
From: Mike Mohajer [mikemohajer@yahoo.com]
Sent: Saturday, October 01, 2011 5:40 PM
To: Ferhut, Faridoon; Frevert, Kathy; Carpet Product Stewardship
Cc: Leary, Mark; Levenson, Howard; Holmes, Robert
Subject: Proposed Product Stewardship for Carpet Regulations Dated September 19, 2011



TO: Faridoon Ferhut
California Department of Resources Recycling and Recovery (CalRecycle)

FROM: Mike Mohajer, Member
Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force (Task Force)

SENT: October 1, 2011 – 5:40 PM

SUBJECT: Comments Regarding Proposed Product Stewardship for Carpet Regulations Dated September 19, 2011

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 dated September 11, 2011, (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. We have reviewed the proposed Regulations in concert with our previous comments and would like to offer the following:

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, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

The Task Force appreciates the fact that the revised Regulations have addressed/incorporated some of our previously stated concerns/comments. However, the revised Regulations continue not to fully comply with the legislative purpose of AB 2398.

It is important to note that the primary purpose of AB 2398 {*Chapter 20 (commencing with Section 42970), Part 3 of Division 30 of the Public Resources Code*} 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). Accordingly, Sections 18941(f) and 18943(a)(4)(A) of the Regulations need to be revised for the following reasons:

Section 18941(f) – Definitions

While we appreciate CalRecycle’s acknowledgement that the purpose of AB 2398 is to divert postconsumer carpet from landfills, the amended Section continues to include transformation facilities. Specifically, the amended Section reads:

“**Diversion** or ‘**divert**’ means any activities which reduce or eliminate the amount of solid waste **disposal** for purposes of Division 30, including Article 1 (commencing with Section 41780) of Chapter 6 of the Public Resources Code.” (emphasis added)

However, pursuant to Sections 40120.1 and 40192 of the PRC, “disposal”, by definition, includes landfills as well as transformation facilities. Therefore, the proposal is inconsistent with the purpose of AB 2398. Additionally, while we acknowledge revisions that affirm that jurisdictions continue to be entitled to receive up to 10% disposal reduction credit for waste managed through existing transformation facilities in the State, this is separate and distinct from the ability of carpet manufacturers to comply with the requirements of AB 2398 to divert carpet waste from landfills by processing such waste at transformation facilities, as Alternative Fuel, or through any other conversion technology or process other than landfill disposal (emphasis added). It is not necessary to establish a definition for conversion technologies or any other process in order to acknowledge that such processes are not considered landfills and therefore comply with the purpose of AB 2398. Additionally, the proposed “Diversion” definition by citation of PRC 41780 further contradicts AB 2398’s stated legislative purpose. Based on the foregoing, the stated definition in this Section needs to be revised to read as follows:

“Diversion or ‘divert’ means any activities which reduce or eliminate the amount of solid waste disposal **at permitted landfills** for purposes of Division 30, Part 3, Chapter 20 including ~~Article 1~~ (commencing with Section 41780 **42970**) ~~of Chapter 6~~ of the Public Resources Code.” (Note - Additions are shown in bold and underlined. Deletions are shown by strikethrough)

Section 18943(a)(4)(A) – Criteria for Plan Approval

Again, to be consistent with the requirements of AB 2398, in our letter of September 1, 2011, we had provided justifications and requested that the subject Section be revised 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.~~”

Unfortunately, our recommendation was misinterpreted by CalRecycle and thus no revision was provided. The CalRecycle’s table entitled “Summary and Response to Comments” only partially summarizes the above comment (Comment No. W01-03) and fails to recognize the deletions that were requested and were shown via strikethrough. As a result, CalRecycle’s response reads “The suggested edit is identical to existing proposed regulatory language with the exception of the word ‘current’, which is implicit in the draft language.” Again for the reasons provided in the Task Force

letter of September 1, 2011, the subject Section should be revised by deleting the portion with strikethrough as shown above.

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 CalRecycle 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.

Thank you,

CC: Each Member of the LA County SWMC/IWM Task Force