



April 3, 2015

TO: Programs and Administration Committee
Planning & Organization Committee/Recycling Board

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

BY: Debra Kaufman, Senior Program Manager

SUBJECT: Preliminary Legislative and Regulatory Positions for 2015

BACKGROUND:

2015 is the first year of the 2014/2015 legislative session and through our contract lobbyist we are tracking several bills that are in different stages of the legislative process. To date we have identified 32 bills of possible interest to StopWaste that will be tracked. This memo lists these bills and offers recommended positions on them. It also provides an update on the positions we have taken during development of new regulations.

The attached excel spreadsheet provides more details on the bills, along with a link to the text of the bill. Several bills are still in “spot” language form and will only be able to be analyzed once operative language is inserted. First House (House of Origin) policy committees only started up in earnest in late March so many bills do not have committee analyses yet.

DISCUSSION:

In November, 2014, the Waste Management Authority Board approved these three legislative priorities for 2015/2016: 1. Improving the state’s disposal reporting system, 2. Extended producer responsibility, and 3. Green buildings and construction via the Cal Green Code update. We highlight our three priority areas below. We have also included a list of other relevant bills and recommended positions on them, as well as a spreadsheet with more details.

1. Disposal Reporting System

AB 901 (Gordon) Disposal Reporting system. (support) This is our number one legislative priority for the year. We are working closely with San Mateo County and CalRecycle to make improvements to the disposal reporting system to address the difficulty of obtaining needed information on waste generated in one county and disposed of in another county. Staff is working with CalRecycle staff and Assemblyman Gordon to get language amended into AB 901 to allow local jurisdictions, including Agencies like ours, access to information that would identify the haulers of waste, the type of waste and the quantity of wastes disposed of out-of-county. This information will allow our Agency and member agencies to determine whether fees on solid waste are accurately being paid and reduce fee evasion.

2. Extended Producer Responsibility

AB 1159 (Gordon) Tire recycling, expected to be EPR for sharps/batteries (support if amended). The bill in its current form continues fees on tires to be used for recycling and allows CalRecycle to establish fees that will not exceed the cost of implementing the tire recycling program. *It is expected to be amended to add manufacturer responsibility provisions for sharps and batteries.* It is the top priority for the California Product Stewardship Council, (CPSC) of which we are a member.

AB 45 (Mullin) Household hazardous waste (oppose) This bill establishes a diversion rate for HHW and prioritizes curbside household hazardous waste programs over other programs. AB 939 already requires local governments to have a plan for recycling HHW. Local governments should have the authority to determine whether drop off or curbside is the most efficient program. Curbside programs in the Bay Area have a lower participation rate than the Alameda County drop-off facilities. This bill takes attention away from the real need which is shared manufacturer responsibility for disposal costs of HHW and places all the burden of costs on local governments. Instituting a HHW diversion rate doesn't help fund or improve programs because HHW is already prohibited from landfills. This is being considered an anti- EPR bill. CPSC has an oppose position as will many other local governments.

3. Cal Green Code update:

The California Building Standards Commission (BSC) is currently facilitating the 2015 triennial building code update and adoption cycle. The result of this 18-month+ long process, begun in late 2014, is the 2016 California Building Code, expected to take effect January 1, 2017.

As part of the code update process, a “focus group” stakeholder meeting was held February 5th, 2015 at the BSC offices in Sacramento to address prospective nonresidential Title 24, Part 11 (CALGreen) code changes. Prior to this meeting, StopWaste worked with our partners—including but not limited to CalRecycle and the California Invasive Plants Council (Cal-IPC)—to develop and present a suite of proposals for consideration at this meeting. These included recommendations for code changes that were supported by the WMA Board at the November, 2014 board meeting.

The proposals presented at the February 5th meeting for which StopWaste played a role included:

- Compost & Mulch requirements for landscaped areas (StopWaste leading)
- Avoiding invasive plants in newly landscaped areas (StopWaste & Cal-IPC co-leading)
- Requiring recycled content building materials (CalRecycle leading)
- Requiring projects to plan for post-occupancy collection & infrastructure for organics recycling (CalRecycle leading)

Other materials-related considerations that were considered at the BSC meeting included increasing the construction waste demolition recycling requirement from 50% to 65%, and requiring the planning & management of universal waste in construction waste management plans.

