

Swept under the rug: After forming California's carpet recycling program, industry prevents it from spreading nationwide

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State's lead recycling agency proposes \$3.25 million fine against group for failing to meet recycling goals

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In a photo from 2013, piles of discarded carpets tower more than 15 feet high at the L&D Landfill in Sacramento, after Carpet Collectors in Rocklin went bankrupt. The company failed to meet the state's requirements for tracking the carpet it was supposed to recycle just a few years after new regulations went into effect.

PHOTO COURTESY OF THE SACRAMENTO COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT



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Men in hard hats picked through the piles of padding and tattered carpet, stacking the cleanest rolls on pallets. In Sacramento County, discarded carpets end up at the Florin Perkins Public Disposal Site, a dusty waste transfer station off of Jackson Highway where just 3 percent of the county's thousands of pounds of used carpet is collected for recycling annually.

The rest goes to landfills. Most of the material made from oil and plastic takes hundreds of years to degrade—if at all—and is the fourth-largest greenhouse gas emitter of any landfill product.

It wasn't supposed to be this way.

Seven years ago, California wanted to put a dent in the massive footprint carpet waste leaves in

landfills. Lawmakers crafted the first regulations in the nation for carpet manufacturers to manage their products from sale to reuse.

But the carpet industry didn't lay down easily. It managed to keep the recycling goals low and passed on the fees to its consumers. More recently, an industry organization began preventing small carpet manufacturers and recycling companies in need of financial assistance from advocating for similar programs in states other than California.

The result? California's one-of-a-kind carpet recycling program is controlled by the industry and in no danger of spreading to other states.

Earlier this month, Heidi Sanborn, director of the California Product Stewardship Council and the National Stewardship Action Council, told lawmakers that the state's efforts to reduce carpet waste needs work. "Our goal isn't to dismiss the efforts already made to increase carpet recycling," Sanborn said at a state Senate Environmental Quality Committee hearing. "However, it is important to note that the stewardship plans implemented have failed to achieve meaningful results."

Even with low recycling goals in this state, the industry-led Carpet America Recovery Effort, or CARE, failed to meet them three years in a row, blaming global economic forces for making recycled products less attractive while CARE struggled to forge a new recycling industry. Now, the organization faces a \$3.25 million fine from California's lead recycling agency, CalRecycle, for not meeting the agency's goal of "continuous and meaningful improvement."

Filing an accusation document in March, CalRecycle alleged that CARE's inability to meet state targets were "at least negligent and may have been knowing and intentional."

It may also be what happens when an industry is allowed to regulate itself.

In 2010, Speaker John Perez crafted Assembly Bill 2398, the first carpet stewardship bill in the world. Under a Republican governor with veto power, crafters knew they needed to cater to industry interests to bring the program on board, creating a visible fee, like bottles and cans.

"We knew whatever we came up with, we would be able to get past the Assembly and the Senate. But we needed something the industry would support in order to get the governor on board," said Los Angeles Fiber President Ron Greitzer, a CARE board member who said the legislation saved his recycling business.

The result: The industry was tasked with diverting 16 percent of its carpet waste by 2016. To accomplish this, the industry passed on a 5-cent-per-yard recycling fee to its consumers, later increasing it to 25 cents.

CARE was chosen to administer the program, improve carpet recyclability and markets for recycled materials.

"They wanted to control the money and not have a government program do that, which can get out of control," Greitzer explained. "It ended up being somewhat watered down, but it was also the first step of having an industry be held accountable for its own waste. I take great pride in the work we've done since then."

CalRecycle took the opposite view in issuing its 11-page accusation finding, accusing CARE of being slow to adjust to market fluctuations despite its earlier recommendations and for not putting enough drop-off locations in counties across the state, creating recycling shortfalls in large population centers like Los Angeles, San Diego—and Sacramento.

"You need to have a facility willing to put in the effort of separating carpet, rolling it up and sticking it in a trailer. It's labor intensive," said Doug Kobold, waste management program manager for the county. "In Sacramento, it's not worth it for us—it's cheaper for us to bury it than expend the labor to get it rolled up and in a trailer and increase our potential for workman's comp. Not worth our risk."

CARE pays subcontractors to collect and sort the fiber, pad, backing and other carpet waste, then connects them with entrepreneurs to use in new products, like CLEAR Carpet Recycling in Lincoln. That plant is growing fast, adding up to 40 jobs this year to turn materials into paver stones or other products.

Since CARE was founded nationally in 2002, it has diverted 4.6 billion pounds of carpet from landfills, equivalent to 22,000 cars' worth of annual emissions.

