

November 3, 2015

**TO:** Recycling Board

**FROM:** Gary Wolff, Executive Director  
Wendy Sommer, Deputy Executive Director

**BY:** Debra Kaufman, Senior Program Manager  
Wes Sullens, Program Manager

**SUBJECT:** Final Legislative Status for 2015

### **BACKGROUND**

The first year of the 2015/16 legislative session has adjourned. The report below highlights the final status of the thirty one bills the Agency took positions on in April, 2015. The report also provides an update on our CalGreen code work this year which was one of the year's regulatory priorities.

In November 2015, the Waste Management Authority Board approved these three legislative priorities: 1. Improving the state's disposal reporting system, 2. Extended producer responsibility and 3. Green buildings and construction via the Cal Green Code update. Staff will return in November – starting at the Committee meetings -- to obtain input from the Boards on priorities for the 2016 legislative year.

### **DISCUSSION**

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—either positive or negative—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 committee members. In addition to advocating legislative positions through our lobbyist, we also advocate policies that support our mission within the purview of California regulatory agencies (e.g., CalRecycle, the California Air Resources Board, etc.).

In both legislative and regulatory work, we collaborate with multiple partners, recognizing that we are much likelier to be successful when we are part of coalitions rather than acting on our own.

The Agency worked closely this year with Californians Against Waste and the California Product Stewardship Council, providing financial support to both.

Below is the final status of bills the agency took a position on in 2015. Of special note is the passage of AB 901, our top legislative priority and a bill we drafted and sponsored, as well as the adoption of several updates to the Cal Green Code that the Agency advocated for. Other highlights include the adoption of AB 199 which will provide tax incentives for manufacturing that uses recycled content and AB 876 which will

require local governments to plan for and identify space for compost processing. A status of the bills is provided below followed by a detailed update on the CalGreen code status and successes.

### **Final Status of Bills the Agency took positions on in 2015**

AB 45 (Mullin) HHW. This bill prioritized funding for door-to-door HHW collection and had no extended producer responsibility element. It was opposed by many local governments as it provided no financial assistance for existing HHW programs. Oppose.

Status: Dead

AB 190 (Harper) Bags. Oppose.

Status: Dead

AB 191 (Harper) Bags. Oppose.

Status: Dead

### **AB 199 (Eggman) recycled feedstock. Support.**

**Status: Signed by the Governor**

Current law establishes the California Alternative Energy and Advanced Transportation Financing Authority to provide financial assistance for projects that promote the use of alternative energies and authorizes the authority to approve a project for financial assistance in the form of sales and use tax exclusion. This bill would expand projects eligible for the sales and use tax exclusion to include projects that process or utilize recycled feedstock, but would not include a project that processes or utilizes recycled feedstock in a manner that constitutes disposal.

AB 761 (Levine) Compost application. Support.

Status: Dead.

### **AB 802 (Williams) Energy Efficiency. Support**

**Status: Signed by the Governor**

This bill will provide a framework for making whole building monthly energy use data available to building owners and managers in California. This will aid in the evaluation of energy efficiency measures. This was a late Agency addition to our “support” list based on its non-controversial nature and its alignment with Energy Council programs and objectives.

AB 864 (Williams) Solid waste facility permits. Oppose unless amended.

Status: Passed Assembly; and gutted and amended to become an oil spill bill

Since this bill was gutted and amended and no longer addresses solid waste issues, we dropped it. It became an oil spill bill and was signed by the Governor

### **AB 876 (McCarty) Compostable organics. Support.**

**Status: Signed by the Governor**

AB 876 requires local governments to estimate their compost generation over a 15 year period and plan for 15 years of organics processing capacity. Beginning August 1, 2017, a county or regional agency would be required to include in its annual report to the Department of Resources Recycling and Recovery an estimate of the amount of organic waste in cubic yards that will be generated in the county or region over a 15-year period, an estimate of the additional organic waste recycling facility capacity in cubic yards that will be needed to process that amount of waste, and areas identified by the county or regional agency as locations for new or expanded organic waste recycling facilities capable of safely meeting that additional need, thereby imposing a state-mandated local program.

**AB 901 (Gordon) Solid Waste reporting requirements. Sponsor/Support.**

**Status: Signed by the Governor!!**

This bill requires disposal facilities to give local governments and agencies like ours access to disposal information that is needed to accurately assess solid waste and recycling related fees. We drafted and co-sponsored this bill with San Mateo County, and CalRecycle. This represented a significant effort for the Agency this year and reflects a significant success for the year.

