

**REQUEST FOR APPROVAL**

**To:** Carroll Mortensen,  
Director

**From:** Howard Levenson  
Deputy Director, Materials Management and Local Assistance Division

**Request Date:** November 15, 2011

**Decision Subject:** Adoption of Proposed Product Stewardship for Carpet Regulation

**Action By:** November 15, 2011

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**Summary of Request:** Staff requests adoption of the Proposed Product Stewardship for Carpet Regulation, which is needed to implement the carpet stewardship law (Chapter 681, Statutes of 2010 [Perez, AB 2398]).

**Recommendation:**

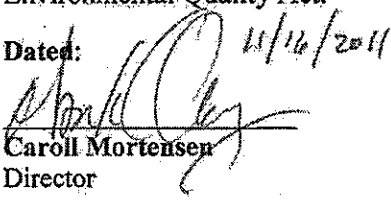
Staff recommends adoption of the Proposed Product Stewardship for Carpet Regulation so that it may be forwarded to the Office of Administrative Law (OAL) for approval and publishing. Staff also recommends that the Department file a Notice of Exemption with the State Clearinghouse as provided under the California Environmental Quality Act.

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**Action:**

On the basis of the information, analysis, and findings in this Request for Approval, I hereby adopt the Proposed Product Stewardship for Carpet Regulation and direct staff to forward the regulatory packet to the Office of Administrative Law for approval and publishing. I also direct staff to file a Notice of Exemption with the State Clearinghouse as provided under the California Environmental Quality Act.

**Dated:**

  
Carroll Mortensen  
Director

**Attachments:**

1. Proposed Product Stewardship for Carpet Regulations
2. Overview of Comments, Second 15-day Comment Period

Other comments can be found at this web address:

<http://www.calrecycle.ca.gov/Laws/Rulemaking/Carpet/default.htm>, see:

- Overview of Comments, 45-day comment period (July 22 – Sept 5, 2011)
  - Overview of Comments, 15-day comment period (Sept 19 – noon Oct 4, 2011)
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### **Background Information:**

Assembly Bill 2398 (Chapter 681, Statutes of 2010) established the first mandatory carpet stewardship program in the country. Pursuant to AB 2398, the Department has responsibility to approve or disapprove carpet stewardship plans submitted by manufacturers or their designated product stewardship organization; review annual reports to verify that the objectives of the plan are being met; and provide oversight and enforcement to ensure a level playing field among carpet manufacturers. For manufacturers to be in compliance, they must have an approved plan (or be part of a stewardship organization with an approved plan) and demonstrate achievement of continuous and meaningful improvement in the rates of recycling and other goals included in an approved stewardship plan. Enforcement is addressed through a combination of civil penalties for non-compliance and transparency that allows all stakeholders and the public to evaluate progress. Additionally, carpet manufacturers and/or stewardship organization(s) must pay CalRecycle an administrative fee to cover the cost of its service that may not exceed five percent of the aggregate assessment collected.

To carry out these responsibilities, the Department seeks to promulgate regulations that add clarity and administrative procedures covering: definitions; submittal instructions; stewardship plan approval criteria; criteria for acceptance of annual reports; the establishment of a progressive enforcement approach; records retention; proprietary, confidential or trade secret information; and a process for CalRecycle to accept payment for its services related to oversight and enforcement activities.

CalRecycle has been given authority by the legislature to make regulations whenever there is substantial evidence that regulations are needed to implement, interpret, make specific, or to govern CalRecycle's procedure, to effectuate the purpose of the statute. Therefore, this rulemaking seeks to add clarity and establish the necessary administrative procedures to fulfill CalRecycle's responsibilities under AB 2398.

