



Product Stewardship and Extended Producer Responsibility (EPR)

Carpet Stewardship Program

California is the first state to establish a private-sector designed and managed statewide carpet stewardship program. This program follows producer responsibility principles to ensure that discarded carpets become a resource for new products in a manner that is sustainably funded and provides jobs for Californians. This page provides information on the carpet stewardship law ([Chapter 681, Statutes of 2010 \[Perez, AB 2398\]](#)) and its implementation.

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Introduction to California's Carpet Stewardship Law

Discarded carpet is one of the 10 most prevalent waste materials in California landfills, equaling 3.2 percent of waste by volume disposed of in California in 2008. Most carpet is made from nylon and other polymers derived from virgin oil. Fortunately, numerous products can be manufactured from recycled carpets, including carpet backing and backing components, carpet fiber, carpet underlayment, plastics and engineered materials, and erosion control products. Several carpet recycling facilities currently operate in California, offering jobs, and producing products and feedstock for products made from recycled carpet.

What the Law Requires

[Chapter 681, Statutes of 2010 \(Perez, AB 2398\)](#) sets forth the requirements of the statewide Carpet Stewardship Program. Below are basic descriptions. Refer to the law for complete information.

Key Elements of the law

Purpose: Carpet product stewardship is to increase the amount of postconsumer carpet that is diverted from landfills and recycled into secondary products or otherwise managed in a manner that is consistent with the state's hierarchy for waste management to promote the following waste management practices in order of priority:

Source reduction

Recycling and composting

Environmentally safe transformation and environmentally safe land disposal

Definitions:

"Carpet" means a manufactured article that is used in commercial or residential building affixed or placed on the floor or building walking surface as a decorative or functional building interior feature and this is primarily constructed of a top visible surface of synthetic face fibers or yarns or tufts attached to a backing system derived from synthetic or natural materials. It includes broadloom and carpet tiles; it does not include a rug, pad, cushion, or underlayment.

"Department" means the Department of Resources Recycling and Recovery (CalRecycle).

"CARE" means [Carpet America Recovery Effort](#), a third-party nonprofit carpet stewardship organization.

See the [law](#) for more definitions.

Key roles: In very basic terms, manufacturers (either individually or through their stewardship organization) design their own stewardship program: they prepare and implement a plan to reach certain goals, and report on their progress. CalRecycle approves plans, checks progress, and provides oversight and enforcement to ensure a level playing field among carpet manufacturers. Other service providers participate in the management system as negotiated.

Stewardship Plans: The stewardship plan plays a very important role in the program because it defines a program that is in compliance with the law and communicates a course of action to stakeholders and the public. Plans will be posted at this website, along with ensuing annual reports. Plans must include information on:

How the plan will achieve the purpose;

Goals that increase recycling of postconsumer carpet and increase diversion of postconsumer carpets from landfills, increase the recyclability of carpets, and incentivize the market growth of products made from postconsumer carpet;

How the plan is consistent with the state's solid waste management hierarchy;

Funding that is sufficient to carry out the plan, including administrative, operational, and capital costs, and payment of fees and incentive payments to cover costs of services provided;

Education and outreach efforts; and

Process for independent audits.

Financing: A unique and very important aspect of carpet stewardship is long-term, sustainable funding. There are two phases to funding outlined in AB 2398. There is an initial period, July 1, 2011 to January 1, 2013, where manufacturers will assess five cents (\$0.05) per square yard that can only be used for early action measures that are consistent with the purpose and designed to achieve measureable improvement in landfill diversion and recycling of postconsumer carpet. After January 1, 2013, manufacturers shall add an assessment to the purchase price of carpet that is approved by CalRecycle. The amount of the assessment shall be sufficient to meet, but not exceed, the anticipated cost of carrying out the plan.

Enforcement and Compliance: Maintaining a level playing field among manufacturers is addressed through a combination of civil penalties for non-compliance and transparency that allows all stakeholders and the public to evaluate progress. For manufacturers to be in compliance, they must have an approved plan and demonstrate achievement of continuous and meaningful improvement in the rates of recycling and other goals included in an organization's plan.

Reporting: Annual reports will be posted at the CalRecycle website. These reports shall include information on amounts of carpet sold, postconsumer carpet recycled, ultimate disposition of collected carpets, program costs, an evaluation of performance and how to improve it, and examples of educational materials.

Key Implementation Dates: Carpet Stewardship Program

Date	Activity
July 1, 2011-January 1, 2013	Assessment paid to Stewardship Organization: Manufacturer of carpet shall add a carpet stewardship assessment of five cents (\$0.05) per square yard to the purchase price.
September 30, 2011	Submit Plan: Manufacturer (individually or through stewardship organization) submits a plan to CalRecycle.
November 29, 2011 or 60 days after received	Comment and Negotiate Plan: Date by which CalRecycle must approve or comment on plan.
March 31, 2012	Deadline for Plan Approval: A plan that is not approved by this date is out of compliance.
April 1, 2012	Subject to Penalties: A manufacturer, wholesaler, or retailer that offers a carpet for sale not covered under a plan is subject to penalties.
July 1, 2012, and not later than January 1 and July 1 annually (6 month updates)	Notice Regarding Compliant Manufacturers: CalRecycle posts a notice on its website of manufacturers that are in compliance.

