are not limited, to the following items:

(A) ~~Numeric p~~Performance goals, which shall be numeric as noted, and include a description of how program goals will be achieved for the following categories:

1. Increase the recyclability of carpets.
2. Incentivize the market growth of secondary products made from post-consumer carpets.
3. Increase the reuse of post-consumer carpets (numeric goal).
4. Increase the recycling of post-consumer carpets (numeric goal).
5. Increase the diversion of post-consumer carpet from landfills.

(B) The goals established in the plan are at a minimum equal to the goals established in the CARE MOU, while recognizing the current recycling infrastructure and capacity in California is higher than the nation, and estimating changes in market conditions, and anticipating recycling infrastructure and capacity in California.

(C) Each goal has a baseline from which it is measured using the units used in the CARE MOU and reporting requirements.

(D) The plan describes a methodology for estimating the amount of carpet available for collection in California.

(E) Report on source reduction.

(4) Solid Waste Management Hierarchy. Describe:

(A) Proposed measures that will enable the management of post-consumer carpet in a manner consistent with the state's solid waste management hierarchy pursuant to PRC Section 40051 and demonstrate that over time source reduction, reuse, and recycling will increase, over environmentally safe transformation and land disposal.

(B) Management of carpet through source reduction, reuse and recycling must be greater than, and grow at a higher rate than the management of carpet through Carpet As Alternative Fuel~~, Waste-to-Energy, and incineration~~ and other forms of transformation.

(C) This Article does not modify or abrogate in any manner existing provisions of Section 41783 of the Public Resources Code related to transformation that allow jurisdictions to reduce their per-capita disposal rate by no more than 10 percent. ~~Materials sent to transformation facilities must meet the requirement of Section 41783(a)(2) of the Public Resources Code regarding front-end methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible.~~

(5) Collection Systems. Describe the system that will be used to collect and properly manage post-consumer carpet. This description must include the following:

(A) Type of collection sites used.

(B) Types of ~~destinations for~~ reuse and recycling activities, processing and/or disposal by product type.

(C) Description of how service providers handling old carpet will be able to readily, accurately, and economically identify the type of carpet polymer to facilitate reuse and recycling, e.g., labeling on the back of carpet, affordable laser detection devices, or other technology.

(D) General description of best management practices to be followed by the service providers, including any training that the manufacturer or stewardship organization intends to provide to or require of service

providers to ensure proper collection and management of post-consumer carpet.

(E) Description of how each consumer that pays a carpet stewardship assessment, including but not limited to those in rural areas, will ~~have~~ be provided reasonably convenient ~~n~~ opportunit~~ies~~y(ies) in each county to ~~conveniently and properly~~ manage their post-consumer carpet.

(6) Market Development. Describe incentives or methods to increase recycling of carpet into secondary products.

(7) Financing Mechanism. Include a funding mechanism that provides sufficient funding to recover, but not exceed, the cost of the carpet stewardship program, including the administrative, operational, and capital costs of the plan. The funding mechanism includes the following:

(A) A carpet stewardship assessment per square yard of carpet sold in the state, or by some other unit, as approved by the department.

(B) A budget for the program that includes revenue estimates from the assessment, full program costs, and administrative costs; including those pursuant to Section 18948 regarding service payments to the department.

(C) A requirement that any surplus funds will be put back into the program to reduce the costs of the program, including the assessment amount.

(D)An assessment amount that is sufficient to meet, but not exceed, the anticipated cost of carrying out the plan.

(E) An assessment amount that does not create an unfair advantage in the marketplace.

(F) An allocation of funds that support the solid waste management hierarchy and program goals identified in the stewardship plan.

a. Funds designated for CAAF, must be supported with documentation that provides evidence of a net environmental benefit over landfilling and that without an incentive more materials would be landfilled.

(G) Stewardship organization and manufacturers shall allocate revenues and expenditures applicable to this program in accordance with Generally Accepted Accounting Principles.

(H) The stewardship plan shall describe how the collection and expenditure of carpet assessment funds shall be kept separate from other activities of the stewardship organization.

