



November 5, 2015

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

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SUBJECT: Legislative and Regulatory Priorities for 2016

BACKGROUND:

The first year of the 2015-2016 regular session of the California Legislature has adjourned. As directed by the Waste Management Authority, StopWaste pursued improving the state's disposal reporting system, updating the CALGreen Code to include more recycling and composting requirements, and extended producer responsibility as our priorities for the 2015 legislative year. We have been successful with the first two of these priorities and expect to continue working on the third.

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's bag ordinance, mandatory recycling and organics ordinance, and landfill ban on plant debris 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 have adopted the County's lead through their own local ordinances 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.

Each year, at about this time, the Agency picks a few priority legislative/regulatory areas to focus on in the coming legislative year. 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:

Two of our legislative priorities for the 2015-16 legislative session have been achieved: improving the state's disposal reporting system via the passage of AB 901, and strengthening the CALGreen Code. Since AB 901 has been signed, improving the disposal reporting system no longer needs to be a priority area for 2016, with the possible exception of one outstanding issue discussed in more detail below. With respect to the building code, an opportunity to engage in the 2019 code cycles will begin in 2017. Staff will revisit that priority area in the future as necessary, but are not focusing on this area for the 2016 legislative year.

We propose focusing on the following two priority areas in the 2016 legislative year:

- Extended Producer Responsibility
- Organics regulations and legislation

One additional issue that we would like to pursue but that may or may not be ripe for a priority area, is a follow-up on the disposal reporting system reform. Currently, an outdated law exempts landfills from requiring weighmasters to be certified. Certified weighmasters require a certain level of training and can be held responsible for intentionally providing inaccurate information. Requiring all landfills to hire certified weighmasters would help to continue leveling the playing field for all landfills in California. In addition, accuracy is important, since the tonnages reported by landfills directly affect the Agency's program planning and funding. We would like to investigate whether or not we have other partners on this issue (including haulers, CalRecycle and other local governments), determine whether this is considered a problem for other entities and look into whether we could find a sympathetic author before deciding whether to sponsor a bill and make this a priority this year. Sponsoring a bill is a very large level of effort and it's essential to have good timing, an issue of relevance to many parties, and good, influential partners to make it successful. We would report back to the Board in our April update if this issue emerges as ripe as a priority, after investigating it further.

Bills and/or relevant regulations that fall into categories outside the identified priorities would continue to be monitored, with input and positions on them recommended as appropriate.

The following provides more detail for the top two 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. We have advocated for the passage of battery and sharps legislation for the past few years and will continue to work on this issue until we achieve success. This may be an area for the Agency to consider addressing on a Countywide level, similar to the County's pharmaceutical ordinance, if a state solution continues to be unsuccessful, especially if other Counties are interested in partnering on this.
2. Organics:
The passage of several organics bills over the last two years, as well as the increased statewide focus on organics processing capacity and getting organics out of the landfill as a climate change strategy raises the importance of paying attention to the development of new organics laws and regulations. Additionally, since organics is the largest category of waste going to the landfill from Alameda County residents and businesses, maintaining a focus on reducing organics from landfills via both our program implementation and via state legislation and regulations is important. We want to ensure that any new laws or regulations are protective of our environment but also not overly onerous for facility operators and our jurisdictions.

The state and Governor have fully recognized the importance of both using compost and mulch as a valuable tool to mitigate the expected decline in soil quality as a result of climate change and the importance of keeping organics out of the landfill to reduce methane production, a potent greenhouse gas and considered a short lived climate pollutant. One of the Governor's key climate change strategy pillars includes reducing the release of methane. Another pillar is managing farms and rangelands so they can store carbon. The application of compost is being explored as one of the methods to achieve that. The California Air Resources Board is proposing an organics landfill ban by 2025, requiring 90% of all organics to be diverted. Laws that have been passed to help implement that include AB 1826 which requires commercial generators to recycle their organic waste, AB 876 (newly adopted) which requires cities to plan for 15 years of organic processing capacity and AB 199 which provides for tax incentives to build compost infrastructure.

StopWaste staff participated this past year in many of the discussions around compost facility regulations, increasing the use of compost and mulch, not only on agricultural lands, but also on urban lands and getting organics out of the landfill. These conversations are expected to continue well into 2016 and staff will continue to play a role advocating for Agency priorities.

Another important discussion this past year revolves around the allocation of cap-and-trade funds, which was not resolved this year. StopWaste will continue to advocate for cap and trade funds to be allocated toward local government energy efficiency programs as well as towards achieving healthy soils through the increased use of compost and mulch and increased organics processing capacity.

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 2016 legislative priorities to include compost market development, organics diversion, and food waste recovery. CPSC expects 2016 legislative priorities to include sharps, batteries and pharmaceuticals.

Another partner we work closely with—primarily via the Energy Council—is the Association of Bay Area Governments. ABAG is considering some legislative actions this year, and we expect to support them as necessary on topics that align with Agency goals and member agency interests. Specifically, ABAG is considering legislation to reduce regulatory barriers for water/energy conservation programs termed “Pay As You Save” (PAYS). We will engage with ABAG to determine if support is needed and how best to support their efforts with PAYS should they move forward with a bill.

As we did last year, we anticipate bringing recommended positions on bills to the Boards in April and an update in June and November.

RECOMMENDATION:

Staff recommends that the Boards confirm the above priorities for the upcoming legislative year.