



November 7, 2014

TO: Waste Management Authority

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SUBJECT: Legislative, Regulatory, and Policy Priorities for 2015-16

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**BACKGROUND:**

The 2013-2014 regular session of the California Legislature has adjourned. As directed by the Waste Management Authority, StopWaste pursued Extended Producer Responsibility (EPR), organics processing, and strengthening green building codes as the priority areas for the 2014 legislative year.

While advocating at the state level is important, we have been told by numerous partners that one of the most important things we do to help at the state level is to demonstrate through local ordinances and actions how various approaches can be successful. Our Agency bag ordinance, mandatory recycling ordinance and landfill ban on plant debris and cardboard have positively influenced similar activities at the state level and helped to drive new laws forward. The County of Alameda's Pharmaceutical resolution has also provided a model for the state and other local jurisdictions that are starting to follow the County's lead in the area of EPR for pharmaceuticals, in the absence of a state law. We will continue to help drive state efforts by effectively implementing our own ordinances and providing regulatory input to the state as needed on the new laws in these areas.

StopWaste works in Sacramento to support its priorities and protect against legislation or regulations that would be detrimental to the agency. Staff prioritizes its time analyzing and working closely with partner organizations to support or oppose those bills that have the greatest potential to impact our waste reduction goals. This typically amounts to 3-5 priority bills each legislative session with additional monitoring of 10-20 bills.

The Agency's lobbyist, Justin Malan, advocates our positions on a daily basis in the legislature. Staff provides testimony on the Agency's position for priority bills on an as-needed basis, and sends letters on all bills that we support and oppose to the author and local legislators. In addition to advocating legislative positions through our lobbyist, we also advocate for policies and regulations that support our mission within the purview of California regulatory agencies (e.g., CalRecycle, the California Air Resources Board, etc).

Each year, at about this time, the Agency picks a few priority legislative/regulatory areas to focus on in the coming legislative session. These are subject areas that Agency staff and our lobbyist devote more time and attention to, as needed. This could come in the form of additional letters of support to committee members, recruiting support from other government agencies and organizations for certain bills, testifying at hearings, proposing changes to regulations and working more closely with a bill's sponsors or an Agency's regulators.

## **DISCUSSION:**

In the 2013-2014 legislative session, the majority of bills the Agency tracked (eighteen) fell into the following 7 broad categories (see <http://www.stopwaste.org/sites/default/files/Documents/Leg%20mem%202014%20update.pdf> for the October 2014 memo which provided status of these bills):

- Extended producer responsibility
- Green buildings and construction
- Single use bags and containers
- Cap and trade revenues (ensuring some funds for recycling and composting activities)
- Recycling market development
- Organics processing
- Governance (anything that would make it easier or harder for the Agency or its member agencies to implement our strategic goals)

Of the above 7 categories, we are proposing to keep two legislative priorities from last year and add a new one:

- Extended Producer Responsibility
- Green buildings and construction (via the Cal Green Code update)
- Improving the state's disposal reporting system.

Bills and/or relevant regulations that fall into categories outside these three priorities would continue to be monitored, with input and positions on them recommended as appropriate. And while bills and regulations that support and don't hinder increased organics processing will continue to be high on our radar and important, the passage of two important organics bills this last legislative session allows this topic area to be lower on our list of priorities for the upcoming year.

The following provides more detail for the three proposed priorities.

