



September 1, 2017

Scott Smithline  
Director  
California Department of Resources Recycling and Recovery (CalRecycle)  
1001 I Street  
Sacramento, CA 95812-4025

Dear Director Smithline:

The Mattress Recycling Council (MRC) is a tax-exempt non-profit organization certified by CalRecycle as a “mattress recycling organization” under the California Used Mattress Recovery and Recycling Act. MRC created, launched, and has operated a successful statewide mattress recycling program in California and is actively working with CalRecycle staff, solid waste facilities, retailers, consumers and other stakeholders to expand the program to communities across the state. MRC has held productive meetings with CalRecycle staff regarding the recycling goals and spoke at the August 15, 2017 workshop on the proposed Baseline and Goals for the program. MRC submits the following comments on CalRecycle’s Proposed State Mattress Recycling Baseline & Goals.

#### Background

Section 42987.5 of the California Public Resources Code provides that CalRecycle “in consultation with the organization, and after taking into consideration relevant economic and practical considerations and other information, shall establish and make public the following:

- (A) The state mattress recycling baseline amount.
- (B) The state mattress recycling goals.”

#### Comments on Proposed Goals

CalRecycle proposes to set four goals for the program: renovation, recycling (measured by units collected), recycling (measured by percentage of unit weight) and convenience. In addition, CalRecycle proposes to wait until 2020 to set a statewide recycling rate.

MRC addresses each of these topics below.

#### Renovation

The law requires that CalRecycle annually collect data on the number of mattresses renovated and include renovation in its analysis when setting the state’s mattress recycling goals. MRC urges CalRecycle to recognize that growth in renovation activity should not be a metric against which MRC’s program should be evaluated because MRC has no ability to increase the number of mattresses renovated annually.

The law requires MRC to develop, implement and administer a statewide recycling program that is funded by a consumer fee. The law separately defines the terms “recycling” and “renovation,” and consistently distinguishes between the two different activities. The law does not require MRC to increase the number of mattresses renovated.

Therefore, we urge CalRecycle to clarify that although anticipated renovation activity is a relevant metric in its goal-setting analysis, MRC should have no binding legal obligation to achieve any level of renovation activity because MRC has no control over renovation growth.

#### Units Collected by MRC for Recycling

MRC supports CalRecycle’s proposal to set the baseline for the number of units collected for recycling at 955,059 units (the number collected by MRC in 2016). MRC urges CalRecycle to clarify that this goal relates to the number of units collected for recycling by the program. This goal, when assessed with the recycling rate percentage goal discussed below, provides MRC and CalRecycle an objective and accurate measure of the program’s recycling performance.

MRC, however, disagrees with CalRecycle’s proposed goal that the units collected increase at an annual rate of 20% for each year from 2017 to 2020. Based on experience in other states, MRC does not project or budget for linear program growth during this period. As a new program, MRC anticipates, and initial data have shown, that recycling volumes will grow relatively quickly in the first two years of the program and slow in subsequent years as the number of units available for recycling decreases.

For these reasons, MRC urges CalRecycle to set recycling volume goals that reflect this reality. Specifically, MRC proposes year-over-year increases of 30% in 2017 (over 2016), 15% in 2018, and 9% each in 2019 and 2020.

#### Recycler Recycling Rate

CalRecycle proposes a recycling rate baseline of 63.61% by weight for recyclers contracted by MRC, based on the data reported in MRC’s 2016 annual report. MRC supports this baseline and the proposed goal to reach 75% by weight in 2020.

MRC notes, however, that 42987.5(a)(1) of the Public Resources Code provides that in setting these goals, CalRecycle will take into consideration “relevant economic and practical considerations and other information.” In this regard, whether a market exists for a given material at a given point in time depends largely on global commodity markets; an external factor over which neither MRC nor its contracted recyclers have any control. If commodity prices for recyclable mattress materials remain stable, the goals should be achievable. However, if another recession should occur, or commodity prices drop for other reasons, these goals might not be economically feasible.

#### 2020 Recycling Rate

CalRecycle acknowledges that data it collected from renovators, recyclers and solid waste facilities for the first reporting period (2016) is incomplete and should not be used as the

baseline for setting initial goals. Instead, CalRecycle proposes to use the total number of units that MRC collected through the program in its first year of operations (2016) as the baseline, and suggests that the baseline for 2020 be reconsidered if more complete data become available in the future.

MRC agrees that current CalRecycle data is incomplete and supports this approach.

CalRecycle proposes to calculate the 2020 recycling rate based on the total units reused, recycled and renovated divided by the number of units available for recycling. MRC urges CalRecycle to clarify that this is a statewide number and goal, not a goal specific to MRC. MRC plays a significant (but not exclusive) role in increasing the number of mattresses recycled, given that recyclers other than those under contract with MRC are recycling mattresses in California. Furthermore, we have no control over the growth of mattresses reused or renovated. Therefore, MRC should not be penalized or otherwise subject to enforcement actions if the overall statewide “recycling rate” goal is not met.

### Convenience

The law clearly distinguishes between program goals and recycling goals. Program goals must address the requirements of Section 42987.1 of the Public Resources Code. Whether MRC’s program is convenient for consumers and other stakeholders relates to certain requirements of this provision, and therefore concerns the law’s program goals. As such, convenience cannot also be a recycling goal.

Section 42986(l) of the Public Resources Code defines the term “recycling” by reference to Section 40180, which provides:

“Recycle” or “recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. “Recycling” does not include transformation, as defined in Section 40201 or EMSW conversion.

Convenience is not part of this definition.

Therefore, “convenience” is not an appropriate metric for inclusion among the “state mattress recycling goals” that CalRecycle is authorized to set pursuant to Section 42987.5 of the Public Resources Code. For these reasons, MRC urges CalRecycle to remove convenience from its list of proposed recycling goals.

MRC emphasizes that it is committed to making mattress recycling convenient to consumers and other stakeholders, as described in detail in its *Used Mattress Recovery and Recycling Plan* (as approved by CalRecycle) and in our 2016 annual report, which demonstrated considerable progress in making mattress recycling in California convenient during our first year of

operations. Furthermore, CalRecycle has already requested that MRC continue to address convenience in its future annual reports.

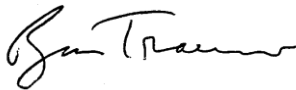
### Other Goals

CalRecycle also requests feedback on whether to include in its recycling goals other program goals, including illegal dumping, source reduction, education and outreach and market development. Section 42987.1 of the Public Resources Code requires that these program goals be included in the plan approved by CalRecycle, which they are. For the same reason that it is inappropriate for "convenience" to be a recycling goal (because convenience is advanced by the program goals), CalRecycle should not add these other program goals to the recycling goals.

Just as program goals are not recycling goals, the numerical units and percent by weight recycling goals discussed above cannot be program goals. For example, the law provides that the baseline and recycling goals should be reviewed "to ensure that the program advances the statewide recycling goal." The statewide recycling goal is a recycling rate of 75%, (which CalRecycle has reflected in its proposed 2020 recycling rate by weight goal), not a program goal.

Please contact me should you have any questions.

Sincerely,



Ryan Trainer  
President, ISPA