July 1, 2012 - July 1, 2014 (annually)	Payment to CalRecycle: Carpet stewardship organization shall pay CalRecycle the administrative fee to cover the costs of its service.
January 1, 2013	Adjusted Assessment Paid to Stewardship Organization: Stewardship assessment per unit of carpet sold shall be remitted to the carpet stewardship organization on a quarterly basis and the carpet stewardship organization may expend the assessment only to carry out the plan. CalRecycle approves amount.
July 1, 2013 (Annual thereafter)	Submit annual report: Stewardship organization demonstrates to CalRecycle that it has achieved continuous meaningful improvement in the rates of recycling and diversion of postconsumer carpet subject to its stewardship plan and in meeting the other goals included in the organization's plan.
January 1, 2014	CalRecycle and Department of General Services (DGS) prepare report on specifications and standards: CalRecycle and DGS shall complete a study that examines the specifications for carpet purchases by the state and recommendation for any appropriate changes to that standard.
April 1, 2015	Other carpet stewardship organizations, besides CARE, may operate and submit plans to CalRecycle.
May 30, 2015 or 60 days after received	Approve Plans: CalRecycle shall review and approve or not approve the revised plan within 60 days after receipt.
July 1, 2015 (annually)	Payment to CalRecycle: Carpet stewardship organization(s) shall pay CalRecycle an administrative fee to cover the cost of its service that may not exceed 5 percent of the aggregate assessment collected.

In addition to activities and dates identified in AB 2398, there are associated activities:

Carpet America Recovery Effort (CARE) MOU process: The goals established through this process serve as a floor for California goals.

California rulemaking on assessments and civil penalty ranges: CalRecycle must use a rulemaking process to establish procedures such as approving assessments and to establish a range of civil penalties that will streamline implementation.

Carpet Stewardship Program: Carpet America Recovery Effort (CARE) will serve as the carpet stewardship organization at least until April 1, 2015. At that time other stewardship organizations may submit plans. Individual manufacturers can submit plans as well throughout. CalRecycle will post plans as they become available, sometime after September 2011. Information will include the following topics:

Collection sites

Education

Stewardship Plans

Annual Reports

List of Compliant Manufacturers

Enforcement

Buying Environmentally Preferable Carpet

The Department of General Services, Environmentally Preferable Purchasing Best Practices Manual has a chapter on purchasing carpet. The State Administrative Manual states that all carpet purchased by California state agencies shall meet the NSF/American National Standards Institute 140-2007 (NSF/ANSI 140-2007) standard at its Platinum level. Details can be found in the revised DGS Management Memo 10-01 (December 2009).

To find carpet that meets the NSF/ANSI 140-2007 standard, visit the visit The Carpet and Rug Institute's database . The list can be sorted to show all products certified at the Platinum level, by all certifiers.

NSF 140 was designed to establish a system with varying levels of certification to define sustainable carpet. Details can be found in the NSF 140-2007 carpet standard fact sheet (PDF)

Listserv

Subscribe to the CalRecycle [Carpet Product Stewardship listserv](#) to receive periodic e-mail updates specific to CalRecycle-related implementation activities.

Last updated: January 24, 2011

Extended Producer Responsibility and Stewardship <http://www.calrecycle.ca.gov/EPR/>

Contact: EPR@calrecycle.ca.gov (916) 341-6449

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AB 2398 An Overview

February 22, 2011

By Fareed Ferhut

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Carpet Stewardship Plan

- Plans due to CalRecycle September 30, 2011
- Submitted by manufacturers of carpet sold in California, individually or through a carpet stewardship organization

Scope

- Covers postconsumer carpet, regardless of polymer type or primary materials of construction
- Interior building applications

Plan Requirements: Goals

- Goals must increase the recycling and diversion of postconsumer carpet from landfills

Plan Requirements: Funding

- Must include a funding mechanism that provides sufficient funding to carry out the plan
- The administrative, operational and capital costs of the plan

Early Action Assessment

- 5 cents per sq yard to purchase price
- July 1, 2011 - January 1, 2013



Plan Requirements: On-going Assessment

- Carpet stewardship assessment per unit of carpet sold will be established in plan.
- Applies after January 1, 2013



Plan Requirements: Education & Outreach

- Must reach consumers, commercial building owners, carpet installation contractors, and retailers



Plan Requirements: Audit

- Must include a process for independent audits.



Significant or Material change

- Must notify CalRecycle within 30 days



Non Compliance

- Any plan not approved by March 31, 2012, will be out of compliance.



Enforcement

A manufacturer, wholesaler, or retailer that offers a carpet, that is not covered under a carpet stewardship plan, for sale or promotional purposes after April 1, 2012 is subject to penalties.



