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February 25, 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:

INFORMAL DRAFT REGULATIONS FOR AB 2398: PRODUCT STEWARDSHIP FOR CARPETS

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force (Task Force) appreciate the opportunity to comment on the subject draft regulations which are being prepared pursuant to Assembly Bill 2398 (Chapter 681, 2010 Statutes), and were the subject of the CalRecycle's February 22, 2011 Carpet Product Stewardship Workshop. The Task Force is a strong supporter of product stewardship, a member of the California Product Stewardship Council, and was actively involved to ensure the enactment of AB 2398 in 2010. With this in mind, we would like to offer the following 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, 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 and 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 stated purpose of AB 2398 "is to increase the amount of postconsumer carpet that is **diverted from landfills**" (emphasis added). Furthermore, the Carpet America Recovery Effort (CARE) Memorandum of Understanding for Carpet Stewardship

(MOU), which establishes the framework for the implementation of AB 2398, currently identifies a goal of diverting 40% of carpet waste from landfills utilizing a range of alternative management options. The CARE MOU estimates up to a 25% recycling rate and 5% reuse rate of waste carpet, and to achieve the remainder of the goal, the CARE MOU incorporates additional management options for waste carpet, including use as feedstock for waste-to-energy facilities, alternative fuel or aggregate additive at cement kilns, and other options. Unfortunately, the informal draft regulations are inconsistent with the CARE MOU and AB 2398's goal in minimizing disposal of carpet waste in landfills.

Specifically, the revised draft regulations need to address the following:

1. How would manufacturers meet the established diversion goals? A significant percentage of carpet waste is not recyclable, and only natural fiber material is compostable. The unrecyclable and uncompostable portion of carpet waste can still be diverted from landfills, as it represents ideal feedstock for conversion technologies (CTs). Please see the enclosed information and fact sheet concerning CTs. These technologies have the potential of diverting up to 100 percent of residual waste (the waste remaining after recycling and composting) from landfill disposal.

The informal draft regulations [Subsection 18941(e)] state "carpet as an alternative fuel is not recycling" in defining "recycling". However, the draft proposal is inconsistent with Sections 40180, 41783 and 42971 of the California Public Resources Code (PRC). The revised regulations should explicitly state that if unrecyclable and/or uncompostable carpet is utilized as a feedstock for alternative fuel - at a cement kiln, CT facility, or elsewhere - such processes divert that carpet waste from landfill disposal and are therefore consistent with the intent of AB 2398 requirements. The revised regulations need to be clarified to be inclusive of these technologies as viable (and preferred) processing pathways for the portion of carpet waste that cannot be feasibly recycled or composted.

2. How should management plans submitted by manufacturers account for waste carpet managed through existing transformation facilities? As currently drafted, the informal draft regulations [Subsection 18941(e)] equate transformation facilities with landfill disposal for the purposes of complying with AB 2398, which is inconsistent with the purpose of AB 2398. Furthermore, the Task Force feels it is inappropriate to redefine, restructure, or otherwise alter the State's solid waste management hierarchy through the regulatory process, since the State's current waste management hierarchy provides that waste processed at existing transformation facilities is, in fact, considered disposal/landfilling avoidance,

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provided certain conditions are met. The draft regulations need to be revised accordingly.

In addition to the questions above, a number of clarifications were requested at the workshop, such as whether outdoor carpeting and artificial turf would be covered by these regulations, allowable/acceptable processes for collection of unwanted carpets from residents, and a projection of greenhouse gas emission reduction resulting from the AB 2398 programs' implementation by CalRecycle and the California Air Resources Board. The Task Force looks forward to these clarifications in the next iteration of carpet stewardship regulations.

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.

Sincerely,



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

MS:

Enc:

cc: Mark Leary, Acting Director, CalRecycle
CalRecycle (Faridoon Ferhut, Kathy Frevert and Bob Holmes)
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
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



WHAT ARE CONVERSION TECHNOLOGIES AND HOW CAN CALIFORNIA BENEFIT FROM THEM?

Each year over 40 million tons of solid waste is buried in landfills throughout California. This “waste” represents a tremendous, largely untapped resource that could be utilized in a beneficial way such as generating renewable energy and producing biofuels through conversion technologies. For the past decade the Los Angeles County Integrated Waste Management Task Force (Task Force), in coordination with local governments such as the County of Los Angeles (County), has supported the development of conversion technologies as an alternative to landfills.

Local Research and Project Development

In 2004 the Task Force and the County established the Alternative Technology Advisory Subcommittee (ATAS) with the purpose of evaluating and promoting the development of conversion technologies to reduce dependence on landfill disposal. The ATAS is comprised of a diverse group of stakeholders including representatives from cities, government agencies, utility companies, residential advisory committees, environmental experts, and solid waste industry representatives, which are all experts in the emerging field of conversion technologies.