### **Rulemaking Timeline:**

From January through February 2011, CalRecycle staff conducted research, held scoping meetings, and prepared discussion draft documents in preparation for the formal rulemaking process. A public workshop was held in February 2011 to discuss conceptual regulatory documents and gather stakeholder feedback. The discussion documents and comments received became the basis for the *Proposed Product Stewardship for Carpet Regulation* (see Attachment 1). (Text shown in yellow highlighted double underline (addition) and yellow highlighted ~~double strikeout~~ (deletion) depict proposed changes made after the second 15-day comment period. Text shown in double underline (addition) and ~~double strikeout~~ (deletion) depict proposed changes made after the initial 15-day comment period. Text shown in single underline (addition) and ~~single strikeout~~ (deletion) depict changes made after the 45-day comment period.)

Formal rulemaking activities began in July 2011. A 45-day public comment period for the proposed Product Stewardship for Carpet Regulation ran from July 22, 2011 through September 5, 2011. On September 8, 2011 staff held a public hearing on the proposed regulation. After considering comments received during the 45-day comment period and comments made at the public hearing, staff revised the proposed regulation. On September 19, 2011 CalRecycle initiated a 15-day comment period for the proposed changes, which ended on October 4, 2011.

On September 22, 2011 CalRecycle conducted a public meeting to explain changes made to the revised proposed regulation. On October 7, 2011 CalRecycle conducted a conference call to explain changes under consideration and made further revisions to the proposed regulation. On October 11, 2011 CalRecycle initiated a second 15-day comment period for the proposed changes, which ended on October 26, 2011.

#### **Analysis:**

The complete list of all comments submitted by stakeholders about the proposed regulatory language and staff's response to these comments are located on-line at this web address: <http://www.calrecycle.ca.gov/Laws/Rulemaking/Carpet/default.htm> (see all documents with "Overview of Comments" in the title).

Below are the topics that generated the most discussion during the rulemaking, including both the 45-day and 15-day comment periods.

- **Definitions:**
  - **Diversion:** Several stakeholders asked that the definition of diversion use language directly from AB 2398, which states that the bill's purpose is to reduce or eliminate the amount of postconsumer carpet from **landfill disposal** (emphasis added), not solid waste disposal. Staff agreed that AB 2398 places emphasis on landfill disposal and modified the definition of diversion for purposes of this article, so that it refers to activities that reduce or eliminate the amount of solid waste disposed at landfills in a manner consistent with the state's waste management hierarchy. Also, staff clarified that the definition of diversion does not apply to local jurisdiction programs (which are covered under Part 2, Division 30, of Public Resources Code).
  - **Transformation and Diversion Credit to Local Jurisdictions for Transformation:** Some stakeholders indicated a concern about the status of the current statutory provision that provides a jurisdiction with up to 10 percent diversion credit for solid waste managed through existing transformation facilities. Staff added language for the 15-day comment period so that it is clear the credit is not affected and added a definition of "transformation." Previous versions of the regulation included the actual text of the transformation definition in Section 40201 Public Resources Code. During the 15-day comment period, CalRecycle received a comment that it should include a reference to the Public Resources Code rather than the code's text. CalRecycle made this change in the regulations, but the edit is not substantive. It does mean that should the definition in Section 40201 Public Resources Code change, the change would apply to Article I in this Product Stewardship for Carpets regulation as well, so there would still be one common definition.
- **Consumer Convenience:** Some stakeholders indicated concern with the interpretation of "reasonably convenient." Staff incorporated language for the 15-day comment period to

clarify that this refers to opportunities for reasonably convenient carpet recycling in each county, while retaining flexibility on how this is implemented.

- **Carpet As Alternative Fuel (CAAF):** Some stakeholders strongly opposed the inclusion of language equating CAAF to diversion, which they regarded as 'waste-to-energy', and opposed any incentive funds being available for CAAF. These stakeholders contended that subsidizing the use of carpet as fuel is not consistent with the intent of the statute and would in essence incentivize the burning of carpet, which does not have the resource conservation benefits of recycling.

