



In this issue:

Legislative Session Concludes

**Significant Two Year Bills
Remain in 2012**

[AB 34 \(Williams\) – Solid Waste
Compost Facilities: Odor](#)

[AB 1178 \(Ma\) – Solid Waste: Place
of Origin](#)

[SB 568 \(Lowenthal\) – Recycling:
Polystyrene Food Containers](#)

**Governor Brown’s Signatures
and Vetoes**

[AB 341 \(Chesbro\) – Solid Waste
Diversion Rates](#)

[SB 567 \(De Saulnier\) – Recycling:
Plastic Products](#)

[SB 833 \(Vargas\) – Solid Waste:
Facilities Permit](#)

[2011 Legislative Session](#)

This section provides information on legislation that has been reviewed and the Legislative Task Force has taken positions.

[Regulatory Information](#)

This section provides updates on various regulatory agencies.

[Legislative Task Force Business](#)

LTF Meeting Agendas and Minutes are available on the LTF website (www.swanacal-leg.org). Click [here](#) to view.

2011 Legislative Session

The legislature adjourned for the year on September 10, 2011 and several bills of concern to the SWANA LTF were passed and sent to Governor Brown for consideration. Several other bills were defeated during the legislative process, some of which are eligible for passage in 2012. All two-year bills will need to be taken up and passed out of their house of origin next January.

Below is an outline of the bills that SWANA actively advocated for or against in 2011. To view the positions letters sent to the legislature on these bills; please visit the [SWANA LTF Website](#).

AB 34 (Williams) Solid Waste: Compost Market Program

This bill would allow for a compost facility operator to elect developing a site-specific objective odor standard, in consultation with the LEA and CalRecycle, at that particular compost facility.

Analysis: The LTF was concerned that the voluntary nature of the legislation would soon be changed to require a mandatory statewide odor standard that could not be met. Additionally, there was concern that the odor standard was being applied to certain land uses (compost facilities) and not others (water treatment facilities, plants, dairies, etc.). The LTF believes that there is no reason to single out composting facilities for potential regulation.

Position: Concern

Status: Two Year Bill

AB 341 (Chesbro) Solid Waste Diversion

This bill will require the department, on January 1, 2020, and annually thereafter, to ensure that 75% of all solid waste generated is source reduced, recycled, or composted. The bill also contains a recycling mandate for commercial waste generators and owners of multi-family residential dwellings of five units or more.

Analysis: The LTF successfully worked with the author's office to modify the 75% diversion rate at the end of the legislative session. Previous versions of required CalRecycle to "ensure" that the 75% diversion goal was reached by 2020, but did not provide local governments with any of the necessary tools. The final version of the bill instead identifies the 75% diversion rate as an unenforceable "policy goal". However, there were last minute amendments to the bill that were related to the commercial recycling portion of the bill. The LTF opposed the last-minute changes to the bill, which included new unfunded duties on local governments such as a requirement to monitor compliance with the mandate on commercial waste generators.

Position: Oppose

Status: Signed by Governor Brown

AB 514 (Hernandez) Public works: prevailing wage: refuse hauling

This bill will broaden the definition of "hauling of refuse" to include the hauling of materials other than bona fide commodities sold at fair market value. The result is an expansion of the

activities that require the payment of prevailing wage because they fall with the definition of a “public works” project. This bill also defines “bona fide commodity” to mean a commodity for which a publicly traded commodity market exists, such as for copper, steel, or aluminum.

Analysis: The LTF is concerned about the potential financial impact of this legislation, but the LTF decided to remove opposition and focus attention on other priorities.

Position: Neutral (Opposition Removed)

Status: Signed by Governor Brown

[AB 1178 \(Ma\) Solid Waste: Place of Origin](#)

The bill would prohibit a city, county, or local agency from otherwise restricting or limiting the importation of solid waste into that city or county based on place of origin.

Analysis: The LTF opposed the bill because it would have restricted the options available to local jurisdictions. The impacts of solid waste disposal facilities are most acute at the local level, and as a result, it is crucial for local governments to have the authority to protect the quality of life of their residents by placing reasonable constraints on the flow of waste. Local governments should be able to retain the authority to protect public health and the environment by enacting reasonable restrictions on imported waste.

Position: Oppose

Status: Two Year Bill

[SB 515 \(Corbett\) Product Stewardship: Batteries](#)

The bill would require, by September 30, 2012, a producer or the household battery stewardship organization created by one or more producers of a household battery to submit a household battery stewardship plan to the department, which would be required to include specified elements. The bill would allow a registered hazardous waste transporter to elect to submit a household battery stewardship plan to the department on behalf of one or more producers and would require a hazardous waste transporter making that election to comply with the provisions of the bill applicable to a household battery stewardship organization.

Analysis: The LTF supported this bill because it would alleviate the significant financial burden being placed on local governments to manage materials banned from landfill, and provide incentives for producers to make their products more recyclable and less toxic. This bill would create a system for battery recycling in the state that would be easy for consumers to use and facilitate high rates of battery recycling.

Position: Support

Status: Two Year Bill

[SB 567 \(DeSaulnier\) Recycling: Plastic Products](#)

This bill repeals current law concerning the sale of plastic bags or plastic food or beverage containers that are labeled as "compostable" or "marine degradable" until the meets various

standards and instead prohibit the sale of a plastic product, as defined, labeled as "compostable" or "marine degradable" unless it meets those ASTM standard specifications or a standard adopted by the department, or unless the plastic product is labeled with a qualified claim for which the department has adopted an existing standard, and the plastic product meets that standard. The bill also prohibits the sale of a plastic product that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified.