(8) Education and Outreach. Include education and outreach efforts to consumers, commercial building owners, carpet installers, and retailers to promote their participation in achieving the purposes of the carpet stewardship plan. The description shall include how the outreach and education methods will be used and distributed, and how effectiveness of these activities will be measured. Educational information may include, but is not limited to, signage, written materials, advertising or other promotional materials pursuant to Section 42972 (a) (5).

(9) Program Performance Measurement. Describe how attainment of the goals will be measured per §18943(c). Program data shall be collected for purposes of annual report submittal (see §18944 Annual Report Compliance Criteria). Information to be provided includes, but is not limited to:

(A) Specific information on the measurement methodology, assumptions, conversion factors, if used, and data sources.

(10) Stakeholder Consultations. A manufacturer or stewardship organization that submits a plan shall include a process of consultation with affected stakeholders and consider the existing infrastructure in the development of the plan. Stakeholders may include, but are not limited to, other manufacturers and stewardship organizations, service providers, state and local governments, non-governmental organizations, haulers, demolition or other contractors, recyclers, retailers and wholesalers, installers, and consumers.

(11) Audits. Include a process by which the financial activities of the stewardship organization and individual manufacturer that are related to implementation of the stewardship plan will be subject to an independent audit, results of which will be submitted in the manufacturer or stewardship organization's annual report and reviewed by the department.

(12) Environmental information. Plans shall be accompanied with information to assist in completing an initial study under the California Environmental Quality Act.

Note: Authority cited: Sections 40502,
Reference: Sections 42972, 42973, Public Resources Code.

Section 18944. Annual Report Compliance Criteria.

(a) The annual report must contain the following:

(1) Contact information. Identify the manufacturer or stewardship organization responsible for the annual report submittal.

(2) Executive Summary. Provide an evaluation of the effectiveness of the carpet stewardship plan, and anticipated steps, if needed, to improve performance.

(3) Scope. The program described in the stewardship plan accepts and manage all applicable post-consumer carpet.

(A) Indicate any changes in the program scope from the approved stewardship plan.

(B) Indicate the scope is unchanged, if no changes have occurred during the reporting period.

(4) Program Outline. Describe the carpet stewardship program, including information on the following topics:

(A) Types of collections sites and basic information about recycling facilities in California, e.g., how carpet is collected, number and location of processors, throughput and capacity of recycling facilities.

(B) Include facility name(s) and address(es) for each method of disposition.

(5) Description of goals and activities based on the stewardship plan. State goals from the approved plan, the baseline from which goals were measured, and report on achievement during the reporting period.

(A) The annual report shall include, but is not limited to, quantitative information and discussion on the following:

1. Amount of carpet sold by square yards and pounds, in the state during the reporting period that is covered under the approved stewardship

plan. A stewardship organization with more than one manufacturer may use average weight.

2. Amount (pounds) of post-consumer carpet that is available for collection.
3. Amount (pounds) of carpet source reduced, if measureable.
4. Amount (pounds) of post-consumer carpet collected, by weight, during the reporting period.
5. Disposition, that is, amounts reused, recycled, incinerated for energy recovery or disposed of in a landfill; of collected post-consumer carpet, by pounds, during the reporting period.
6. Describe efforts to increase recyclability of carpets.
7. Describe efforts to increase recycling of post-consumer carpet.
8. Describe efforts to increase diversion of post-consumer carpet from landfills.
9. Describe other environmental impacts as data are available, e.g., green house gas emissions. Descriptions of any enforcement actions or problems related to plan implementation.
10. Describe efforts to increase the market growth of secondary products made from post-consumer carpet.
11. Describe number of jobs attributable to the carpet stewardship program as data are available.

(B) Information on goals shall be accompanied by supporting information covering, but not be limited to the following topics:

1. Description of the measurement methodology, assumptions, conversion factors, and data sources.
2. Data are ~~California~~ specific <u>to sales in California or post-consumer carpet diverted from California landfills</u>.
3. Report demonstrates that over time source reduction, reuse, and recycling increased, while environmentally safe transformation and land disposal decreased.

4. Report demonstrates continuous meaningful improvement toward achievement of goals.
5. Report covers progress toward achievement of all goals in the approved stewardship plan.