However, the stated purpose of AB 2398 is to divert carpet from landfill disposal by recycling or otherwise managing the material in a manner consistent with the state's solid waste management hierarchy, which could include the use of carpet as fuel. Thus CalRecycle does not have the authority to eliminate the use of carpet as a fuel for purposes of this article. From a technical perspective, considerable resources go into producing carpet, but not all parts of carpet can be recycled, so CAAF can provide an outlet for using the BTU resources contained in the non-recyclable portions of carpet. In this respect, using CAAF as a fuel may be preferable to landfilling, but more information would be needed to make such a determination. If carpet is used as a fuel in California, such use will have to conform to all existing legal requirements that are designed to provide for environmental protection.

To further address whether and how incentives for CAAF can be provided, CalRecycle added a sentence specifying that the provision in the stewardship plan regarding providing funds for CAAF must be supported with sufficient documentation that provides evidence of a net environmental benefit over landfilling and that, without an incentive, more materials would be landfilled. Likewise, the annual report is to include information on CAAF, such as the amount of CAAF created, the amount of incentives paid, and analysis of whether an incentive is still needed. This is predicated on the fact that CAAF is defined as a type of diversion and not a type of recycling, and thus is clearly at a lower level in the solid waste management hierarchy.

Some stakeholders strongly opposed this requirement that additional documentation be provided in order for CAAF to receive an incentive, in part because additional documentation is not required for carpet that is recycled. In contrast, other stakeholders suggested that CAAF should not be eligible for any incentives. While AB 2398 does not refer specifically to CAAF, it does provide for management options other than recycling, as described above. As such, setting different standards for recycling as compared to the use of CAAF is justified under the waste management hierarchy specifically incorporated under PRC Section 42970. Furthermore, similar information will be required during any California Environmental Quality Act (CEQA) analysis of carpet-derived products. However, this particular provision is included to address the possible incentivization of CAAF and allows for CAAF to be eligible for funds, but only if verification of the need and benefit is provided in the stewardship plan or supporting documents. CalRecycle believes this approach is necessary, given the controversy over this topic.

Based on these considerations, CalRecycle is not making additional changes to these provisions and will not approve a plan that allows disproportionate incentives for CAAF or transformation over higher-level solid waste management hierarchy options.

- **Environmental Information:** Some stakeholders commented that Section 18943(a)(12) that requires the submittal of environmental information with the plan should be deleted because it is vague and unnecessary. CalRecycle disagrees. CalRecycle cannot complete its CEQA analysis, which is required for adopting the stewardship plan, without environmental information from the manufacturers/stewardship organization. This provision thus is needed to give notice to the organizations submitting a plan who may not be familiar with CEQA. By including the need to provide environmental information, this requirement provides clearer direction, encourages environmental considerations in the design of the plan, and allows for CalRecycle to assess the plan and make a determination on its approval. During the plan development stages, CalRecycle and the stewardship organization are in regular communication and can discuss the details of what information is needed.

#### **Findings:**

CalRecycle staff reviewed comments from the second additional 15-day comment period and found that no substantial changes needed to be made to the proposed regulation.

Staff also evaluated the potential environmental effects of the proposed regulations as required by CEQA and determined that the adoption of the regulation is exempt from CEQA on the ground that there is no possibility that the regulation will have an effect on the environment (the "common sense exemption"). A "project," as the word is utilized in CEQA, is an activity that "has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." CEQA Guidelines, Section 15378(a). The regulation establishes only administrative procedures necessary for CalRecycle to implement AB 2398. The adoption of the regulation will have no direct and no indirect effects on the environment. Staff prepared a Notice of Exemption that will be filed with the State Clearinghouse as required by CEQA. Note that subsequent to the adoption of this regulation, CalRecycle's consideration of carpet stewardship plans prepared by carpet manufacturers or associations, as required by AB 2398, will require separate analysis under CEQA to determine whether an environmental document is required before CalRecycle approves any such plan.

