

Title 14. Natural Resources
Division 7. Department of Resources Recycling and Recovery
Chapter 11. Product Stewardship
Article 1. Product Stewardship for Carpets

§ 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 meet the requirements of Public Resources Code Section 42972(a)(2), and also include: ~~include, but are not limited, to the following items:~~

~~(A) 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.~~

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

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

(~~C~~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 in any form, including Carpet As Alternative Fuel (CAAF), used as a fuel.

(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.

(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 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 be provided reasonably convenient opportunity(ies) in each county to 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.

b. A carpet stewardship organization shall not expend funds from the assessment for engineered municipal solid waste conversion, as defined in Public Resources Code Section 40131.2, the use of cement kilns to burn carpet, or transformation, as defined in Public Resources Code Section 40201.

(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(a)(3)(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, Public Resources Code.

Reference: Sections 42972 and 42973, Public Resources Code.

§ 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 manages 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 data and discussion, specific to sales in California, 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. Report describes the measurement methodology, assumptions, conversion factors, and data sources.
2. Report demonstrates that over time source reduction, reuse, and recycling increased, while environmentally safe transformation and land disposal decreased.
- ~~3. Report demonstrates continuous meaningful improvement toward achievement of goals.~~
34. 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. 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.

b. A carpet stewardship organization shall not expend funds from the assessment for engineered municipal solid waste conversion, as defined in Public Resources Code Section 40131.2, the use of cement kilns to burn carpet, or transformation, as defined in Public Resources Code Section 40201.

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

Note: Authority cited: Section 40502, Public Resources Code.

Reference: Sections 42972 and 42976, Public Resources Code; and ~~Section 19812, Title 5, California Code of Regulations.~~

§ 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		
<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>

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 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		
<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
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.