The bill will provide local governments with access to weight tag specific hauler information from disposal facilities, related to disposal originating in their geographic jurisdiction, subject to strict confidentiality requirements. The bill also provides CalRecycle with enforcement ability if required recycling, composting and disposal information is not provided by disposal, recycling and composting facilities.

This information will help local governments to accurately and fairly collect solid waste, recycling and franchise fees to pay for recycling programs and more accurately assess diversion levels. It will also help the solid waste industry by leveling the playing field so that all haulers and landfills pay the fees that they owe.

Additionally, access to this specific information will help local jurisdictions correct mistakes made with respect to jurisdiction-of-origin of waste and enforce local franchises. This legislation addresses a serious problem faced by operators of landfills and collection fleets, namely that there are operators who collect waste in violation of local franchise agreements and local ordinances or codes.

AB901 levels the playing field for the solid waste industry, protects honest haulers and businesses in the industry, and strengthens local government finance and capacity to enforce franchises. Because of this, the majority of the state's larger haulers supported AB 901 along with local governments and CalRecycle.

AB 997 (Allen) Recycling plastic material. Oppose.  
Status: Dead; expected to become a two year bill.

AB 1019 (Garcia) Metal Theft. Support.  
Status: Dead

**AB 1045 (Irwin) Compost permitting streamlining. Support.**  
**Status: Signed by the Governor**

Would require the California Environmental Protection Agency, in coordination with the Department of Resources Recycling and Recovery, the State Water Resources Control Board, the State Air Resources Board, and the Department of Food and Agriculture, to develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specified organic waste and by promoting the appropriate use of that compost throughout the state. The intent is for this bill to aid in compost regulation streamlining by having the various agencies work more closely together on compost regulation development.

AB 1063 (Williams) Solid Waste disposal fees. Support.  
Status: Dead.

AB 1103 (Dodd) Organic waste definitions. Support.  
Status: Dead

AB 1136 (Steinorth) Bags. Oppose.  
Status: Dead. Expected to be two year bill.

AB 1159 (Gordon) Sharps/Battery EPR. Support .

Status: Dead. Expected to be two year bill. This was the major EPR bill for the year and is expected to come back again in 2016. Heavy industry opposition contributed to the bill's failure.

AB 1239 (Gordon) Tire recycling. Support.

Status: Assembly Dead

AB 1247 (Irwin) Organic input materials as fertilizer. Support.

Status: Dead

**SB 662 (Committee on Environmental Quality) Support.**

Status: Signed by the Governor

This bill would authorize the Department of Resources Recycling and Recovery to expend money in the Recycling Market Development Revolving Loan Subaccount to make payments to local governing bodies within recycling market development zones for services related to the promotion of the zone.

SB 742 (Hertzberg) Solid Waste. Watch.

Status: Dead

AB 1377 (Thurmond) Recycling green material. Watch.

Status: Dead. Expected to become a two year bill

AB 1419 (Eggman) Recycling center abandonment. Support.

Status: Dead

AB 1447 (Low) Solid waste beverage containers. Support.

Status: Dead.

SB 47 (Hill) Environmental health and synthetic turf. Oppose unless amended.

Status: Dead

**SB 162 (Galgiani) Treated wood waste: disposal. Support.**

Status: Signed by the Governor

Current law requires the wood preserving industry to provide certain information relating to the potential danger of treated wood to wholesalers and retailers of treated wood and wood-like products. Current law requires these wholesalers and retailers to conspicuously post the information at or near the point of display or customer selection of treated wood and wood-like products, as specified. This bill would update the information required to be posted by wholesalers and retailers of treated wood and treated wood-like products.

**SB 225 (Weickowski) Medical waste. Watch**

Status: Signed by the Governor

This was originally a tire recycling bill that the Agency supported which was gutted and amended late in the process to become a medical waste bill. The bill would revise the definition of "biohazard bag" and would limit the application of the requirement that film bags used for transport be marked and certified by the manufacturer as having passed specified tests only to those film bags that are used for transport from the generator's facility onto roadways and into commerce to a treatment and disposal facility. The bill would revise the requirements for biohazard bags that are used to collect medical waste within a facility, as specified. This bill contains other related provisions and other existing laws.

SB 732 (Pan) Beverage container recycling. Support.

Status: Dead. Expected to be a two year bill

**SB 350 (De Leon) Clean Energy and Pollution Reduction Act. Support.**

Status: Signed by the Governor.

SB 778 (Allen) Motor oil standards. Support if amended to raise quality standards for motor oil.

Status: Dead

AB 1435 (Alejo) toxics in packaging. Watch.

Status: Dead

AB 640 (Dahle) household hazardous waste. Watch.