Staff has given careful consideration to all comments received throughout the rulemaking process and recommends the Department adopt the Product Stewardship for Carpet Regulation and direct staff to forward the regulatory package to the Office of Administrative Law (OAL) for approval and publishing. With approval of the regulation at this meeting, staff will prepare and submit the final rulemaking package to OAL in early December. This tight schedule is necessary because the law requires that carpet stewardship plans be approved by March 31, 2012.



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**PROPOSED PRODUCT STEWARDSHIP FOR CARPET REGULATIONS**

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

**Section 18940. Purpose.**

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

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

**Section 18941. Definitions.**

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

- (1) "Must" or "shall" means a provision is mandatory.
- (2) "May" means a provision is permissive.

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

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

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

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

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

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

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

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



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

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

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

9 (l) ~~"Transformation" means incineration, pyrolysis, distillation, or biological conversion  
10 other than composting, is defined in Section 40201 of the Public Resources Code.  
11 "Transformation" does not include composting, gasification, or biomass conversion.~~

12  
13 Note: Authority cited: Sections 40502 and 42971, Reference: Sections 40124, 40127,  
14 40180, 40191, 40192, 40201, 41780, 42970, 42971, Public Resources Code.

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16 **Section 18942. Submittals.**

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

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

23 (A) Contact Name

24 (B) Title

25 (C) Name of Company or Stewardship Organization

26 (D) Mailing address and physical address

27 (E) Phone number

28 (F) E-mail address

29 (G) Web address, if applicable

30 (H) Location and custodian of records

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

- 3 (A) Contact Name
- 4 (B) Title
- 5 (C) Name of Company or Stewardship Organization
- 6 (D) Mailing address and physical address
- 7 (E) Phone number
- 8 (F) E-mail address
- 9 (G) Web address, if applicable
- 10 (H) Location and custodian of records

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

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

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

- 18 (A) Contact Information
- 19 (B) Scope
- 20 (C) Performance Goals and Activities
- 21 (D) Solid Waste Management Hierarchy
- 22 (E) Collection System
- 23 (F) Market Development
- 24 (G) Financing Mechanism
- 25 (H) Education and Outreach
- 26 (I) Program Performance Measurement
- 27 (J) Stakeholder Consultation
- 28 (K) Audits

29 (2) The department may approve, disapprove, or conditionally approve a  
30 stewardship plan. A manufacturer or stewardship organization has 60 days to

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

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

4 (4) ~~(3)~~ The approved stewardship plan shall be a public record, except that  
5 financial, production, or sales data reported to the department by a manufacturer or  
6 stewardship organization is not a public record under the California Public Records  
7 Act, as described in Chapter 3.5 (commencing with §6250) of Division 7 of Title 1 of  
8 the Government Code and shall not be open to public inspection. The department  
9 may release financial, production, or sales data in summary form only that cannot  
10 be attributable to a specific manufacturer.

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

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

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

21 (A) Contact Information

22 (B) Executive Summary

23 (C) Scope

24 (D) Program Outline

25 (E) Description of Goals and Activities

26 (F) Market Development

27 (G) Financing Mechanism

28 (H) Education and Outreach

29 (I) Audits

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

1  
2 **Section 18943. Criteria for Plan Approval.**

3 (a) Product stewardship plans must contain the following:

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

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

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

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

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

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

17 1. Increase the recyclability of carpets.

18 2. Incentivize the market growth of secondary products made from post-  
19 consumer carpets.

20 3. Increase the reuse of post-consumer carpets (numeric goal).

21 4. Increase the recycling of post-consumer carpets (numeric goal).

22 5. Increase the diversion of post-consumer carpet from landfills.

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

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

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

1 (E) Report on source reduction.

2 (4) Solid Waste Management Hierarchy. Describe:

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

8 (B) Management of carpet through source reduction, reuse and recycling must  
9 be greater than, and grow at a higher rate than the management of carpet in  
10 any form, including through Carpet As Alternative Fuel (CAAF), Waste-to-  
11 Energy, and incineration and other forms of transformation used as a fuel.