But it isn't achieving the goals set by the state, and it's stymied efforts to expand regulations nationally.

CARE was supposed to improve its diversion rate by 1 percent annually until hitting the 16 percent target last year. Instead, CARE's recycling rate was 12.2 percent in 2013, 12.1 percent in 2014 and 10 percent in 2015, according to CalRecycle. Only 11 percent of carpet waste was recycled last year, 5 percent below state targets. CARE finally breached the 16 percent threshold earlier this year.

CARE Director Bob Peoples said it was difficult for his group to make recycled products cost-competitive in the global marketplace when China also brought on three plants to manufacture a main component of carpet, lowering demand for CARE's recycled carpeting.

"No one's going to buy our product, which is dirty, when you can buy a product that is pure and virgin at a lower price," Peoples said. "We hit our 2016 target this year. You could argue we were 90 days late; but sorry, given what we were dealing with, that's pretty good."

Meanwhile, Peoples declined to comment on a national program that requires silence to get subsidy money.

CalRecycle's proposed fine references the Voluntary Stewardship Program that CARE administers in other states. The program offers subsidies to recycling companies, but only if they agree not to support legislation that would create similar stewardship regulations in other states. If these cash-strapped companies do voice their support for recycling efforts, they have to return the money.

When asked about the policy, Peoples said it would be inappropriate for him to comment on it. But Greitzer, the longest-serving CARE board member, claimed the program is a goodwill effort to bring more carpet recycling in areas where there isn't a stewardship program. "We ask if we do this for you, don't stab us in the back and do things against us," Greitzer reasoned.

While the purchased silence prevents California's carpet recycling program from crossing borders, state lawmakers here are trying to bolster the regulations they do have in place.

AB 1158 would set a higher recycling goal of 24 percent by 2020, and bring in an advisory group made up of recyclers, local government, environmentalists and legislators to balance out the industry-heavy CARE.

The bill would also specifically require that CARE not use consumer fees to fund carpet makers' lawsuits against the state, pay off penalties or pay for carpet incineration. CalRecycle's accusation against CARE also includes the stipulation that, if the fines are levied, they should not be paid for on taxpayers' dime.

There's precedent for such concern.<.p>

PaintCare is a paint-industry organization also created through a sales fee. The nonprofit tried and failed to use paint fee revenue in 2014 in an unsuccessful lawsuit against CalRecycle to reduce state oversight of the program.

Peoples said the organization has never talked about that as an option. But industry representatives have expressed the desire to allow CARE to use consumer fees to defend themselves against lawsuits for not meeting the goals that the consumer fees were created for in the first place.

At the state Senate Environmental Quality Committee hearing this month, Randy Polak spoke on behalf of the Carpet and Rug Institute, which shares a third of CARE's same board member companies. CARE also runs the VSP for the institute. Polak opposed the 2020 goal and the stipulation that CARE not be able to use consumer fees to fund lawsuits, adding the commodity markets crash was a factor in CARE not meeting its goals.

"We're concerned about mandating a date. Our other concern is the provision that the stewardship plan doesn't have the ability to defend itself against lawsuits," Polak said.

Assemblyman Kansen Chu clarified the 2020 target of 24 percent is "just a goal."

Gene Erbin represented Shaw Industries, the world's largest floor covering manufacturer. He had one question: Would the bill's prohibition on consumer fee use apply retroactively?

"Whenever this bill becomes law, that should be when the clock starts," Chu clarified.

For now, California is the only state with a formal recycling program for carpeting. Nationally, 3.5 billion pounds of carpet end up in landfills every year, enough to carpet San Francisco five times. One percent is recycled.

Peoples said that CARE is working weekly with CalRecycle to fix the issues and has increased the fee to where it may impact carpet sales.

This August, CARE and CalRecycle will undergo a mandatory mediation process for the pending fines. If mediation fails, a judge will determine next steps.

"We do not control everything that happens in marketplaces. Oil prices collapsed and most of the materials we make are tied to the price of oil and natural gas," added Peoples, who called the fines "unreasonable and unwarranted."

Yet, while statewide recycling efforts floundered, CalRecycle said that CARE administered a similar program that kept recyclers in other states from supporting regulations like California's.

At the July 7 committee hearing, Sanborn, who is sponsoring AB 1158 and contributed to the prior law, told lawmakers product stewards "just want a working program."

"Our goal is to improve California's recycling program to reach our recycling goals and reduce greenhouse gas emissions while creating jobs," Sanborn said. "We don't think 1 percent is adequate or meaningful."

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