1. Extended Producer Responsibility: Support for EPR as a mechanism to deal with problem products continues to grow. For StopWaste, EPR has the potential to reduce the recently adopted residential fee associated with the financial costs of managing hazardous products that are processed via the four in-County Household Hazardous Waste facilities. We would support any EPR proposal that would actually reduce financial burden locally.
2. Disposal Reporting System: There is significant concern from our staff, our member agency staff and staff of other jurisdiction's solid waste divisions and JPAs about the accuracy of information received through the state's disposal reporting system. Specifically, jurisdiction of origin, material type, and even reported weights, are known to be inaccurate in at least some cases. For example, in 2013 some tons were inappropriately assigned to some of our member agencies, negatively impacting their measures of success. StopWaste staff has begun discussions with Cal Recycle staff

and other government agencies about this problem and ways to address it. Making this a priority for our Agency will allow us to put more resources into finding solutions. More accurate reporting will lead to more accurate diversion accounting for our member agencies, better planning for increased diversion in the future, increased compliance with local franchises and municipal codes, and more efficient and equitable fee collection (including many fees, such as franchise fees, that do not accrue to our agency).

3. CALGreen Code 2016 Update: The triennial update to California's entire statewide building code has begun and will go through an 18-month process. Within CALGreen (Part 11 of the Title 24 building code), StopWaste will advocate for practical, cost effective, implementable measures that support the Agency's mission and priorities as set forth in the Countywide Integrated Waste Management Plan. Advocacy ideas include but are not limited to: raising the minimum required C&D recycling rate from 50 to 65%; requiring recycled compost and mulch in landscapes in order to promote quality soils, water conservation and less waste; requiring a percentage of new building materials to include recycled content; requiring space for organics recycling in new multifamily and commercial buildings; recycling universal waste in construction projects; and avoidance of invasive plants in newly constructed landscapes. More details about these proposed improvements are included in Attachment A.

In both legislative and regulatory work, we collaborate with multiple partners, recognizing that we are much more likely to be successful when joining coalitions rather than acting on our own. The Agency works most closely with Californians Against Waste and the California Product Stewardship Council (CPSC), providing financial support to both. CAW expects 2015 legislative priorities to include compost market development, bottle bill funding and expansion, fast food packaging and food waste recovery. CPSC expects 2015 legislative priorities to include sharps and pharmaceuticals. This year the Agency will also be working closely with the US Green Building Council's California Advocacy Committee (USGBC California) to support strengthening CALGreen for 2016 with additional recycling, and recycled content measures. More detail on preliminary legislative priorities for all three of these partner organizations is provided in Attachment B.

As we did last year, we anticipate bringing updates to the Boards in April and June.

**RECOMMENDATION:**

Staff recommends that the Boards confirm the above three legislative/regulatory priorities for the upcoming legislative session.

**Attachment A:  
Ideas to Recommend for the 2016 CALGreen Code:**

The California Green Building Standards code (aka CALGreen) occupies Part 11 of California's Title 24 Code of Regulations and consists of approximately 30 mandatory residential measures and 50 mandatory nonresidential measures. The base level of the CALGreen code, often called "CALGreen Mandatory," is required on all occupancies and project types under the purview of the Building Standards Commission. This means that nearly all permitted new construction or renovation projects must meet certain green building requirements. In addition, CALGreen includes a set of voluntary green code measures that are organized as two "Tiers" that exceed the mandatory CALGreen requirements. Jurisdictions can opt to adopt and/or make mandatory individual voluntary measures, or even mandate a Tier level, if desired.

Being part of the building code, CALGreen undergoes an update process on a triennial cycle. The code development process for the 2016 building code began in October of 2014 and is anticipated to take 18 months for completion. The final 2016 building code is expected to be enforced starting January 1, 2017.

Current mandatory measures in CALGreen include a 50% construction & demolition waste recycling requirement and required planning for occupant recycling space/infrastructure. In the Tiers, CALGreen has several recycling requirements, including higher C&D diversion rates and a measure that requires a certain percentage of new building materials to include recycled content (calculated by cost).

StopWaste recommends the following enhancements to the CALGreen code via a set of measures that support greater waste reduction and recycling for consideration in the 2016 CALGreen code. These are low-cost and high-impact strategies that support Agency priorities in Discards Decisions, Product Decisions Targets, and our COIWMP. Agency Staff will work with the California Building Standards Commission, partner organizations, state agencies and interested stakeholders to further investigate these options throughout the 18-month 2016 code update process.