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

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

22 (A) Type of collection sites used.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (10) Stakeholder Consultations. A manufacturer or stewardship organization that  
21 submits a plan shall include a process of consultation with affected stakeholders  
22 and consider the existing infrastructure in the development of the plan.

23 Stakeholders may include, but are not limited to, other manufacturers and  
24 stewardship organizations, service providers, state and local governments, non-  
25 governmental organizations, haulers, demolition or other contractors, recyclers,  
26 retailers and wholesalers, installers, and consumers.

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

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

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

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6 **Section 18944. Annual Report Compliance Criteria.**

7 (a) The annual report must contain the following:

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

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

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

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

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

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

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

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

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

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

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



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

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

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

1 4. Report demonstrates continuous meaningful improvement toward  
2 achievement of goals.

3 5. Report covers progress toward achievement of all goals in the  
4 approved stewardship plan.

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

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

16 (A) Total Program Cost

17 (B) Cost(\$)/capita

18 (C) Cost (\$)/pound collected

19 (D) Education/Communications (% of total program cost)

20 (E) End-of-life materials management (% of total program cost)

21 (F) Program administration (% of total program cost, including annual  
22 administrative fee for service payments to the department)

23 (G) Governance (program oversight) (% of total program cost)

24 (H) Total cost to local government (if applicable)

25 (I) Amount of the assessment, aggregate assessment funds collected,  
26 how spent and amounts of each major expenditure

27 a. Funds, if spent on CAAF, must be supported with documentation  
28 reporting on economic and environmental impacts and that  
29 incentives shall expire, if they no longer serve a benefit.

30 (J) Surplus funding, if any, and how it will be applied to reduce program  
31 costs

1 (K) An evaluation of the assessment rate

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

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

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

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

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

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

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

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

4  
5 **Section 18945. Civil Penalties.**  
6

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

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

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

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

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

25 Note: Authority cited: Sections 40502 and 42974, Public Resources Code.

26 Reference: Section 42974 and 42978, Public Resources Code.

27  
28 **Section 18945.1. Amount of Civil Penalties and Administrative Penalty Schedule.**

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

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

3 (A) Identify what violations have occurred.

4 (B) Identify the severity of the violations.

5 (C) Establish the possible range of the base penalty per violation based on the  
6 severity levels described in paragraph (b).  
7

Base Penalty Table I: For Stewardship Organizations and Manufacturers		
Violation	Description of Violation	Severity
PRC 42972(a)	Failure to submit, individually or through a stewardship organization, a stewardship plan to the Department	Level 3
PRC 42973(b)	Failure to resubmit a stewardship plan within 60 days after receiving a notice of disapproval from the Department	Level 1
<u>14 CCR 18942(b)(2)</u>	<u>Failure to resubmit a stewardship plan within 60 days after receiving a conditional approval from the Department</u>	<u>Level 1</u>
<del>PRC 42973(b)</del>	<del>Failure to obtain Department approval of a stewardship plan</del>	<del>Level 3</del>
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

8  
9 (2) Base Penalty Table II is to be used for wholesalers and retailers.

10 (A) Identify what violations have occurred.

11 (B) Identify the severity of the violations.

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

3

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

4  
 5  
 6 (b) For the purpose of implementing this [Section/Article], penalty severity levels are  
 7 described as follows:

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

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

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

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

19 Note: Authority cited: Sections 40502 and 42974, Public Resources Code.

20 Reference: Sections 42972, 42973, 42974, 42975, 42976, and 42977, Public  
 21 Resources Code; and Section 11506, Government Code.