Annual Report

- Submit report to CalRecycle by July 1, 2013, and each year thereafter

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Continuous Improvement

- Must demonstrate to CalRecycle achievement of “continuous meaningful improvement “

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Website Listing

- CalRecycle to post a list of compliant manufacturers on its website
- Due: July 1, 2012

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State Procurement

- CalRecycle and DGS: prepare study on specifications for carpet purchases by the state.
- Due: Jan 1, 2014
- Ref: (NSF/ANSI) 140-2009 Standard, Platinum Level

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Administrative Fee

- Entities submitting plans pay CalRecycle an annual administrative fee
- Not to exceed costs and is capped

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Anti-trust

- Includes provision of anti-trust protection, with government oversight

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Contacts for CalRecycle Activities

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Summary of Regulatory Issues & Regulatory Process

February 22, 2011

Presented by
Kathy Frevert and Bob Holmes

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Overview of Regulatory Process

1. Scoping Sessions
2. Initial draft
3. Informal workshop (today)
4. File proposed regulations and CEQA docs
5. Public comment
6. Public hearing (June)
7. Revisions and public comment
8. Adoption at public meeting (Oct)
9. File final rulemaking with OAL
10. OAL approves/disapproves (Dec 2011)

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Purpose

- Clarify existing statute
- Establish administrative procedures
- Provide uniform competitive business environments

Section 18940

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Outline of Informal Draft Regulatory Text

- I. Definitions
- II. Stewardship Submittal Instructions
- III. Criteria for Plan Approval
- IV. Criteria for Evaluating Annual Reports
- V. Enforcement
- VI. Record Retention
- VII. Proprietary, Confidential, or Trade Secret Information
- VIII. Service Payments to CalRecycle

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I. Definitions

Terms defined:

- Administrative fee
- Assessment
- Aggregate assessment
- Diversion
- Recycling
- Reporting period
- Significant material change

Section 18941

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II. Stewardship Submittal Instructions

- Explains what information to submit as part of a registration with CalRecycle
- Electronic submittals
- One hard copy signed under penalty of perjury
- Standard outlines for plans and reports
- Financial, sales, product data only public in summary form

Section 18942

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III. Criteria for Plan Approval

- Describes what must be in a plan
- Discussion draft explains how CalRecycle will evaluate plans

- 1) Contact Information
 - 2) Scope
 - 3) Performance Goals
 - 4) Waste Management Hierarchy
 - 5) Collection System
 - 6) Market Development
 - 7) Financing Mechanism
 - 8) Education and Outreach
 - 9) Program Performance Measurement
 - 10) Stakeholder Consultation
 - 11) Audits
- Section 18943



IV. Annual Reports

- Describes what must be in an annual report
- Discussion draft explains how CalRecycle will evaluate reports

- 1) Contact Information
 - 2) Executive Summary
 - 3) Scope
 - 4) Program Outline of Collection System
 - 5) Description of Goals and Activities
 - 6) Market Development
 - 7) Financing Mechanism
 - 8) Education and Outreach
 - 9) Audits
- Section 18944



V. Enforcement

- Scope of proposed enforcement regulations. Who may be held liable for violations.
- Civil Penalties and Administrative Penalty Schedules
 - Stewardship Organizations and Manufacturers
 - Wholesalers and Retailers
- Criteria to determine appropriate monetary penalty (within a range of monetary penalties by violation)
- Procedure for Imposing Civil Penalties

Section 18945



VI. Records Retention

- Who must keep records
- Generally what records must be kept
- How long records must be retained

Section 18946



VII. Proprietary, Confidential, or Trade Secret Information

- Standard language

Section 18947



VIII. Service Payments to CalRecycle

- Process that will be used to determine amount of payment
- Department director, or his/her deputy director designee approve fee
- Schedule

Section 18948



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Comments or Questions



Send to:

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Assembly Bill No. 2398

CHAPTER 681

An act to add Chapter 20 (commencing with Section 42970) to Part 3 of Division 30 of, and to repeal Section 42980 of, the Public Resources Code, relating to recycling.

[Approved by Governor September 30, 2010. Filed with
Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, John A. Pérez. Product stewardship: carpet.

(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.

The bill would require, by September 30, 2011, a manufacturer of carpets sold in this state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to the department, which would be required to include specified elements, including a funding mechanism that provides sufficient funding to carry out the plan, including administrative, operational, and capital costs of the plan, the payment of fees, and incentive payments. The bill would require the funding mechanism to establish and provide for, on and after January 1, 2013, a carpet stewardship assessment to be added to the purchase price of carpet sold in the state by a manufacturer to a California retailer or wholesaler or otherwise sold for use in the state and would require each retailer and wholesaler to add the assessment to the purchase price of all carpet sold in the state.