(6) Market Development. The annual report shall include a description of possible market development activities to incentivize the market growth of secondary products made from post-consumer carpet.

(7) Financing Mechanism. The annual report shall include a description and evaluation of the program's financing mechanism, including whether or not the funding was sufficient to recover, but not exceed, the full cost of the stewardship program. The annual report shall include, but not be limited to, the following total program cost information, and include any supporting documentation. Any proposed change in the amount of the carpet stewardship assessment fee must be submitted to the department for re-approval (See §18943 *Criteria for Plan Approval*):

(A) Total Program Cost
(B) Cost($)/capita
(C) Cost ($)/pound collected
(D) Education/Communications (% of total program cost)
(E) End-of-life materials management (% of total program cost)
(F) Program administration (% of total program cost, including annual administrative fee for service payments to the department)
(G) Governance (program oversight) (% of total program cost)
(H) Total cost to local government (if applicable)
(I) Amount of the assessment, aggregate assessment funds collected, how spent and amounts of each major expenditure
   a. <u>Funds, if spent on CAAF, must be supported with documentation reporting on economic and environmental impacts and that incentives shall expire, if they no longer serve a benefit.</u>
(J) Surplus funding, if any, and how it will be applied to reduce program costs

(K) An evaluation of the assessment rate

(8) Outreach/Education. List educational outreach activities in the stewardship plan. Provide a description of educational materials that were provided to retailers, consumers, carpet removers/installers, contractors, during the reporting period (provide electronic samples). Identify the method used to determine the effectiveness of educational and outreach surveys (e.g., surveys, hits on specific web pages, number of participants at events, etc). Education and outreach materials may include, but are not limited to, signage, written materials, advertising or other promotional materials pursuant to Section 42972 (a) (5) and Links to website(s) created and maintained by the manufacturer or stewardship organization.

(9) Audits. The annual report shall include an independent financial audit funded from the carpet stewardship assessment. The audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, and standards set forth in Government Auditing Standards issued by the Comptroller General of the United States. The audit report shall also include a separate state compliance report on the carpet program requirements as directed by the department.

(A) The department may investigate further. If the department decides to further review the findings of the independent auditor, the review will be conducted based on same information the individual manufacturer or stewardship organization provided to the independent auditor.

(B) Financial audits must be prepared by a Certified Public Accountant.

(C) The department may request supplemental information from the individual manufacturer or stewardship organization during the course of review of a manufacturer- or stewardship organization-submitted financial audit, if necessary.

(D) The department will inform the individual manufacturer or the stewardship organization within 60 days of the results of its review.

(E) <u>If after conducting further review of the audit, the Department deems it to be necessary, the Department may conduct its own audit.</u>

Note: Authority cited: Sections 40502,
Reference: Sections 42972, 42976, Public Resources Code. Section 19812, Title 5, California Code of Regulations.

Section 18945. Civil Penalties.

A civil penalty may be administratively imposed by the department on any person who is in violation of any provision of this Article. The responsible party or parties shall be determined by the department based on the totality of the circumstances.

(a) Any manufacturer offering carpet for sale or for promotional purposes in California or a manufacturer or stewardship organization submitting a plan or report to the department is subject to enforcement under this Article. Manufacturers are subject to penalties as a result of the failure of their designated stewardship organization to comply with this Article on their behalf.

(b) Notwithstanding paragraph (a), a product manufacturer is not subject to any penalty for failing to comply if that product manufacturer can demonstrate that it provided true and accurate information to the stewardship organization and the stewardship organization failed to properly report this on behalf of the manufacturer.

(c) A stewardship organization is not subject to a penalty for failure to comply as a result of submitting false or misleading information if it can demonstrate that it received false or misleading information from a manufacturer that was the direct cause of its failure to comply with this Article.

(d) Any wholesaler or retailer that offers carpet for sale in the state, or who offers carpet for promotional purposes in the state, is subject to enforcement under this Article.

Note: Authority cited: Sections 40502 and 42974, Public Resources Code.
Reference: Section 42974 and 42978, Public Resources Code.

Section 18945.1. Amount of Civil Penalties and Administrative Penalty Schedule.

