

MODEL CARPET STEWARDSHIP PROGRAM

Section 1. DEFINITIONS.

(1) **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.

(2) **Carpet** means a manufactured article that is used in commercial or residential (single and multifamily) buildings affixed or placed on the floor or building walking surface as a decorative or functional building interior or exterior 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. "Carpet" includes, but is not limited to, a commercial or a residential broadloom carpet or modular carpet tiles. "Carpet" includes a pad or underlayment used in conjunction with a carpet. "Carpet" does not include handmade rugs, area rugs, or mats.

(3) **Discarded carpet** means carpet that is no longer used for its manufactured purpose. However, the term does not include carpet scrap generated during carpet production.

(4) **Producer** means a person that: (1) Has legal ownership of the brand, brand-name or co-brand of a carpet sold in or into the state; or (2) Imports carpet branded by a producer that meets (1) of this subsection and where that producer has no physical presence in the United States; or (3) If subsections (1) and (2) do not apply, a person who makes an unbranded carpet product that is sold in or into (state); or (4) Sells carpet at wholesale or retail, does not have legal ownership of the brand, and elects to fulfill the responsibilities of the producer for that product.

(5) **Recycling** means transforming or remanufacturing waste materials into a finished product for use other than landfill disposal or incineration with or without energy recovery.

(6) **Reuse** means donating or selling collected carpet back into the market for its original intended use in which the carpet retains its original purpose and performance characteristics.

(7) **Sell or sales** means a transfer of title of a carpet for consideration, including a remote sale conducted through a sales outlet, catalog, website, 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 producer, wholesaler, or retailer.

(8) **Stewardship organization** means an organization appointed by one or more producers to act as an agent on behalf of the producer to design, submit, and administer a product stewardship program under this chapter;

(9) **Stewardship plan** means a detailed plan describing the manner in which a product stewardship program will be implemented.

Section 2. STEWARDSHIP PROGRAM.

Beginning six months after submittal of the stewardship plan, all producers of carpet sold in the state must, individually or through a representative organization implement and finance a statewide carpet stewardship program that manages all carpet by reducing its waste generation, promoting its reuse and recycling, and negotiating and executing agreements to collect, transport, and process carpet for end-of-life recycling and reuse.

Section 3. PARTICIPATION IN PRODUCT STEWARDSHIP PROGRAM.

Subdivision 1. Requirement for sale.

(a) On and after the effective date of a product stewardship plan approved by the Agency, no producer, wholesaler, or retailer of carpet may sell or offer for sale carpet in the state unless the producer of carpet participates in a stewardship organization or has submitted and has approved an independent stewardship plan for which is has sole responsibility.

Subdivision 2. Requirement to submit plan

(a) Producers of carpet sold in or into the state must individually or through a stewardship organization, submit a statewide product stewardship plan.

(b) Product stewardship plans must be submitted to the Agency for approval no later than twelve months following enactment of the act and the plans must include all elements required under Subdivision 4.

(c) At least every three years, a producer, group of producers, or stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the Agency for review and approval.

(d) It is the responsibility of the entities responsible for each stewardship plan to notify the Agency with 30 days of any significant changes or modifications to the plan or its implementation. A written plan revision must be submitted within 30 days of such notification for review and approval.

Subdivision. 3. Stewardship plan content.

A stewardship plan must contain:

- (1) Certification that the product stewardship program will accept all discarded carpet that meets the requirements in (2) below, regardless of which producer produced the carpet and its resin type;
- (2) Accept only source separated carpet that is dry, free of paint, mold, mildew, asbestos, construction or demolition debris, and other hazardous materials or chemicals that render the carpet unrecyclable.

