



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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Georgina Sikorski
Executive Director
Carpet America Recovery Effort
730 College Drive
Dalton, Georgia 30720

January 10, 2012

Re: CalRecycle Comments on California Carpet Stewardship Plan

Dear Ms. Sikorski,

On behalf of the California Department of Resources Recycling and Recovery (CalRecycle), I wish to thank you for submitting a very thoughtful Carpet Stewardship Plan (Plan) that aims to advance carpet stewardship and recycling in California. Overall, CalRecycle finds that the Plan, developed by CARE and its partners, offers a unique approach to carpet stewardship that aims to expand recycling services through incentives that reward results, that is, it subsidizes material output from recycling facilities so this material can serve as new raw material. We appreciate that statute places responsibility on the stewardship organization to develop a market-based approach suitable for the industry and thus understand the unique approach of placing incentives on results. Our overall assessment is that the Plan is a very good effort suitable at this time for conditional approval, and that with several adjustments made when California-specific data are available, it may be considered for full approval by CalRecycle.

At the same time, we do share a concern expressed by some stakeholders that the incentive amounts outlined in the Plan may not be sufficient to achieve all the goals of the statute. In addition, some stakeholders are concerned that this approach will not necessarily provide sufficient geographic coverage. However, given that the program is new, it is unknown how the incentive will function. Thus, additional data collection and analysis through annual reports will provide a mechanism to make adjustments, if needed.

The remainder of this letter outlines specific areas where more information or adjustments are needed to conform to statute. CalRecycle staff also provides some comments that are for consideration only with the intent of making the Plan better, but these are discretionary.





Please do not hesitate to contact CalRecycle regarding the information presented should it be unclear. Questions may be directed to Kathy Frevort, Fareed Ferhut or myself. As one of the first product stewardship programs with CalRecycle involvement, we along with many stakeholders are encouraged by the professionalism of CARE and very much look forward to working with CARE to continually advance the goals of AB2398.

Sincerely yours,

A handwritten signature in cursive script that reads "Carol Mortensen".

Carol Mortensen
Director, CalRecycle

General Comments

Baseline and Goals

The whole issue of establishing a baseline and goals is perplexing. CalRecycle conducted a waste characterization study in 2008 (using 2007 data) that indicates a much higher amount of carpet is disposed in California than the sales-based estimate used by CARE, even when considering the recession and statistical “noise” in the CalRecycle data. Staff revisited the methodology and sampling methods of the 2008 report and was unable to find errors that would reconcile the full difference. That being said, CalRecycle supports having a baseline based on sales information because those data are regularly collected, unlike waste characterization data. Therefore CalRecycle believes it is necessary for CARE to revisit the formula in the Plan for possible missing data so that it is closer to data from actual waste characterization analysis. CalRecycle will work collaboratively with CARE on resolving this discrepancy.

The formula provided in the Plan for establishing the amount of carpet discards generated appears to understate carpet disposal. Carpeted floors that are converted to other flooring do not appear in sales data. Anecdotally, CalRecycle staff believes that more carpeted floors are converted to other surfaces than the other way around, which suggest that the number for conversions is positive and consequently, if this number was included, it would increase total carpet discards (generation). In short, the Plan must provide a clearer explanation of the data inserted into the formula and the formula must include an estimate of carpet disposal generated from conversions.

In July 2012 CARE will have its first year of specific California carpet sales data to work with instead of an extrapolation from national data and population (the extrapolation assumes a direct relationship between population in nation and carpet sales in state). Consequently, it means better data are forthcoming. CalRecycle staff believes the first few year(s) will essentially serve as a test for the formula that is being used to estimate carpet discards based off sales data and other disposal information.

CalRecycle staff proposes that we use the first year to establish the baseline. This would mean that CalRecycle would not seek changes in the goals (percentages) at this time. (While some stakeholders believe the recycling goals for California are low, especially as compared to carpet diversion being achieved in the United Kingdom (UK), CalRecycle staff has learned that the overall UK diversion rate is around 12%, rather than 85%. The latter applies to post-industrial carpet only and doesn't include post-consumer carpet.) Rather, CARE and CalRecycle will revisit the baseline and goals in late summer/fall of 2012 (after one complete year of California-specific sales data). Changes to the goals, measurement methodology, and/or formula can then be explored using better data. Any proposed changes to the Plan will be presented at a CalRecycle public meeting, allowing stakeholder participation. Therefore, part of the conditional approval mandates that that goals, the measurement methodology and the formula are updated using better data and through a process that allows stakeholder participation.

Reduction and Reuse

The solid waste hierarchy places reduction and reuse above recycling, yet the Plan doesn't allow any incentives to be paid for reduction and reuse, only recycling and, to a limited extent, CAAF and

cement kiln fuels are eligible for incentive payments. CalRecycle understands that individual carpet manufacturers have made investments in source reduction as outlined in the Plan. Likewise, there are carpet product lines that are amenable to reuse. At this time the most immediate need is to advance the collection and recycling of discarded carpet and for that reason the incentives are being used to target this activity. Over time CARE will need to consider adjusting the incentives to best meet the full range of goals identified in the statute, including source reduction and reuse approaches.

Unused Funds

Recent versions of the Plan use the term “unused funds” rather than “reserves.” At least one stakeholder contacted CalRecycle with a concern over reserves, which increase throughout the years in the plan and are about 50% of the budget in 2016. The current version of the Plan has additional information about why there will be a build up of unused funds in initial years and that as recycling processing facilities operate to capacity, more incentives will be paid out and the unused funds will be spent. It should be noted that if more recycling occurs than estimated in the Plan, then the amount of unused funds will be smaller. Given the somewhat experimental nature of this approach, it seems prudent to start out this way, with recognition that adjustments may be needed during the implementation of this Plan. CARE should consider the impacts of different assessments and whether changes to the Plan should be proposed as part of the annual report (or in 2012 when goals are further considered).