(a) Civil penalties may be imposed administratively in accordance with the following penalty tables:

(1) Base Penalty Table I is to be used for stewardship organizations and manufacturers.

(A) Identify what violations have occurred.

(B) Identify the severity of the violations.

(C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table I: For Stewardship Organizations and Manufacturers		
Violation	Description of Violation	Severity
PRC 42972(a)	Failure to submit, individually or through a stewardship organization, a stewardship plan to the Department	Level 3
PRC 42973(b)	Failure to resubmit a stewardship plan within 60 days after receiving a notice of disapproval from the Department	Level 1
14 CCR 18942(b)(2)	Failure to resubmit a stewardship plan within 60 days after receiving a conditional approval from the Department	Level 1
~~PRC 42973(b)~~	~~Failure to obtain Department approval of a stewardship plan~~	~~Level 3~~
PRC 42972(e)	Failure to notify the Department within 30 days after instituting a significant or material change to a Department-approved stewardship plan	Level 2
PRC 42975	Failure to demonstrate to the Department continuous meaningful improvement in the rates of recycling and diversion of postconsumer material subject to a stewardship plan and in meeting the other goals included in an organization's stewardship plan	Level 2
PRC 42976	Failure to submit, individually or through a stewardship organization, an annual report to the Department	Level 3
PRC 42976	Annual report does not contain required elements	Level 2
PRC 42977(a)	Failure to pay an annual administration fee to the Department	Level 3
PRC 42974(b)	Offering a carpet for sale or for promotional purposes that is not subject to a Department-approved stewardship plan	Level 3
PRC 42972(c)(3)(B)	Stewardship assessment is not clearly visible on invoice or functionally equivalent billing document as a separate line item	Level 1
PRC 42972(c)(3)(B)	Invoice or functionally equivalent billing document is not accompanied by a brief description of the stewardship assessment or a Department-approved label	Level 1
14 CCR 18946	Failure to meet record keeping requirements	Level 2

(2) Base Penalty Table II is to be used for wholesalers and retailers.

(A) Identify what violations have occurred.

(B) Identify the severity of the violations.

(C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table II: For Wholesalers and Retailers		
Violation	Description of Violation	Severity
PRC 42974(b)	Offering a carpet for sale or for promotional purposes that is not subject to a Department-approved stewardship plan	Level 3
PRC 42972(c)(3)(B)	Stewardship assessment is not clearly visible on invoice or functionally equivalent billing document as a separate line item	Level 1
PRC 42972(c)(3)(B)	Invoice or functionally equivalent billing document is not accompanied by a brief description of the stewardship assessment or a Department-approved label	Level 1
14 CCR 18946	Failure to meet record keeping requirements	Level 2

(b) For the purpose of implementing this [Section/Article], penalty severity levels are described as follows:

(1) For a violation classified as Level 1, the amount of the base penalty may be up to $1,000 per day.

(2) For a violation classified as Level 2, the amount of the base penalty may be up to $5,000 per day.

(3) For a violation classified as Level 3, the amount of the base penalty may be up to $10,000 per day.

(c) The department will set the final penalty amount after considering the criteria set forth in Section 18945.2. The department may increase the final penalty beyond the penalty range established pursuant to paragraphs (a) and (b), if it determines, after considering the criteria set forth in Section 18945.2, that such an increase is warranted and appropriate.

Note: Authority cited: Sections 40502 and 42974, Public Resources Code. Reference: Sections 42972, 42973, 42974, 42975, 42976, and 42977, Public Resources Code; and Section 11506, Government Code.

Section 18945.2. Criteria to Impose a Civil Penalty.

In assessing or reviewing the amount of civil penalty imposed for a violation of this chapter, the department or the court shall consider all the following:

(a) The nature, circumstances, extent, and gravity of the violation(s).

(b) The number and severity of the violation(s).

(c) Evidence that the violation was intentional, knowing or negligent.

(d) The size of the violator.

(e) History of violation(s) of the same or similar nature.

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

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

(h) Evidence of any financial gain resulting from the violation(s).

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

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

(k) Any other factor that justice may require.

Note: Authority cited: Sections 40502 and 42974, Public Resources Code.
Reference: Section 42978, Public Resources Code.