The bill would require, until April 1, 2015, the Carpet America Recovery Effort (CARE), a 3rd-party nonprofit carpet stewardship organization, to serve as the carpet stewardship organization and would allow, on and after April 1, 2015, a carpet stewardship organization appointed by one or more manufacturers, to submit a plan.

The bill would require, as of July 1, 2011, until January 1, 2013, a manufacturer of carpet to add an assessment of \$0.05 per square yard upon the purchase price of all carpet sold in the state by that manufacturer. The bill would require the assessment to be remitted on a quarterly basis, as appropriate, to CARE or would allow the manufacturer to retain that assessment. The bill would require these revenues to be spent by CARE or by an individual manufacturer, prior to approval of its carpet stewardship plan, only to implement early action measures that are consistent to achieve measurable improvements in the landfill diversion and recycling of postconsumer carpet.

The department would be required to, among other things, within 60 days after the department receives a plan, review and determine whether the plan complies with the bill's requirements and notify the submitter of its decision. The bill would specify that any plan not approved by March 31, 2012, is out of compliance until determined to be complete by the department.

The bill would provide that a manufacturer, wholesaler, or retailer, on and after April 1, 2012, that offers carpet for sale or promotional purposes without an approved plan for that carpet is not in compliance with the act's requirements. The bill would require the department, by July 1, 2012, and not later than January 1 and July 1 annually thereafter, to post a notice on its Internet Web site listing manufacturers that are in compliance with the bill's requirements. The bill would require a wholesaler or retailer that distributes or sells carpets to monitor the department's Internet Web site to determine if the sale of a manufacturer's carpet is in compliance.

The act would also require the carpet stewardship organization to demonstrate to the department that it has achieved continuous meaningful improvement in the rates of recycling and diversion and other specified goals in order to be in compliance.

Each manufacturer of carpet sold in the state, individually or through a carpet stewardship organization, would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the carpet stewardship plan.

A manufacturer or carpet stewardship organization submitting a carpet stewardship plan would be required to pay the department an annual administrative fee, as determined by the department. The bill would also require the department to identify the direct development or regulatory costs incurred by the department prior to the submittal of carpet stewardship plans and to establish a fee in an amount adequate to cover those costs, that would be required to be paid by a carpet stewardship organization that submits a carpet stewardship plan. The bill would provide for the imposition of administrative civil penalties upon a person who violates the bill and would provide that a plan submitter whose plan is not approved by the department by March 31, 2012, is subject to those penalties until the plan is approved. The bill would establish the Carpet Stewardship Account in the Integrated Waste Management Fund and would require the fees collected by the department to be deposited in that account, for expenditure by the department, upon appropriation by the Legislature, to cover the department's cost to implement the bill's provisions. The bill would also establish the Carpet Stewardship Penalty Subaccount in the Integrated Waste Management Fund and would require that the civil penalties collected by the department pursuant to the bill's provisions be deposited in that subaccount, for expenditure by the department, upon appropriation by the Legislature, to cover the department's costs to implement the bill's provisions.

The bill would require the department and the Department of General Services to complete a study, by January 1, 2014, that examines the specifications for carpet purchases by the state, as provided in the NSF/ANSI 140-2007 Standard, Platinum Level, and to submit the study to the Governor

and the Legislature, including recommendations for any appropriate changes to that standard.

The bill would provide that certain actions of a carpet stewardship organization or its members are not violations of the Cartwright Act or certain provisions regulating unfair business practices or unfair competition.

The bill would require the Department of General Services to revise relevant procurement rules to ensure that postconsumer carpet that is removed from state buildings is managed in a manner consistent with the purposes of the bill.

(2) Existing law requires the Department of Toxic Substances Control to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered as being a chemical of concern, as prescribed, and to establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern.

This bill would require the Department of Toxic Substances Control to fully consider the measures taken by the carpet industry pursuant to the program established by the bill, and the results of those measures, when considering whether to include carpet in the product registry adopted under those provisions or to otherwise regulate carpet pursuant to those provisions.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Discarded carpet is one of the 10 most prevalent waste materials in California landfills, equaling 3.2 percent of waste by volume disposed of in California in 2008. Because carpet is heavy and bulky, it imposes a significant solid waste management cost on local governments.

(b) Numerous products can be manufactured from recycled carpets, including carpet backing and backing components, carpet fiber, carpet underlayment, plastics and engineered materials, and erosion control products. Several carpet recycling facilities currently operate in California, producing products and feedstock for products made from recycled carpet.

(c) The United States carpet industry has established a third-party nonprofit organization, the Carpet America Recovery Effort, also known as CARE, to work with state governments to increase the amount of recycling and reuse of postconsumer carpet and reduce the amount of carpet going to landfills.

(d) CARE represents at least 90 percent of United States carpet manufacturers and 95 percent of the volume of carpet sold in the United States.

(e) According to CARE, in 2008, the most recent year for which data are available, 5.2 percent of carpet was diverted from landfills and 4.3 percent was recycled.