Status: Dead. Expected to become a two year bill.

AB 1256 (Williams) Solid waste administration. Watch.

Status: Dead. Expected to become a two year bill.

**Cal Green Code Update**

The California Building Standards Commission (BSC) is nearing completion of the triennial building code update and adoption cycle. This code cycle, when concluded, will be the basis of the 2016 California Building Code, which is expected to take effect January 1, 2017.

StopWaste has been advocating for waste reduction and recycling code measures throughout the building code update process. StopWaste gathered input from our Board and has worked with our partners—including but not limited to CalRecycle and the California Invasive Plants Council (Cal-IPC)—to craft and/or support a suite of proposals for the 2016 code.

The most recent code hearing for the building code took place on August 25, 2015. This was a hearing in which the CALGreen Code Advisory Committee (CAC) reviewed and voted on proposed changes to the code. The CALGreen CAC is only an advisory committee, as such their can only recommend what the BSC should put forward in the final code for public comment.

StopWaste was present at the August 25<sup>th</sup> CAC meeting and participated in supporting several measures that affect materials management and recycling for all buildings that trigger the CALGreen code. A summary of our priority issues and the outcomes from the CAC meeting follow.

- **Compost & Mulch:** In April of 2015, Governor Brown issued an Executive Order that required statewide mandatory water conservation, including water used in landscapes. The Order directed the BSC to enhance water conservation requirements within the building codes, and specifically within CALGreen. The BSC worked with the state Department of Water Resources to update statewide the Model Water Efficient Landscape Ordinance (MWELO), and has since acted to include the MWELO requirements in CALGreen. As a result, compost and mulch are now required in the new MWELO and in CALGreen. StopWaste was involved throughout the MWELO update process, and got recycled content included within the regulations.
- **65% C&D Recycling Requirement:** At the August CALGreen CAC hearing this change to increase the statewide C&C recycling rate to 65% (from 50%) was approved and recommended for public comment.
- **Post Occupancy Organics Recycling:** StopWaste worked closely with CalRecycle to modify the requirements for this code proposal. CalRecycle provided the financial analysis while StopWaste

and others provide technical language and guidance on application. At the August CAC hearing, the code advisory committee recommended for approval this change to the code for all new nonresidential and multifamily buildings or those that alter more than 30% of floor area via renovation.

- **Recycled Content Building Materials:** StopWaste and CalRecycle were proposing to change this requirement from a “voluntary” measure in CALGreen (i.e. Tiers) and make it into a mandatory requirement of the code. This change faced opposition through 2015 because of concerns about cost and availability of products. Therefore, at the August CAC hearing, the proposal was not recommended as part of the mandatory code. However, significant changes to the voluntary “Tier” measure are being included based on the work StopWaste and CalRecycle did on this measure, including a prescriptive compliance option (rather than cost-based). These efforts may lead to the BSC considering this measure as a mandatory requirement in future code cycles.
- **Certified C&D Facility Recycling Rates:** While advocating for increasing the state C&D recycling rate to 65%, StopWaste was consulted by the code adopting state agencies as to what the next increment should be for “voluntary” exceedance of C&D recycling. The current version of CALGreen sets 50% recycling of C&D waste as a requirement, and has additional Tiers of achievement for 65% and 75% (Tier 1 and Tier 2, respectively). But with the state now requiring 65% in the 2016 code, state agencies considered increasing the thresholds to 75% and 85% respectively, but got significant push-back from builders and local government. StopWaste suggested a nuanced update: require for Tier 1 and 2 projects that C&D facilities that process mixed waste must have third-party verified facility diversion rates, but don’t increase the percentages from where they stand (65%/75%). This encourages better reporting and accountability for waste management plans, rather than making the requirements too onerous for project teams. The state agreed and the current version of CALGreen 2016 has a provision for 65%/75% diversion with third party verification of recycling facilities.

As shown above, our efforts with this round of code updates resulted in meeting all but one of our priority areas. However, the code development process is not quite complete. Currently the BSC has issued a full set of proposed revisions to the code which is now out for a 45-day public comment period (open October 9 – November 23, 2015). Following the 45-day review, the BSC expects to refine the code proposals and any corrected or changed code provisions will be issued in a second public review process. Following that, the BSC will vote to approve or disapprove the code changes wholesale (expected January 2016), after which the BSC will take 5 months to publish the new complete code (by July of 2016), then must wait a minimum 180-days before the new code becomes effective (expected January 1, 2017).

#### **RECOMMENDATION**

This item is for information only. Staff recommends that the Board receives this 2015 legislative status update and update on Cal Green code outcomes.