- **Compost and mulch requirements for the building code:** Extend to smaller landscaped areas some of the statewide Water Efficient Landscape Ordinance (WELO) requirements in order to promote quality soils and less waste. Specifically, landscape areas would need to have 5% organic content in soils (accomplished via compost), and require 3-inches of recycled content mulch cover for non-turf irrigated areas. These water saving measures build better soil systems that correlate directly to greater water retention and less water use in landscapes, and make use of readily available local recycled content products.
- **Recycled Content Building Materials:** Bring this Tier measure down into the mandatory code, whereby a certain percentage of new materials (by cost or prescriptive list) must include recycled content.
- **Multifamily & Commercial Post-Occupancy Composting Space:** This measure would require multifamily and commercial building projects to plan for post-occupancy collection of organic waste. This requirement builds upon existing statewide requirements (since 1991) for commercial recycling access.
- **Avoid Invasive Plants in Building Projects:** Would require new planting areas to not include invasive species as defined in a statewide or local approved list. This measure was attempted in the 2013 code cycle and had significant support from parks, land trust, and the California Invasive Plant Council. The measure reduces the cost, waste, and use of hazardous herbicides resulting from the remediation of invasive plants.
- **Universal Waste** – A new requirement that clarifies that construction and demolition waste management activities shall include Universal Waste as part of a waste management plan.

**Increase C&D Recycling from 50% to 65%:** Proposal to ratchet-up requirements for mandatory C&D recycling. Currently Dublin and Oakland have a 65% C&D recycling requirement. Agency staff is coordinating input on this proposal with a large statewide C&D technical committee made up of local government C&D experts.

**Attachment B**  
**Preliminary Legislative Priorities of Advocacy Organizations the Agency Works With:**

**Californians Against Waste:**

Californians Against Waste is a non-profit environmental research and advocacy organization that develops and monitors statewide waste-management policy. CAW expects 2015 legislative priorities to include the following: compost market development, bottle bill funding and expansion, fast food packaging and food waste

- **Compost Market development** – Something that would extend the efforts of the Marin Carbon Project, to illustrate the carbon storage impacts of compost application in grasslands statewide, and in additional applications. They are also interested in doing something to address water board regulations so that compost facility regulations are effective but not overly onerous.
- **Bottle Bill** – Maintain funding, include all beverage container types, and reduce program inefficiencies and administrative costs.
- **Fast food** – A fast food packaging bill to reduce non-recyclable ‘fast food’ packaging waste, litter and associated local government cleanup costs.
- **Food Waste** – Recovering food before it becomes wasted.

**California Product Stewardship Council**

CPSC’s 2015 legislative priorities include the following:

- **Pharmaceuticals** – Pursue statewide pharmaceutical legislation consistent with Alameda County’s ordinance.
- **Sharps** – Establish an EPR program for home-generated pharmaceuticals.

After working hard for several consecutive years toward a battery EPR bill, CPSC is considering removing battery EPR from their 2015 legislative priority list. This comes after discussions with local governments participating in CPSC, and with the battery industry. A new battery EPR law was adopted in Connecticut this year and it may help California to see how the law is implemented there prior to taking on battery EPR again in CA, where far more stakeholders are involved. These priorities are not final yet, however.

**The US Green Building Council- California Advocacy Committee (USGBC California)**

The USGBC California is a volunteer advocacy group that is made up of statewide representatives from each of the 8 USGBC Chapters in California. They sponsor an annual Advocacy Day in Sacramento, and prioritize legislation that promotes green building practices including energy efficiency, renewables, water conservation, water reuse, waste recycling, and human health impacts of building products. USGBC California’s areas of interest for 2015 are expected to include, at a minimum, the following priorities:

- Participating in the CALGreen 2016 building code update process and supporting StopWaste priorities.
- Promoting the use of Cap and Trade funds for greening affordable housing.