Consumer Convenience

Rural counties have expressed concern throughout the regulation process about the need for the Plan to provide sufficient coverage throughout the state, especially rural areas. CARE and its partners proposed conducting rural pilots to explore methods for providing carpet recycling services in each county and six counties agreed to participate. The initial plans for the pilot faced several challenges and full implementation initially planned to start November 2, 2011 was delayed. Given the nature of pilots there will be need for further fine-tuning to provide carpet recycling services statewide. Part of the conditional approval mandates that the rural pilot is fully implemented and the program has statewide coverage.

Accounting and Audits

The Plan indicates that an outside accounting firm will manage the accounting and auditing requirements and auditing is in accordance with Generally Accepted Government Audit Standards (GAGAS). GAGAS ensures that auditors must be independent in all matters relating to the audit work. However, the current wording is specific to a particular accounting firm and the same firm is mentioned as performing accounting and audit services. The Plan should more clearly explain the role of the outside accounting firm. Likewise, there should be a more general statement to ensure GAGAS applies to any entity performing an audit on the program.

CalRecycle would like the following language, or something similar, added to the plan, “The CPA hired to conduct the audit will not perform non-audit services that would impair independence as defined in the Government Auditing Standards issued by the Comptroller General of the United States (e.g., accounting services, development of internal controls, management decisions).”

Another concern is that the financial audit must be specific to the California Carpet Stewardship Program, rather than a financial audit of all CARE's activities, which will have multiple funding sources and activities. It appears that CARE has addressed this issue as all funding for AB2398 is kept in a separate ledger from CARE operations. CalRecycle suggests that the Plan include this language to cover this topic in future updates: "The scope of the financial audit will explicitly report on the manufacturer or stewardship financial statements as they relate to the Carpet program and the organization's compliance with PRC 42970 and Title 14 Article 1 of the California Code of Regulations."

Part of the conditional approval mandates that all audits performed are done in accordance with GAGAS, regardless of which organization performs the audit, and it is clear which organization performs accounting functions and which organization performs audits, and that the financial audit is specific to the California Carpet Stewardship Program.

Specific Comments

Page 7, section 3, second paragraph: As understood by CalRecycle staff, any non-profit operating in CA, must register with the California Attorney General. CARE should register, if they have not done so already. To register, an organization must submit articles of incorporation and bylaws and pays an initial registration fee of \$25.

Page 9, Increase the Recyclability of Carpet: The current goal for increasing recyclability could be further improved to more clearly state activities that will be accomplished by a certain time.

Page 15, methodology: See comments above on "Baseline and Goals." CalRecycle staff believes that the assumption that market share is divided into 55% soft floor covering and 45% hard floor covering in California, and that this market share will remain unchanged, is probably incorrect. However, at this time CalRecycle is not aware of data available and only has anecdotal information on this (an awareness of many homeowners who have changed out carpeted floors for hard coverings, but not the other way around). If CARE's assumption is incorrect, it could mean that more carpet is discarded than what is estimated in the formula provided in the Plan.

CARE needs to modify its formula by adding "conversions, which is pounds of carpet converted to hard floor coverings minus pounds of hard floor coverings converted to carpet" or "C" to the formula and provide a means for estimating a value for "C". Earlier versions of the formula in the MOU process included "C" (e.g., see the "Review of the Denominator Calc" presented on October 14, 2010) and while nationally market share may be constant (i.e., no net change means the value is about zero and for this reason it was removed from the formula), it may be different in California and should be part of the formula.

As noted above, CalRecycle supports issuing a "conditional Plan approval" to allow CARE to use California-specific data in the formula used to estimate carpet generation from which goals are based.

Page 19, collection systems: The map now shows the wider collection system that exists, given collection trailers are located in outlying locations. Note that this map will need to be updated as rural collection activities are implemented.

Page 20-21, Table IV: The regulation says to describe the types of collection sites. CalRecycle staff understands that CARE is creating to a list with more details on services. This list is under development and scheduled to appear in January 2011 at the CARE website.

Page 23, Code of Conduct: CARE's program to certify collectors adhering to a code of conduct supports an overall successful program. The Plan could discuss improvements to the Code of Conduct over time. Factors to consider include that a minimum portion of collected carpet goes to a reuse or recycling processing facility.

Page 24, 8. Market Development: This section could better describe what actions will be taken to advance market development, including who is doing each activity and by when it will occur.

Page 42, Attachment I: The list of the CARE Board of Directors must identify current officers. CARE has indicated that they are electing a new chair in January 2012, given the departure of the previous Chair, Frank Hurd. CARE will provide this information to CalRecycle when it is available and update its website with this information.

Page 47, Attachment III, Definitions Used in the Plan: All definitions in the Plan must be consistent with those found in statute, should they appear in both. There is an asterisk by the definition of Carpet, to acknowledge that it is slightly different than what appeared in statute. The definition in statute is somewhat unclear and CalRecycle understands why CARE wants to offer this definition. However, it should be clear exactly what is in statute as that is what governs the program. This new definition should either be removed (meaning the definition in statute applies) or there should be further explanation so it is clear to readers that while statute has one definition, CARE seeks to share a revised definition for consideration in the future of the California Carpet Stewardship Program and to the benefit of others looking at this program as a model.