- (3) Contact information for the individual and the entity submitting the plan and for all producers participating in the product stewardship program;
- (4) A description of the methods by which discarded carpet will be collected in all areas in the state, including the entities that will provide collection services, and an explanation of how the collection system will be convenient and adequate to serve the needs of carpet installers, businesses, and residents in both urban and rural areas on an on-going basis;
- (5) A description of how the adequacy of the collection program will be monitored and maintained;
- (6) The names and locations of transporters, recyclers, and disposal facilities that will manage discarded carpet;
- (7) A description of how discarded carpet will be safely and securely transported, tracked, and handled from collection through final processing;
- (8) A description of the promotion and outreach activities that will be used to encourage participation in the collection and recycling programs and how the activities' effectiveness will be evaluated and the program modified, if necessary;
- (9) A description of the financing mechanisms that will be used to implement the program so that there are no end-of -life charges for installers, businesses or residents at collection points that are participating in the product stewardship program;
- (10) Evidence of adequate insurance and financial assurance that may be required for collection, handling, and disposal operations;
- (11) Five year performance goals, including an estimate of the percentage of discarded carpet that will be collected and recycled during each of the first five years of the product stewardship plan. The performance goals must include a specific escalating goal for the amount of discarded carpet that will be collected and recycled and reused during each year of the plan. The performance goals must be based on: (a) the most recent collection data available for the state; (b) the amount of carpet disposed annually; and (c) the weight of carpet that is expected to be available for collection annually. The performance goals must state the methodology used to determine these goals;
- (12) A summary of product design changes that will be considered to reduce toxicity, water use, or energy use or to increase recycled content, recyclability, or product longevity; and
- (13) A discussion of market development opportunities to expand utilization of recovered carpet, with attention paid to expansion of processing activity proximate to areas of collection.

Subdivision 4. **Consultation required.**

(a) Each stewardship organization or individual producer submitting a stewardship plan must consult with stakeholders including retailers, installers, collectors, recyclers, local government, customers and citizens during the development of the plan, solicit stakeholder comments, and attempt to address any stakeholder concerns regarding the plan before submitting the plan to the Agency for review. These efforts shall be documented and reported on in the plan submittal.

(b) The stewardship organization shall annually invite comments from local governments, communities, and citizens to report their satisfaction with services provided, including education and outreach, by the stewardship program. This information must be submitted to the Agency annually and used by the Agency in reviewing proposed updates or changes to product stewardship plans.

Subdivision. 5. **Agency review and approval.**

(1) Within 90 days after receipt of a plan, the Agency shall determine whether the plan complies with requirements in Subdivision 3. If the Agency approves a plan, the Agency shall notify the applicant of the plan approval in writing. If the Agency rejects a plan, the Agency shall notify the applicant in writing of the reasons for rejecting the plan. An applicant whose plan has been rejected by the Agency must submit a revised plan to the Agency within 60 days after receiving notice of the rejection.

(2) Any proposed changes to a product stewardship plan must be approved by the Agency in writing.

Subdivision. 6. **Plan availability.**

All product stewardship plans approved by the Agency shall be placed on the Agency's website and made available at the Agency's headquarters for public review within 30 days of the Agency's approval.

Section 4. CONDUCT AUTHORIZED.

A producer or organization of producers that organizes collection, transport, and processing of carpet under Section 2 is immune from liability for the conduct under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce only to the extent that the conduct is necessary to plan and implement its chosen organized collection or recycling system.

Section 5. RESPONSIBILITY OF RETAILERS.

No carpet brand may be sold in the state if the brand owner is not actively participating in an approved stewardship plan.

Section 6. REPORTS.

(a) Starting X, producers of carpet sold in this state must individually or through a representative organization, submit an annual report to the Agency describing the stewardship program. At a minimum, the report must contain:

(1) A description of the methods used to collect, transport, and process carpet in all regions of the state;

(2) The weight of all carpet collected in all regions of the state and a comparison to the performance goals and recycling rates suggested in the plan;

(3) The amount of unwanted carpet collected in the state by method of disposition, including reuse, recycling, and other methods of processing;

(4) An identification of the facilities processing carpet and the number and weight processed at each facility;

(5) An evaluation of the operation of the program's funding mechanism; and

(6) Samples of educational materials provided to consumers of carpet and an evaluation of the effectiveness of the materials and the methods used to disseminate those materials.

(b) Proprietary information submitted to the Agency under this chapter is exempt from public disclosure.

Section 7. AGENCY RESPONSIBILITIES

The Agency shall provide, on its website, a list of all producers and brands participating in product stewardship programs it has approved and a list of all producers and brands it has identified as noncompliant with this act and any rules adopted to implement this act.

Section 8. AGENCY REPORT TO LEGISLATURE

On or before December 1, 2012, and every five years thereafter, the Agency shall provide a report to the legislature on the implementation of this Act. The report shall include recommendations for changes, if any, to the program.

Section 9. ENFORCEMENT

To be determined by each state.