1 **Section 18945.2. Criteria to Impose a Civil Penalty.**

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

- 4 (a) The nature, circumstances, extent, and gravity of the violation(s).
- 5 (b) The number and severity of the violation(s).
- 6 (c) Evidence that the violation was intentional, knowing or negligent.
- 7 (d) The size of the violator.
- 8 (e) History of violation(s) of the same or similar nature.
- 9 (f) The willfulness of the violator's misconduct.
- 10 (g) Whether the violator took good faith measures to comply with this chapter and  
11 the period of time over which these measures were taken.
- 12 (h) Evidence of any financial gain resulting from the violation(s).
- 13 (i) The economic effect of the penalty on the violator.
- 14 (j) The deterrent effect that the imposition of the penalty would have on both the  
15 violator and the regulated community.
- 16 (k) Any other factor that justice may require.

17 Note: Authority cited: Sections 40502 and 42974, Public Resources Code.

18 Reference: Section 42978, Public Resources Code.

19 **Section 18945.3. Procedure for Imposing Civil Penalties.**

20 (a) Civil penalties may be administratively imposed in accordance with the procedures  
21 outlined in the Administrative Procedure Act at Chapter 5 (commencing with Section  
22 11500) of Part 1 of Division 3 of Title 2 of the Government Code with the exception of  
23 Government Code Section 11505(c).

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

- 26 (1) Personal service.

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

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

15 (c) Civil penalties may be imposed pursuant to the Public Resources Code Section  
16 42978 in the discretion of the trier of fact in the civil proceeding.

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

19 **Section 18946. Record Keeping Requirements**

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

23 (a) Maintain records to support the requirements in this Article. Stewardship  
24 organizations and manufacturers must maintain records to support Sections 18943 and  
25 18944. Wholesalers and retailers must maintain records on all carpet sold or offered for  
26 promotional purposes in the state including:

27 (1) The manufacturer of the carpet.

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



- 1 (3) The date(s) the retailer sold or offered the carpet for promotional purposes.
- 2 (4) Invoices or functionally equivalent billing documents.
- 3 (5) Certification letter(s) from the department if provided by a manufacturer to  
4 demonstrate that carpet from the manufacturer is or was subject to a department-  
5 approved stewardship plan.
- 6 (b) Provide the department with ~~immediate~~ reasonable and timely access, as  
7 determined by the department, to its facilities, operations, and any relevant records  
8 necessary to determine compliance with this Article, upon request. The records  
9 required by this Article shall be accessible for three years.
- 10 (c) Make all records required by this Article available for inspection or audit by the  
11 department, or its agent and other duly authorized regulatory agencies during normal  
12 working hours.
- 13 (d) Submit copies of specified records to the department upon request or at a  
14 frequency approved by the department.
- 15 (e) The department may take disciplinary action against any stewardship organization  
16 or manufacturer who fails to provide the department with access pursuant to this  
17 subdivision including, but not limited to, imposing penalties and the immediate removal  
18 from the department's list of manufacturers that are in compliance with Chapter 20  
19 (commencing with Section 42970), Part 3, Division 30 of the Public Resource Code and  
20 this Article.
- 21 Note: Authority cited: Sections 40502 and 42974, Public Resources Code. Reference:  
22 Sections 42972, 42972.5, 42973, 42974, 42975, 42976, 42977, 42977.1, 42978, and  
23 42981, Public Resources Code.

24

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

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

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

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

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

7

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

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

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

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

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

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

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

26

Carpet Stewardship Regulation, Overview of Comments, Second 15-day Comment Period (Oct 11 - Oct 26, 2011)