The February 5th BSC meeting resulted in several outcomes:

- **Compost & Mulch & Invasive Plants proposals:** there was significant opposition from stakeholders—including building officials and the building industry trade groups—for adding requirements to the code that apply to outdoor landscapes. Because of this strong opposition, subsequent to the meeting the BSC notified StopWaste that they would not be pursuing these code proposals further for this round. There may be an opportunity to re-propose these for the next interim code cycle (effective in mid-2018).
- **65% C&D Recycling Requirement:** stakeholders questioned the ability for MRF facilities to meet a 65% recycling rate for construction projects in some areas of the state. StopWaste countered that the MRF facility average recycling rate is not the determinant of overall construction and demolition waste recycling percentages. Further, the CALGreen code already has an exemption for isolated job sites that

lack infrastructure. As a result of this meeting, this proposal is going forward and StopWaste is working closely with CalRecycle to support the measure.

- **Post Occupancy Organics Recycling:** There was general support at the workshop for this proposal, but the building industry suggested that the requirement should only apply to facilities that have over 4 yards of service in order to be consistent with AB 341. StopWaste believes this to be a bad indicator, as service levels are rarely known prior to design and construction. Therefore this proposal is going forward but StopWaste is working with CalRecycle to ensure that the requirement for planning for organic waste apply to all projects that have garbage and recycling service.
- **Recycled Content Building Materials:** CALGreen currently has a Tier 1 voluntary measure that stipulates 10% of all nonstructural materials for the project (by cost) have to include recycled content. StopWaste and CalRecycle were proposing to change this requirement from a “voluntary” measure into a mandatory measure of the code. There was some pushback on the threshold, and stakeholders suggested a more moderate 5% by cost, and also amended the proposal to only apply to new construction. This measure is going forward and StopWaste is working with CalRecycle to refine the proposal based on stakeholder input.

Next steps for the nonresidential code process are to work with CalRecycle and other stakeholders to refine the above proposals and provide supporting justification to the BSC for these measures. Then, if successful, these proposed code changes will undergo a 45-day public review process, scheduled for August 15th.

Parallel to the nonresidential code adoption process, the California Department of Housing and Community Development (HCD) is developing updates to residential portions of the building code. Although HCD develops the residential portions of the code, the BSC is the body that codifies and adopts all parts of the code. Therefore, HCD and BSC are in close collaboration on all CALGreen updates and tend to be consistent in their requirements wherever possible. At the time of this memo, a first “focus group” stakeholder meeting convened by HCD on residential CALGreen is scheduled for April 2nd, 2015 in Sacramento. StopWaste is again working with CalRecycle to propose and support our suite of proposals above, minus the compost and mulch requirements.

Other Relevant Bills:

The following lists other bills that we are recommending positions on. The detail for these bills, including a link to the text of the bill, is contained in the excel spreadsheet.

AB 45 (Mullin) HHW. Oppose

AB 190 (Harper) Bags. Oppose

AB 191 (Harper) Bags. Oppose

AB 199 (Eggman) Alternative energy: recycled feedstock. Support

AB 761 (Levine) Compost application. Support

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

AB 876 (McCarty) Compostable organics. Support

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

AB 997 (Allen) Recycling plastic material. Oppose

AB 1019 (Garcia) Metal Theft. Support

AB 1045 (Irwin) Compost permitting streamlining. Support

AB 1063 (Williams) Solid Waste disposal fees. Support

AB 1103 (Dodd) Organic waste definitions. Support

AB 1136 (Steinorth) Bags. Oppose

AB 1159 (Gordon) Tire recycling. Support

AB 1239 (Gordon) Tire recycling. Support

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

SB 662 (Committee on Environmental Quality) Support

SB 742 (Hertzberg) Solid Waste. Watch

AB 1377 (Thurmond) Recycling green material. Watch

AB 1419 (Eggman) Recycling center abandonment. Support

AB 1447 (Low) Solid waste beverage containers. Support

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

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

SB 225 (Weickowski) Recycling used tires. Support

SB 732 (Pan) Beverage container recycling. Support

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

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

AB 1435 (Alejo) toxics in packaging. Watch

AB 640 (Dahle) household hazardous waste. Watch

AB 1256 (Williams) Solid waste administration. Watch

As usual, we anticipate bringing an update on legislative activity and recommended agency positions to the Boards in June.

RECOMMENDATION:

Staff recommends that the Committees recommend the above preliminary legislative positions to the full Authority Board for the 2015 session of the California legislature.

<http://www.stopwaste.org/file/2326/download?token=LUC3Ct0a>