Section 18945.3. Procedure for Imposing Civil Penalties.

(a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government Code Section 11505(c).

(b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:

(1) Personal service.

(2) Substitute service by using the same service procedures as described in Section 415.20 of the Code of Civil Procedure.

(3) Certified Mail: For respondents who have submitted a stewardship plan, certified mail or registered mail if the letter containing the accusation or complaint and accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) provided in the stewardship plan on file with the Department. Any address provided in the stewardship plan may be used for service of process. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For respondents who have not submitted or are not required to submit a stewardship plan to the department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at Section 11505(c) of the Government Code applies.

(c) Civil penalties may be imposed pursuant to the Public Resources Code Section 42978 in the discretion of the trier of fact in the civil proceeding.

Note: Authority cited: Sections 40502 and 42974, Public Resources Code. Reference: Section 11500, Government Code; and Section 42978, Public Resources Code.

Section 18946. Record Keeping Requirements

Each stewardship organization, manufacturer, wholesaler, or retailer required to comply with Chapter 20 (commencing with Section 42970), Part 3, Division 30 of the Public Resources Code shall:

(a) Maintain records to support the requirements in this Article. Stewardship organizations and manufacturers must maintain records to support Sections 18943 and 18944. Wholesalers and retailers must maintain records on all carpet sold or offered for promotional purposes in the state including:

(1) The manufacturer of the carpet.

(2) The date(s) the retailer ordered or purchased the carpet from the manufacturer.

(3) The date(s) the retailer sold or offered the carpet for promotional purposes.

(4) Invoices or functionally equivalent billing documents.

(5) Certification letter(s) from the department if provided by a manufacturer to demonstrate that carpet from the manufacturer is or was subject to a department-approved stewardship plan.

(b) Provide the department with ~~immediate~~ reasonable and timely access, as determined by the department, to its facilities, operations, and any relevant records necessary to determine compliance with this Article, upon request. The records required by this Article shall be accessible for three years.

(c) Make all records required by this Article available for inspection or audit by the department, or its agent and other duly authorized regulatory agencies during normal working hours.

(d) Submit copies of specified records to the department upon request or at a frequency approved by the department.

(e) The department may take disciplinary action against any stewardship organization or manufacturer who fails to provide the department with access pursuant to this subdivision including, but not limited to, imposing penalties and the immediate removal from the department's list of manufacturers that are in compliance with Chapter 20 (commencing with Section 42970), Part 3, Division 30 of the Public Resource Code and this Article.

Note: Authority cited: Sections 40502 and 42974, Public Resources Code. Reference: Sections 42972, 42972.5, 42973, 42974, 42975, 42976, 42977, 42977.1, 42978, and 42981, Public Resources Code.

Section 18947. Proprietary, Confidential, or Trade Secret Information.

The public disclosure of records supplied to the department pursuant to this Article that are, at the time of submission, claimed to be proprietary, confidential, or trade secret

shall be subject to the disclosure provisions in Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4 (commencing with Section 17041).

Authority cited: Section 6253, Government Code. Sections 40502 and 40502 and 42972 through 42977.1, Public Resources Code.

Reference: Sections 6250 et seq., Government Code. Sections 40062 and 42323, Public Resources Code.

Section 18948. Service Payments to Department of Resources, Recycling and Recovery.

(a) The department, using information provided in annual reports, its actual program costs for previous years, plans submitted in prior years, information from other sources, and assessing program needs; shall estimate the costs to be incurred by the department in connection with the administration and enforcement of the requirements of this chapter for the next fiscal year.

(b) The department director, or his/her deputy director designee, shall approve the fee charged for each stewardship plan for the full administration and enforcement costs by April 30 each year starting 2012.

(c) Any department fee shall be prorated, if there is more than one stewardship plan, by the number of plans submitted.

(d) The department will issue invoices for each plan by May 31 each year. Payment is due annually on July 1.

(e) The department's approval of a plan shall be revoked if payment is not received. Plans revoked for lack of payment may be reinstituted upon payment.

Note: Authority cited: Sections 40502, 42977, Public Resources Code Reference: Section 42977, Public Resources Code.