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September 1, 2011

Howard Levenson, Deputy Director
Materials Management and Local Assistance Division
California Department of Resources
Recycling and Recovery (CalRecycle)
801 K Street, MS 19-01
Sacramento, CA 95814

Dear Mr. Levenson:

COMMENTS REGARDING PROPOSED PRODUCT STEWARDSHIP FOR CARPET REGULATIONS

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) appreciates the opportunity to comment on the Proposed Product Stewardship for Carpet Regulations (Regulations) being prepared pursuant to Assembly Bill 2398 (Chapter 681, 2010 Statutes). The Task Force is a supporter of product stewardship and was actively involved to ensure the enactment of AB 2398 in 2010. With this in mind, we would like to offer the following comments for your consideration.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 939], as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective, and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, waste management industry, environmental groups, the public, and a number of other governmental agencies.

The Task Force previously commented on the Informal Draft Regulatory Text of these regulations expressing the need for regulatory clarity for carpet management options. Although the proposed regulations are a step in the right direction, there is still a lack of clarity regarding how various end-of-life options for carpet would be treated for the purposes of complying with AB 2398. It is important to note that the primary intent of AB 2398 is to shift responsibility for the end-of-life management of post-consumer carpet to manufacturers and “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 [PRC] Section 40051” (emphasis added). With this in mind, the Task Force requests CalRecycle address the following issues prior to adoption of the Regulations:

- To be consistent with the requirements of AB 2398 and existing State Statute, the proposed § 18941(f) definition of “Diversion,” needs to be revised to read “Diversion means any combination of waste prevention (source reduction), recycling, reuse, ~~and composting,~~ and other activities that reduces *or eliminates* the amount of postconsumer carpet waste disposed at permitted landfills ~~and transformation facilities.~~”
 - First, AB 2398 does not require, nor state any intent, to mandate diversion of postconsumer carpet from transformation facilities, thus the proposed “Diversion” definition contradicts AB 2398’s stated legislative purpose and, therefore, needs to be revised accordingly. It should also be noted that CalRecycle’s Initial Statement of Reasons (ISOR) fails to cite the statutory authority to limit transformation. Further, the proposed definition also contradicts the provisions of AB 939, which provides jurisdictions up to 10 percent disposal reduction credit for solid waste managed through existing transformation facilities.
 - Secondly, conversion technologies (CT) and other viable options to **otherwise manage** postconsumer carpet waste are excluded by the proposed “Diversion” definition. As discussed above, the legislative mandate of AB 2398 is simply to divert postconsumer carpet from landfill disposal. Therefore, the proposed Regulations need to be revised to be inclusive of all viable options, other than landfilling, for postconsumer carpet material management. Prior to their formal adoption, CTs need to be defined or otherwise addressed in the Regulations to make it clear that postconsumer carpet material managed through a CT facility would be considered diversion **for the purposes of complying with AB 2398** (emphasis added).

- To also be consistent with requirements of AB 2398 and in concert with the provisions of § 42972 of the Public Resources Code (PRC), the proposed § 18943(a)(4)(A) should be amended to read: “Proposed measures that will enable the management of post-consumer carpet in a manner consistent with the State’s current solid waste management hierarchy pursuant to PRC Section 40051 ~~and demonstrate that over time source reduction, reuse, and recycling will increase, over environmentally safe transformation and land disposal.~~” Please note that PRC § 40051 already establishes the requirement to “Maximize the use of all feasible source reduction, recycling, and composting options in order to reduce the amount of solid waste that must be disposed of by transformation and land disposal.”
- The proposed § 18943(a)(4)(B) creates an additional accounting system that requires “[m]anagement 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, Waste-to-Energy, and incineration.” There is no basis in AB 2398 to require this additional unwieldy and impractical accounting system, which seems to diminish or stifle the role of various options to divert postconsumer carpet from landfill disposal. As a result, we request the subdivision be deleted.

Again, it is worth noting that AB 2398 specifically requires carpet stewardship plans to “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 that cannot feasibly be recycled from **land disposal**, increase the recyclability of carpets, and incentivize the market growth of secondary products made from postconsumer carpet” (emphasis added). As such, CalRecycle needs to revise the proposed Regulations to identify all viable and feasible end-of-life management options including, but not limited to, CTs that divert carpet waste from landfill disposal as “diversion.”

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The Task Force looks forward to the implementation of carpet stewardship regulations addressing the concerns and suggestions listed above. We appreciate your consideration of our comments and look forward to working with you in realizing our mutual goal of a more sustainable California. Should you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147 or MikeMohajer@yahoo.com.

Sincerely,



Margaret Clark, Vice-Chair
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force and
Council Member, City of Rosemead

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cc: Mark Leary, Acting Director, CalRecycle
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Carpet America Recovery Effort (Georgina Sikorski)
California State Association of Counties
League of California Cities
League of California Cities, Los Angeles County Division
Each Member of the County of Los Angeles Board of Supervisors
Each City Mayor and City Manager in Los Angeles County
San Gabriel Valley Council of Governments
San Fernando Valley Council of Governments
South Bay Cities Council of Governments
Gateway Cities Council of Governments
California Product Stewardship Council
Each City Recycling Coordinator in Los Angeles County
Each Member of the Los Angeles County Integrated Waste Management Task Force