



GAIL FARBER, CHAIR  
MARGARET CLARK, VICE-CHAIR

LOS ANGELES COUNTY  
SOLID WASTE MANAGEMENT COMMITTEE/  
INTEGRATED WASTE MANAGEMENT TASK FORCE  
900 SOUTH FREMONT AVENUE, ALHAMBRA, CALIFORNIA 91803-1331  
P.O. BOX 1460, ALHAMBRA, CALIFORNIA 91802-1460  
[www.lacountyiswmtf.org](http://www.lacountyiswmtf.org)

October 25, 2011

Cynthia Dunn  
Materials Management and Local Assistance Division  
California Department of Resources Recycling and Recovery (CalRecycle)  
P.O. Box 4025  
Sacramento, CA 95812

Dear Ms. Dunn:

**COMMENTS ON THE REVISED PROPOSED REGULATIONS FOR THE ARCHITECTURAL PAINT RECOVERY PROGRAM DATED OCTOBER 10, 2011, REQUIRED BY ASSEMBLY BILL 1343 (HUFFMAN, 2010)**

The Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, in conjunction with the County of Los Angeles (County), the Sanitation Districts of Los Angeles County, and the City of Los Angeles (City), would like to thank CalRecycle in its attempt to address some of our previous comments submitted in a letter dated September 2, 2011. Unfortunately, the Revised Proposed Regulations dated October 10, 2011, (Regulations) have not fully recognized the following important comments and concerns voiced by the group, which are pertinent to maximizing the benefits of the paint stewardship Extended Producer Responsibility (EPR) bill for California residents and which would also set the precedent necessary for other EPR bills to follow.

The Task Force in coordination with the listed agencies would like for CalRecycle to consider and address the following comments and concerns on the Regulations.

1. **Focus on Local Government Programs** – Since one of the key objectives of AB 1343 is to reduce costs to local governments and shift the responsibility to manufacturers and consumers, existing local government programs should not be relied upon without proper compensation to the local government programs for all the costs incurred in the collection of postconsumer paint. Consistent with CalRecycle's EPR Framework, an effective stewardship program must be designed to *provide financial relief to local governments and require minimal local government involvement.*

As seen through the comments submitted by local jurisdictions, there is an

overwhelming concern that the Regulations allow a loophole that would place local jurisdictions at a disadvantage during contract negotiations with manufactures or a stewardship organization. Language in the Regulations state that operational costs may be covered through manufacturers or a stewardship organization who *will attempt* to negotiate to establish a “mutually agreeable and reasonably feasible agreement” to address those costs. This language of “mutually agreeable and reasonably feasible agreement” used throughout the Regulations, in reality, allows manufacturers or a stewardship organization not to fully address the cost burden of local jurisdictions.

Ultimately, local jurisdictions are left with two options: Agree upon a reimbursement that does not sufficiently cover operational costs or not participate in the program. Either option leaves local jurisdictions with the burden of bearing costs associated with managing paint through existing household hazardous waste collection infrastructures. Additionally, if local jurisdictions, such as the County and the City, have an infrastructure to collect paint, it is highly unlikely that manufacturers or a stewardship organization will be immediately able to duplicate this type of collection, which still leaves local jurisdictions bearing the burden of administering a paint collection program until new collection infrastructures are established.

In order to meet the key objective of AB 1343, the Regulations need to be revised under Section 18953 6(D) and other applicable sections to reflect the following:

If a local jurisdiction chooses to participate in the program, its operation costs including administration at minimum must be covered. For that reason, we would like Section 18951 (f) to be revised as follows: “Operation costs” means costs to operate a paint stewardship program, including but not limited to, **administration**, collection, transportation, processing, disposal, and education and outreach costs.

For local jurisdictions, any cost above and beyond operation cost, which includes administration costs, is the only cost that should be negotiated as “mutually agreeable and reasonably feasible.” We recommend that the Regulations be revised to address and establish different reimbursement cost structures for local jurisdictions and other service providers and also include a transitional goal to relieve local governments from the physical collection of architectural paint.

2. **Collaboration with Local Governments** - Additionally, provisions need to be incorporated into CalRecycle's review and approval process to allow and consider local government input prior to approval of the stewardship plans by allowing local governments a 30-day opportunity to review and comment on the plan. Consistent with the EPR Framework, CalRecycle should collaborate with agencies, internal and external, and other key stakeholders to effectively address cross-media and cross-organizational issues when considering approval of product stewardship plans.
3. **Maximize Benefits to the Public** - Consistent with the EPR Framework, the program must be designed to *maximize convenience to consumers*. As written, the Regulations do not ensure the development of convenient collection sites for residents. The Regulations need to be revised to include a plan to encourage manufacturers or the product stewardship organization to focus on recruiting retail participation to increase program convenience and effectiveness. Consistent with the EPR Framework, the Regulations should also ensure system effectiveness and set minimum recovery rates as appropriate.

While existing infrastructure may be considered in the development of the plan, such as an existing local government program, it also must reflect, as AB 1343 recognizes, that existing infrastructure is not sufficient or convenient enough to capture a significant portion of the postconsumer architectural paint (only about five percent of all households currently participate in the local government programs).

Ms. Cynthia Dunn  
October 25, 2011  
Page 4

We appreciate your consideration of these comments and concerns in the development of Paint Stewardship Plan's review tools. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147 or [MikeMohajer@yahoo.com](mailto:MikeMohajer@yahoo.com).

Sincerely,

*Margaret Clark*

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

AK:ts

P:\epub\ENGLAN\TASK FORCE\Letters\AB 1343 Comment Letter 10-24-11.doc

cc: CalRecycle (Caroll Mortensen, Howard Levenson, Cara Morgan, Brenda Smyth)  
California State Association of Counties  
League of California Cities  
California Product Stewardship Council  
Each Member of the County of Los Angeles Board of Supervisors  
Each City Mayor and City Manager in Los Angeles County  
City of Los Angeles Bureau of Sanitation (Enrique Zaldivar, Alex Helou,  
Karen Coca)  
County Sanitation Districts of Los Angeles County (Steve Maguin, Grace Chan,  
Chris Salomon)  
County of Los Angeles Department of Public Works (Pat Proano)  
League of California Cities, Los Angeles County Division  
San Gabriel Valley Council of Governments  
South Bay Cities Council of Governments  
Gateway Cities Council of Governments  
Each City Recycling Coordinator in Los Angeles County  
Each Member of the Los Angeles County Integrated Waste Management Task Force