Comment Number	Commenter Affiliation	First name	Last name	Summary of Comment	CalRecycle Response	Revisions Needed	Section/ Area
W23-01	County Santa Cruz	Jeffrey	Smedburg	Proposed language for section 18943 (a)(5)(E): Description of how each consumer that pays a carpet stewardship assessment, including but not limited to those in rural areas, will have reasonably convenient opportunity(ies) to <u>manage their post-consumer carpet tested in each county that has a carpet retailer or and in each county in which a local city or county governmental jurisdiction desires such opportunity to exist to manage their post-consumer carpet.</u>	The changes made to the language of the regulation accomplishes the same purpose as the suggested edit of the commenter, therefore, no further changes are needed.	No	18943 (a) (5) (E)
W24-01	Los Angeles County	Margaret	Clark	Revise Section 18941(l) as follows: <u>"Transformation" has the same meaning as defined in Section 40201 of the Public Resources Code. means incineration, pyrolysis, distillation, or biological conversion other than composting. "Transformation" does not include composting, gasification, or biomass conversion.</u>  While we acknowledge that the proposed definition of "transformation" is verbatim to current statute, we believe it would be more appropriate to refer to the PRC statute in order to assure consistency in the event the statute definition is revised. As an active member of the Bioenergy Interagency Working Group, CalRecycle is well aware and has been in support of legislative efforts to refine existing statutory definitions including the definition of transformation, which arbitrarily includes some conversion technologies, excludes other technologies, and makes no mention of many other conversion technology categories.	CalRecycle agrees to make the recommended change. This will not have any impact on the regulation given the reference has the same definition for transformation.	Yes	18941(l)

Carpet Stewardship Regulation, Overview of Comments, Second 15-day Comment Period (Oct 11 - Oct 26, 2011)

W24-02	Los Angeles County	Margaret Clark	<p>Revise Section 18943(a)(4)(B) as follows: "Management of carpet through source reduction, reuse and recycling must be greater than, and grow at a higher rate than the management of carpet through Carpet As Alternative Fuel, and other forms of transformation."</p> <p>We are more concerned with the structure of this section, which essentially equates Carpet As Alternative Fuel (CAAF) with transformation. As explained by CalRecycle staff, CAAF is a product made from residual (unrecyclable) carpet waste while transformation is a subset of processes that can utilize CAAF. As currently drafted, this section not only fails to acknowledge various other conversion technologies not included under transformation that can also utilize CAAF but also confuses a product with a process.</p>	<p>CalRecycle does not intend to equate CAAF with transformation and understands how confusion can arise. CalRecycle revised Section 18943(a)(4)(B) as follows: "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."</p>	Yes	Section 18943 (a) (4) (B)
W24-03	Los Angeles County	Margaret Clark	<p>Delete Sections 18943(a)(7)(F)(a) and 18944(a)(7)(I)(a): "<del>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</del>"; and "<del>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</del>"</p> <p>AB 2398 specifically allows for CAAF; however, in the draft Regulations, in order to receive funding for CAAF, CalRecycle requires manufacturers to provide additional documentation that is not required for any other carpet derived product such as products generated from recycling. If these requirements for funding are in the Regulations, they should be required for all products derived from carpet, or they should not be required for any at all. There is no basis to single out CAAF for these extra documentation requirements, and thus, the Regulations go beyond the legislative intent of AB 2398. Furthermore, CalRecycle has already validated the net environmental benefits of conversion technologies in your \$1.5 million June 2007 New and Emerging Conversion Technologies Report to the Legislature.</p>	<p>Some stakeholders strongly opposed a requirement that additional documentation be provided in order for CAAF to receive an incentive, in part because additional documentation is not required for carpet that is recycled. In contrast, other stakeholders suggested that CAAF should not be eligible for any incentives. While AB 2398 does not refer specifically to CAAF, it does provide for management options other than recycling. As such, setting different standards for recycling as compared to the use of CAAF is justified under the waste management hierarchy specifically incorporated under PRC Section 42970. Furthermore, similar information will be required during any California Environmental Quality Act (CEQA) analysis of carpet-derived products. However, this particular provision is included to address the possible incentivization of CAAF and allows for CAAF to be eligible for funds, but only if verification of the need and benefit is provided in the stewardship plan or supporting documents. CalRecycle believes this approach is necessary, given the controversy over this topic.</p>	No	Section 18943 (a) (7) (I) a.