(f) It is in the interest of the state to establish a program, working to the extent feasible with the carpet industry and related reclamation entities, to increase the landfill diversion and recycling of postconsumer carpet generated in California.

SEC. 2. Chapter 20 (commencing with Section 42970) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 20. PRODUCT STEWARDSHIP FOR CARPETS

42970. The purpose of this chapter is to increase the amount of postconsumer carpet that is diverted from landfills and recycled into secondary products or otherwise managed in a manner that is consistent with the state's hierarchy for waste management practices pursuant to Section 40051.

42971. For purposes of this chapter, and unless the context otherwise requires, the definitions in this section govern the construction of this chapter:

(a) "Brand" means a name, symbol, word, or mark that identifies the carpet, rather than its components, and attributes the carpet to the owner or licensee of the brand as the manufacturer.

(b) "CARE" means the Carpet America Recovery Effort, a third-party nonprofit carpet stewardship organization incorporated as a nonprofit corporation pursuant to Section 501(c)(3) of Title 26 of the United States Code in 2002 and established to increase the reclamation and stewardship of postconsumer carpet.

(c) "CARE MOU" means the 2012 Memorandum of Understanding for Carpet Stewardship, as to be negotiated among the carpet industry, states, and nongovernmental organization stakeholders as a successor to the 2002 memorandum of understanding.

(d) (1) "Carpet" means a manufactured article that is used in commercial or residential buildings affixed or placed on the floor or building walking surface as a decorative or functional building interior feature and that is primarily constructed of a top visible surface of synthetic face fibers or yarns or tufts attached to a backing system derived from synthetic or natural materials.

(2) "Carpet" includes, but is not limited to, a commercial or a residential broadloom carpet or modular carpet tiles.

(3) "Carpet" does not include a rug, pad, cushion, or underlayment used in conjunction with, or separately from, a carpet.

(e) (1) "Carpet stewardship organization" or "organization" means either of the following:

(A) An organization appointed by one or more manufacturers to act as an agent on behalf of the manufacturer to design, submit, and administer a carpet stewardship plan pursuant to this chapter.

(B) A carpet manufacturer that complies with this chapter as an individual manufacturer.

(2) Notwithstanding paragraph (1), until April 1, 2015, CARE shall be the sole carpet stewardship organization pursuant to subparagraph (A) of paragraph (1).

This paragraph does not restrict the option of an individual carpet manufacturer to comply with this chapter as a carpet stewardship organization, on and after January 1, 2011, pursuant to subparagraph (B) of paragraph (1).

(f) “Carpet stewardship plan” or “plan” means a plan written by an individual manufacturer or a carpet stewardship organization, on behalf of one or more manufacturers, that includes all of the information required by Section 42972.

(g) “Consumer” means a purchaser, owner, or lessee of carpet, including a person, business, corporation, limited partnership, nonprofit organization, or governmental entity.

(h) “Department” means the Department of Resources Recycling and Recovery.

(i) “Label” means a graphic representation of three chasing arrows with a carpet roll inside the arrows, or an alternative design, designed by CARE, after consultation with retailers and wholesalers, and approved by the department for use on all invoices or functionally equivalent billing documents pursuant to subparagraph (C) of paragraph (3) of subdivision (c) of Section 42972.

(j) “Manufacturer” means, with regard to a carpet that is sold, offered for sale, or distributed in the state any of the following:

(1) The person who manufactures the carpet and who sells, offers for sale, or distributes that carpet in the state under that person’s own name or brand.

(2) If there is no person who sells, offers for sale, or distributes the carpet in the state under the person’s own name or brand, the manufacturer of the carpet is the owner or licensee of a trademark or brand under which the carpet is sold or distributed in the state, whether or not the trademark is registered.

(3) If there is no person who is a manufacturer of the carpet for the purpose of paragraphs (1) and (2), the manufacturer of that carpet is the person who imports the carpet into the state for sale or distribution.

(k) “Postconsumer carpet” means carpet that is no longer used for its manufactured purpose.

(l) “Recycling” means the process, consistent with Section 40180, of converting postconsumer carpet into a useful product that meets the quality standards necessary to be used in the marketplace.

(m) “Retailer” means a person who offers new carpet in a retail sale, as defined in Section 6007 of the Revenue and Taxation Code, including a retail sale through any means, including remote offerings such as sales outlets, catalogs, or an Internet Web site or other similar electronic means.

(n) “Sell” or “sales” means a transfer of title of a carpet for consideration, including a remote sale conducted through a sales outlet, catalog, Internet Web site or similar electronic means. For purposes of this chapter, “sell”

or “sales” includes a lease through which a carpet is provided to a consumer by a manufacturer, wholesaler, or retailer.

(o) “Wholesaler” means a person who offers new carpet for sale in this state in a sale that is not a retail sale, as defined in Section 6007 of the Revenue and Taxation Code, and in which the carpet is intended to be resold.