Conversion technology facilities are operating successfully in Europe, Japan, and other advanced countries due to landfill restrictions and progressive recycling and environmental policies. Several states are in varying stages of commercializing these technologies; however, California has yet to construct a commercial facility. Legislative and regulatory roadblocks, low landfill tip fees, and lack of a comprehensive permitting framework have stifled development of this industry in our state. Nevertheless, several jurisdictions throughout California are moving forward with conversion technology evaluation and project development, including the Cities and Counties of Los Angeles, Santa Barbara, and San Diego and the Cities of Glendale, Sacramento and Salinas. On April 20, 2010, the Los Angeles County Board of Supervisors approved agreements to develop three conversion technology demonstration facilities with the goal of showcasing the technical, economic, and environmental viability of these technologies.

State’s 2011 Bioenergy Action Plan

The State’s Bioenergy Interagency Working Group, consisting of California’s Natural Resources Agency, Air Resources Board, Water Resources Control Board, Energy Commission, Public Utilities Commission, Biomass Collaborative, and the Departments of Food & Agriculture, Forestry & Fire Protection, General Services, and Resources Recycling and Recovery, recently released the 2011 Bioenergy Action Plan, which concluded that these agencies should work collaboratively to “increase energy production from urban derived biomass.” The Plan identified “statutory and inaccurate definitions that impede some conversion technologies for energy production, result in non-optimal technology choice, and limit opportunities to develop energy from municipal solid waste,” which the agencies would work together to address.

Demonstrated Benefits

1. Conversion technologies can create green collar jobs and spur economic development

Conversion technologies would create a range of new, high-tech jobs in scientific research and development, engineering, construction, and facility operations providing the highest number of jobs per Megawatt than any other form of renewable energy generation. These facilities must be built close to the feedstock and are designed for long-term operation of 20-30 years or more. As a result, they would establish high-quality, export-proof job stability in the local economy.

2. Conversion technologies can decrease net air emissions and greenhouse gases

Numerous studies conducted regarding conversion technologies, including studies completed by State environmental agencies, have demonstrated their capabilities to reduce air emissions including greenhouse gas (GHG) emissions. In February 2008, the California Air Resources Board's Economic and Technology Advancement Advisory Committee (ETAAC) released its report entitled "Technologies and Policies to Consider for Reducing Greenhouse Gas Emissions in California." The ETAAC Report noted that by conservative estimates, conversion technologies have the potential to reduce annual GHG emissions by approximately five million metric tons of CO₂ equivalent in California. In fact, the Task Force estimates the potential GHG reduction of conversion technologies may be substantially greater since conversion technologies have a simultaneous triple benefit to the environment (1) reduction of transportation emissions resulting from long distance shipping of waste; (2) elimination of methane production from waste that would otherwise be landfilled; and (3) displacement of the use of fossil fuels by net energy (fuel and electricity) produced by conversion technologies.

3. Conversion technologies can produce renewable energy and green fuels, thereby reducing our dependence on foreign oil

Conversion technologies produce fuel and energy. By utilizing conversion technologies, California can develop clean, locally-produced renewable energy and green fuels including ethanol, biodiesel, and electricity, which can be used to promote energy independence. It has also been shown that renewable energy provides extensive benefits to California citizens by insulating residents from energy markets' fluctuations and avoiding environmental impacts associated with the extraction, refining, transportation, and combustion of fossil fuels.

4. Conversion technologies are an effective and environmentally preferable alternative to landfilling

Based on reports developed by the California Department of Resources Recycling and Recovery (CalRecycle), the County of Los Angeles, and other independent agencies, conversion technologies are environmentally preferable to land disposal practices. While the cost of utilizing conversion technologies may exceed current landfill disposal rates, disposal costs are expected to increase as landfill capacity declines within the coming decade. Development of conversion technologies is needed now to provide decision makers with environmentally preferable and economically viable options for the management of post-recycled waste materials.

5. Conversion technologies can manage materials that are not practically recyclable and at the same time create an incentive to increase recycling

Not all solid waste currently disposed can be recycled or composted. Contaminated organic materials, higher number plastics and other materials, which cannot be recycled or processed in an economically feasible manner, are ideal feedstock for conversion technologies. At the same time, inorganic materials including glass, metals, and aggregate have no value for conversion technologies and therefore create an incentive to separate and recover those materials for recycling prior to the conversion process. Most conversion technologies are also capable of recovering additional materials for recycling through the conversion process that would otherwise be disposed.

6. Conversion Technologies would help the state meet many of our renewable energy and environmental goals

Conversion technologies represent one of the most effective ways to meet a variety of the State's most significant and ambitious environmental goals and policies including the Global Warming Solutions Act (AB 32), the Low Carbon Fuel Standard, the Renewable Portfolio Standard, and the BioEnergy Action Plan among others.

For more information, please visit www.SoCalConversion.org.