



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

1955 Workman Mill Road, Whittier, CA 90601-1400
Mailing Address: P.O. Box 4998, Whittier, CA 90607-4998
Telephone: (562) 699-7411, FAX: (562) 699-5422
www.lacsd.org

STEPHEN R. MAGUIN
Chief Engineer and General Manager

August 26, 2011

Howard Levenson
Deputy Director
CalRecycle
1001 I Street
Sacramento, CA 95814

Dear Mr. Levenson:

Comments on Assembly Bill 2398 (Perez) Implementing Proposed Products Stewardship for Carpet Regulations

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate the opportunity to comment on the proposed Product Stewardship for Carpet Regulations (Carpet Stewardship Regulations), which are intended to implement Assembly Bill (AB) 2398, now in statute. We previously commented on the draft carpet stewardship regulations on March 2, 2011 (see attached letter); however, none of our requested language changes regarding transformation were incorporated into the currently proposed regulations. Consequently, the same points made six months ago are covered in this letter.

AB 2398 Does Not Authorize CalRecycle to Limit or Impact Transformation

With respect to transformation, the proposed carpet stewardship regulations go beyond the intent of the provisions of AB 2398. This legislation specifically calls for diverting postconsumer carpet from landfills. Nowhere in the legislation does it mandate or mention diverting carpet from transformation facilities. AB 2398 does not even mention the word "transformation," so there is no basis for CalRecycle to imply that the legislation gives staff the authority to limit transformation in favor of reduction, reuse, and recycling. However, this is exactly what CalRecycle is mandating in the proposed carpet stewardship regulations. CalRecycle is departing from the legislative intent of AB2398, and, as a consequence, what the legislation authorized. We request that CalRecycle revert back to the exact provisions contained in AB 2398 and delete references to transformation from the proposed regulations as discussed below.

Proposed Regulations Abrogate AB 939

As currently written, the proposed carpet stewardship regulations will direct solid waste away from transformation. The proposed regulations should not abrogate the provisions of AB 939, which provides up to 10 percent diversion credit for solid waste managed through existing transformation facilities provided that there is front-end recovery of recyclable materials. This diversion credit recognizes the fact that transformation is a post-recycling alternative to landfilling where energy is produced from end-of-the-line waste containing virtually no recyclables and which have no other beneficial use. A significant percentage of carpet waste is not recyclable due to contamination and other factors, so without transformation, carpet waste would be landfilled.

Doc # 2005019

Initial Statement of Reasons Fails to Cite Statutory Authority

CalRecycle fails to cite their statutory authority in the Initial Statement of Reasons (ISOR) to craft the carpet stewardship regulations in a manner that limits transformation. None of the three references to the term “transformation” in the ISOR provide justification for the policy decisions being made with regards to transformation. This policy decision is clearly above and beyond CalRecycle’s mandate in AB 2398.

Requested Changes to Proposed Regulations

Definition of Diversion

As clearly stated in AB 2398, the purpose of the legislation is to “increase the amount of postconsumer carpet that is diverted from landfills and recycled into secondary markets 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). The definition of “diversion” in the carpet stewardship regulations needs to be changed so that it is consistent with the legislation. Therefore, the reference to “transformation facilities” should be removed from Section 18941(f) of the proposed regulations:

“(f) “Diversion” means any combination of waste prevention (source reduction), recycling, reuse, and composting activities that reduces waste disposed at permitted landfills and transformation facilities or otherwise managed in a manner that is consistent with the state’s hierarchy for waste management practices pursuant to Section 40051.”

Avoiding Preferences in Solid Waste Management Hierarchy

CalRecycle appears to be directing how solid waste should be managed in California rather than following the provisions in AB 2398, which simply reference the existing solid waste management hierarchy. AB 2398 states that the proposed measures in the legislation “will enable the management of postconsumer carpet in a manner consistent with the state’s solid waste management hierarchy, including, but not limited to source reduction, source separation and processing to segregate and recover recyclable materials, and environmentally safe management of materials that cannot feasibly be recycled.” Again, there is no mention of diversion from transformation facilities in the legislation. Therefore, Section 18943(a)(4) should be revised to be consistent with AB 2398, as follows:

~~“(A) Proposed measures that will enable the management of post-consumer carpet in a manner consistent with the state’s 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.~~

~~“(B) Management of carpet through source reduction, reuse and recycling must be greater than, and grow at a higher rate than management of carpet through carpet as alternative fuel, Waste to Energy, and incineration.”~~

The Sanitation Districts appreciate your consideration of our concerns and requested changes to the proposed carpet stewardship regulations. As previously stated, the proposed regulations should implement AB 2398 and not impose any unauthorized mandates. If you should have any questions, please contact Mr. Glenn Acosta at (562) 908-4288, extension 2723.

Very truly yours,
Stephen R. Maguin



Charles Boehmke
Assistant Department Head
Facilities Planning Management

cc: Mark Leary, Acting Director, CalRecycle
Faridoon Ferhut, CalRecycle
Kathy Frevert, CalRecycle
Bob Holmes, CalRecycle
Honorable John Perez, Speaker of the California State Assembly