42972. (a) On or before September 30, 2011, a manufacturer of carpets sold in this state shall, individually or through a carpet stewardship organization, submit a carpet stewardship plan to the department that will do all of the following:

(1) Achieve the purposes of this chapter, as described in Section 42970, and meet the requirements of Section 42975.

(2) Include goals that, to the extent feasible based on available technology and information, increase the recycling of postconsumer carpet, increase the diversion of postconsumer carpets from landfills, increase the recyclability of carpets, and incentivize the market growth of secondary products made from postconsumer carpet. The goals established in the plan shall, at a minimum, be equal to the goals established in the CARE MOU, if it has been adopted at the time the plan is submitted to the department.

(3) Describe proposed measures that will enable the management of postconsumer carpet in a manner consistent with the state’s solid waste management hierarchy, including, but not limited to, source reduction, source separation and processing to segregate and recover recyclable materials, and environmentally safe management of materials that cannot feasibly be recycled.

(4) Include a funding mechanism, consistent with subdivision (c), that provides sufficient funding to carry out the plan, including the administrative, operational, and capital costs of the plan, payment of fees pursuant to Section 42977, and incentive payments that will advance the purposes of this chapter.

(5) Include education and outreach efforts to consumers, commercial building owners, carpet installation contractors, and retailers to promote their participation in achieving the purposes of the carpet stewardship plan as described in paragraph (1). These education and outreach materials may include, but are not limited to, any of the following:

(A) Signage that is prominently displayed and easily visible to the consumer.

(B) Written materials and templates of materials for reproduction by retailers to be provided to carpet installation contractors and consumers at the time of purchase or delivery or both.

(C) Promotional materials or activities, or both, that explain the purpose of carpet stewardship and the means by which it is being carried out.

(6) Include a process by which the financial activities of the organization or individual manufacturer that are related to implementation of the plan will be subject to an independent audit, which may be reviewed by the department.

(b) The plan prepared pursuant to this section shall be designed to accept and manage all suitable postconsumer carpet, regardless of polymer type or primary materials of construction.

(c) (1) The funding mechanism required pursuant to paragraph (4) of subdivision (a) shall establish and provide for, on and after January 1, 2013, a carpet stewardship assessment per unit of carpet sold in the state in an amount that cumulatively will adequately fund the plan and be consistent with the purposes of the chapter. The assessment shall be remitted to the carpet stewardship organization on a quarterly basis and the carpet stewardship organization may expend the assessment only to carry out the plan.

(2) The amount of the assessment and the anticipated revenues from the assessment shall be specified in the plan and shall be approved by the department as part of the plan. The amount of the assessment shall be sufficient to meet, but not exceed, the anticipated cost of carrying out the plan. The amount of the assessment shall not create an unfair advantage in the marketplace.

(3) The assessment established pursuant to this subdivision and Section 42972.5 is exempt from the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code and shall meet both of the following requirements:

(A) The assessment shall be added by a manufacturer to the purchase price of all carpet sold by manufacturers to a California retailer or wholesaler or otherwise sold for use in the state. The assessment shall be clearly visible on invoices or functionally equivalent billing documents as a separate line item and shall be accompanied by a brief description of the assessment or a label approved by the department.

(B) Each retailer and wholesaler shall add the assessment to the purchase price of all carpet sold in the state. The assessment shall be clearly visible on invoices or functionally equivalent billing documents as a separate line item and shall be accompanied by a brief description of the assessment or a label approved by the department.

(d) A carpet stewardship organization that submits a plan pursuant to this section shall consult with retailers and wholesalers in the development of the plan, in order to minimize the impacts of the plan on retailers and wholesalers.

(e) A carpet stewardship organization shall notify the department within 30 days after instituting a significant or material change to an approved carpet stewardship plan.

42972.5. (a) Notwithstanding paragraph (1) of subdivision (c) of Section 42972, on and after July 1, 2011, but not on or after January 1, 2013, a manufacturer of carpet shall add a carpet stewardship assessment of five cents (\$0.05) per square yard to the purchase price of all carpet sold in the state by that manufacturer. The assessment added pursuant to this subdivision shall be remitted on a quarterly basis, as appropriate, to CARE or be retained by the individual manufacturer referred to in subparagraph (B) of paragraph (1) of subdivision (d) of Section 42971, for expenditure pursuant to subdivision (b).

(b) Prior to approval of a carpet stewardship plan, CARE or an individual manufacturer shall spend revenues from the assessment imposed pursuant

to subdivision (a) only to implement early action measures that are consistent with the purposes of this chapter and that are designed to achieve measurable improvements in the landfill diversion and recycling of postconsumer carpet.

42973. (a) (1) Within 60 days after the department receives a plan submitted pursuant to Section 42972, it shall review the plan, determine whether it complies with Section 42972, and notify the submitter of its decision to approve or not approve the plan.