Carpet Stewardship Regulation, Overview of Comments, Second 15-day Comment Period (Oct 11 - Oct 26, 2011)

W24-04	Los Angeles County	Margaret Clark	<p>Delete Section 18943(a)(12): <del>Environmental information. Plans shall be accompanied with information to assist in completing an initial study under the California Environmental Quality Act.</del></p> <p>This requirement is vague and does not provide sufficient information to be instructive to manufacturers complying with the Regulations. It is also unclear why this section is necessary. Under this section, plans are required to be accompanied with information for the California Environmental Quality Act (CEQA) compliance. The Task Force would like clarification on what the basis is for this requirement under AB 2398. The Task Force believes CalRecycle is the responsible agency for CEQA compliance, and therefore recommends deleting the section entirely.</p>	<p>CalRecycle agrees it is the lead agency and responsible for preparing the CEQA initial study and disagrees with the comment to delete section 18943(a)(12). CalRecycle cannot complete its CEQA analysis, which is required for adopting the stewardship plan, without environmental information from the manufacturers/ stewardship organization. This provision thus is needed to give notice to the organizations submitting a plan who may not be familiar with CEQA. By including the need to provide environmental information, this requirement provides clearer direction, encourages environmental considerations in the design of the plan, and allows for CalRecycle to assess the plan and make a determination on its approval. During the plan development stages, CalRecycle and the stewardship organization are in regular communication and can discuss the details of what information is needed.</p>	No	Section 18943 (a) (12)
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Carpet Stewardship Regulation, Overview of Comments, Second 15-day Comment Period (Oct 11 - Oct 26, 2011)

W25-01	SWANA	William	Merry	<p>The LTF is concerned with new requirements in Sections 18943 (a)(7)(F)(a) and 18944(a)(7)(i)(a) that single out funds designated and spent on CAAF for additional documentation requirements. There are several reasons that this new requirement should be removed from the proposed regulations:</p> <ol style="list-style-type: none"> <li>1. CalRecycle has already validated the net environmental benefits of conversion technologies in the New and Emerging Conversion Technologies Report (CalRecycle, 2007). The required documentation contained in the sections identified above is redundant and unnecessary.</li> <li>2. Documenting the "net environmental" benefit as required by the revised regulations will require the unnecessary expenditure of resources. Depending on how CalRecycle ultimately implements this requirement, and what type of documentation is deemed acceptable, the cost could be prohibitive.</li> <li>3. The regulations contain no description of the criteria that would be used to confirm that CAAF does indeed provide a net environmental benefit over landfilling. Without this type of guidance the requirement simply serves as a roadblock to the effective and convenient utilization of CAAF.</li> <li>4. AB 2398 contains no basis for singling out CAAF for additional, potentially prohibitive, documentation requirements. If this requirement to provide documentation of the "net environmental benefit" is to be included in the regulations, which we do not believe it should be, it should be applied to all products derived from carpet.</li> </ol>	<p><b>For comment 1:</b> The report mentioned is about non-combustion thermal technologies and focuses on three conversion technologies: concentrated acid hydrolysis, gasification; and catalytic cracking. The report is general and does not analyze carpet as a feed stock. CalRecycle is seeking information specific to carpet and anticipates that the stewardship organization or individual manufacturer submitting a plan will provide statewide information.</p> <p><b>For comment 2:</b> See W24-04. This type of expenditure is already required under CEQA law.</p> <p><b>For comment 3:</b> CalRecycle is seeking statewide information on CAAF and its impacts in the stewardship plan, rather than facility by facility type information on a continual basis submitted by those facilities. A key reason for the additional information is due to the use of incentives for CAAF and the controversy over this as noted in the response to W24-03.</p> <p><b>For comment 4:</b> See W24-03.</p>	No	Section 18943 (a) (12)
W25-02	SWANA	William	Merry	See W24-04	See W24-04	No	Section 18943 (a) (12)