(2) On or after April 1, 2015, an organization appointed by one or more manufacturers to act as an agent on behalf of the manufacturer to design, submit, and administer a carpet stewardship plan pursuant to this chapter may submit a plan to the department pursuant to Section 42972 and that plan may be approved by the department, subject to the requirements of paragraph (1), only if the department makes both of the following findings:

(A) The plan will not have the effect of reducing the level of diversion and recycling of postconsumer carpet that has been achieved pursuant to this chapter at the time the department reviews the plan.

(B) The amount of the assessment in the plan will not create an unfair advantage in the marketplace for one or more of the companies in the organization.

(b) If the department does not approve the plan, it shall describe the reasons for its disapproval in the notice. The submitter may revise and resubmit the plan within 60 days after receiving notice of disapproval and the department shall review and approve or not approve the revised plan within 60 days after receipt. Any plan not approved by March 31, 2012, shall be out of compliance with this chapter and the submitter of the plan is subject to the penalties specified in Section 42978 until the plan is approved by the department.

42974. (a) The department shall enforce this chapter.

(b) On and after April 1, 2012, a manufacturer, wholesaler, or retailer that offers a carpet for sale in this state, or who offers a carpet for promotional purposes in this state, is not in compliance with this chapter and is subject to penalties pursuant to Section 42978, if the carpet is not subject to a plan that is submitted by an organization that includes the manufacturer of that carpet, which plan has been approved by the department pursuant to Section 42973.

(c) (1) On July 1, 2012, and not later than January 1 and July 1 annually thereafter, the department shall post a notice on its Internet Web site listing manufacturers that are in compliance with this chapter.

(2) A manufacturer that is not listed on the department's Internet Web site pursuant to this subdivision, but demonstrates to the satisfaction of the department that the manufacturer is in compliance with this chapter before the next notice is required to be posted, may request a certification letter from the department stating that the manufacturer is in compliance. The letter shall constitute proof of compliance with this chapter.

(d) A wholesaler or retailer that distributes or sells carpet shall monitor the department's Internet Web site to determine if the sale of a manufacturer's carpet is in compliance with the requirements of this chapter.

Notwithstanding Section 42978, a wholesaler or retailer otherwise in compliance with this chapter shall be deemed in compliance with this section if, on the date the wholesaler or retailer ordered or purchased carpet, the manufacturer was listed as a compliant manufacturer on the department's Internet Web site.

42975. (a) In order to achieve compliance with this chapter, a carpet stewardship organization shall, on or before July 1, 2013, and annually thereafter, demonstrate to the department that it has achieved continuous meaningful improvement in the rates of recycling and diversion of postconsumer carpet subject to its stewardship plan and in meeting the other goals included in the organization's plan pursuant to paragraph (2) of subdivision (a) of Section 42972. In determining compliance, the department shall consider all of the following:

(1) The baseline rate of compliance against which the demonstrated improvement is compared.

(2) The goals included in the CARE MOU.

(3) Information provided in the organization's report to the department pursuant to Section 42976.

(b) If more than one organization submits a carpet stewardship plan pursuant to this chapter, the department shall use information submitted by the organization in its annual report pursuant to Section 42976 to determine to what extent the recycling and diversion rates and the achievement of the other goals included in the plan are attributable to each organization and shall determine compliance with this chapter accordingly.

42976. On or before July 1, 2013, and each year thereafter, a manufacturer of carpet sold in the state shall, individually or through a carpet stewardship organization, submit to the department a report describing its activities to achieve the purposes of this chapter, as described in Section 42970, and to comply with Section 42975. At a minimum, the report shall include all of the following:

(a) The amount of carpet sold by square yards and weight, in the state during the reporting period. A carpet stewardship organization with more than one manufacturer may use average weight.

(b) The amount of postconsumer carpet recycled, by weight, during the reporting period.

(c) The amount of postconsumer carpet recovered but not recycled, by weight, and its ultimate disposition.

(d) The total cost of implementing the carpet stewardship plan.

(e) An evaluation of the effectiveness of the carpet stewardship plan, and anticipated steps, if needed, to improve performance.

(f) Examples of educational materials that were provided to consumers during the reporting period.

42977. (a) The carpet stewardship organization submitting a carpet stewardship plan shall pay the department an annual administrative fee. The department shall set the fee at an amount that, when paid by every carpet stewardship organization that submits a carpet stewardship plan, is adequate to cover the department's full costs of administering and enforcing this

chapter, including any program development costs or regulatory costs incurred by the department prior to carpet stewardship plans being submitted. The department may establish a variable fee based on relevant factors, including, but not limited to, the portion of carpets sold in the state by members of the organization compared to the total amount of carpet sold in the state by all organizations submitting a carpet stewardship plan.

(b) The total amount of annual fees collected pursuant to this section shall not exceed the amount necessary to recover costs incurred by the department in connection with the administration and enforcement of the requirements of this chapter.

(c) The department shall identify the direct development or regulatory costs it incurs pursuant to this chapter prior to the submittal of a carpet stewardship plan and shall establish a fee in an amount adequate to cover those costs, which shall be paid by a carpet stewardship organization that submits a carpet stewardship plan. The fee established pursuant to this subdivision shall be paid in three equal payments pursuant to the schedule specified in subdivision (d).

(d) A carpet stewardship organization subject to this section shall pay the department the administrative fee pursuant to subdivision (a) on or before July 1, 2012, and annually thereafter and the applicable portion of the fee pursuant to subdivision (c) on July 1, 2012, and annually thereafter through July 1, 2014. Each year after the initial payment, the annual administrative fee may not exceed 5 percent of the aggregate assessment collected for the preceding calendar year.

(e) The department shall deposit the fees collected pursuant to this section into the Carpet Stewardship Account created pursuant to Section 42977.1.

42977.1. (a) The Carpet Stewardship Account and the Carpet Stewardship Penalty Subaccount are hereby established in the Integrated Waste Management Fund.

(b) All fees collected by the department pursuant to this article shall be deposited in the Carpet Stewardship Account and may be expended by the department, upon appropriation by the Legislature, to cover the department's costs to implement this chapter.

(c) All civil penalties collected pursuant to this article shall be deposited in the Carpet Stewardship Penalty Subaccount and may be expended by the department, upon appropriation by the Legislature, to cover the department's costs to implement this chapter.

42978. (a) A civil penalty up to the following amounts may be administratively imposed by the department on any person who is in violation of any provision of this chapter:

(1) One thousand dollars (\$1,000) per day.

(2) Ten thousand dollars (\$10,000) per day if the violation is intentional, knowing, or negligent.

(b) In assessing or reviewing the amount of a civil penalty imposed pursuant to subdivision (a) for a violation of this chapter, the department or the court shall consider all of the following:

(1) The nature and extent of the violation.

- (2) The number and severity of the violation or violations.
- (3) The economic effect of the penalty on the violator.
- (4) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.
- (5) The willfulness of the violator's misconduct.
- (6) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
- (7) Any other factor that justice may require.

42979. (a) This chapter does not limit, supersede, duplicate, or otherwise conflict with the authority of the Department of Toxic Substances Control under Section 25257.1 of the Health and Safety Code to fully implement Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20 of the Health and Safety Code, including the authority of the department to include a carpet in a product registry adopted pursuant to that article.

(b) Notwithstanding subdivision (a), the Department of Toxic Substances Control shall fully consider the measures taken by the carpet industry pursuant to this chapter, and the results of those measures, when considering whether to include carpet in a product registry adopted pursuant to, or to otherwise regulate carpet pursuant to, Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20 of the Health and Safety Code.

42980. (a) On or before January 1, 2014, the department and the Department of General Services shall complete a study that examines the specifications for carpet purchases by the state, as provided in the American National Standards Institute (NSF/ANSI) 140-2009 Standard, Platinum Level, as in effect on January 1, 2011 or the most current version in effect, and shall submit the study to the Governor and the Legislature pursuant to Section 9795 of the Government Code, including recommendation for any appropriate changes to that standard. In examining the standard and recommending changes to the standard, the department and the Department of General Services shall consider all of the following:

- (1) Any changes to the standard that would further the purpose of this chapter.
- (2) Any changes to the standard that would improve the environmental sustainability of carpet purchased by the state.
- (3) The life-cycle impacts of proposed changes to the standard.
- (4) The impacts of the proposed changes to the standard on source reduction.
- (5) The impacts of the proposed changes to the standard on the recyclability of carpet.
- (6) Economic and technological barriers to the proposed changes to the standard.

(b) The department and Department of General Services shall hold at least one workshop to receive comments from interested stakeholders prior to the completion of the study.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2018.

42981. (a) Except as provided in subdivision (b), any action by a carpet stewardship organization or its members that relates to any of the following is not a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code):

(1) The creation, implementation, or management of a carpet stewardship plan approved by the department pursuant to Section 42973 and the types or quantities of carpet being recycled or otherwise managed as described in Section 42970.

(2) The cost and structure of an approved carpet stewardship plan.

(3) The establishment, administration, or disbursement of a carpet stewardship assessment as described in Section 42972 or 42972.5.

(b) Subdivision (a) does not apply to an agreement that does any of the following:

(1) Fixes a price of or for carpet, except for any agreement related to a carpet stewardship assessment pursuant to Section 42972.5 or to a carpet stewardship plan approved by the department and otherwise in accordance with this chapter.

(2) Fixes the output of production of carpet.

(3) Restricts the geographic area in which, or customers to whom, carpet will be sold.

42982. The Department of General Services shall, to the extent feasible and within existing resources, take appropriate steps, including, but not limited to, revising relevant procurement rules, to ensure that postconsumer carpet that is removed from state buildings is managed in a manner consistent with the purpose of this chapter.

42983. It is the intent of the Legislature to review any federal law that has the purpose of managing postconsumer carpet in a manner consistent with this chapter and to consider the extent to which the program created by that federal law will, at a minimum, achieve the same levels of landfill diversion and recycling of postconsumer carpet in California as this chapter.