Analysis: The LTF supported this bill because it will help ensure that products claiming to be "compostable" meet the technical scientific standards for "compostability," ASTM D6400 and actually break down in composting facilities. In addition SB 567 will assist consumers who want to make eco-friendly choices.

Position: Support

Status: Signed by Governor Brown

SB 568 (Lowenthal) Recycling: Polystyrene Food Containers

This bill would prohibit a food vendor, on and after January 1, 2013, from dispensing prepared food to a customer in a polystyrene foam food container and would define related terms, and allow a food vendor that is a school district to dispense prepared food to a customer in a polystyrene foam food container after that date if the governing board of the school district elects to adopt a policy to implement a verifiable recycling program for polystyrene foam food containers. This bill would also allow a food vendor to dispense prepared food to a customer in a polystyrene foam food container after January 1, 2014 in a city or county if the jurisdiction adopts an ordinance establishing a recycling program for polystyrene foam food containers.

Analysis: The LTF supported SB 568 because it would provide multiple benefits, including the establishment of a uniform statewide policy on polystyrene. The bill would also help eliminate one of the most abundant types of litter.

Position: Support

Status: Two Year Bill

SB 833 (Vargas) Solid Waste: Facilities Permit

This bill would have prohibited an enforcement agency from issuing a solid waste facilities permit, on or after January 1, 2012, if that permit would allow the disposal of solid waste within 500 feet of a river that supplies any aquifer that provides drinking water for more than 50,000 persons, or within 1,000 feet of a site considered to be sacred and of spiritual importance to a federally recognized Indian tribe.

Analysis: The LTF opposed this bill because the Integrated Waste Management Act along with the Planning and Zoning Law and California Environmental Quality Act (CEQA) already provide for an extensive process for the permitting of solid waste disposal facilities. The process used for siting these facilities is open to the public and allows for broad commentary from citizens. These statutes allow parties to challenge the environmental impact report, which would be required to be adopted.

Position: Oppose

Status: Vetoed by Governor Brown
[Veto Message](#)

Resources

SWANA California LTF Information

To review the LTF meeting minutes, position letters on specific legislation, regulatory comments, and other important documents, please visit the [SWANA California Legislative Task Force website](#).

Upcoming CalRecycle Events

In keeping with a history of providing stakeholders with information about programs, activities, and decisions, CalRecycle hosts monthly “workshops” to discuss upcoming decisions. You can view the [calendar of events](#) available at the CalRecycle website.

Regulatory Information

To view regulatory comments submitted to various state agencies please visit the [SWANA LTF Website](#).

Department of Resources Recycling and Recovery (CalRecycle)

Paint Stewardship and Recycling

The Department of Resources Recycling and Recovery continue to draft regulations developing a statewide Paint Stewardship Program based on the passage of AB 1343 (Huffman) in 2010. The current 15-day comment period ends on October 25, 2011. The revised proposed regulations can be found [here](#).

The LTF submitted written comments to CalRecycle on September 7, 2011. The comments focused on the need for the recovery program to reduce costs for local governments and shift responsibility to producers. Specifically, the LTF called on CalRecycle to ensure that the paint recovery program is consistent with CalRecycle’s EPR Framework.

If you would like to receive an e-mail notification of developments in this rulemaking, please add your contact information to CalRecycle's [Paint Product Stewardship listserv](#).

Carpet Stewardship and Recycling

CalRecycle is in the process of developing regulations for the Carpet Stewardship and Recycling Program. There have been public workshops, public meetings, and two comment periods, the most recent of which concluded on October 4, 2011. The revised proposed regulations can be found [here](#).

The LTF submitted written comment to CalRecycle on August 11, 2011 and October 3, 2011. The LTF focused on concerns that CalRecycle was exceeding its legislative mandate by

mandating a reduction in transformation in favor of reduction. This continues to be a concern despite multiple revisions to the regulations.

If you would like to receive an e-mail notification of developments in this rulemaking, please add your contact information to CalRecycle's [Carpet Product Stewardship listserv](#).

Commercial Recycling

In 2005, Executive Order S-03-05 was issued and set in place the Climate Action Team and established targets to reduce greenhouse gas emissions to 1990 levels. The Legislature subsequently passed Assembly Bill (AB) 32 - the California Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006). AB 32 directs the ARB to work with all agencies to reduce statewide greenhouse gas (GHG) emissions to 1990 levels by the year 2020. The solid waste sector has been identified as a significant source of GHG emissions. For the solid waste sector, potential strategies to achieve GHG emission reductions include landfill methane capture, mandatory commercial recycling, organic waste diversion alternatives, and product stewardship. The mandatory commercial recycling measure in particular is designed to achieve a reduction in greenhouse gas emissions of 5 million metric tons of carbon dioxide (CO₂) equivalents.

The SWANA Legislative Task Force has commented on the development of these regulations since the initial stakeholder meetings that began in 2009. You can view our submitted comments by visiting the LTF webpage at www.swanacal-leg.org.

In addition to the actions taken above, AB 341 (Chesbro, 2011), which was recently signed by Governor Brown, creates a statewide commercial recycling mandate.

Key Elements of the Law

[Chapter 476, Statutes of 2011 \(Chesbro, AB 341\)](#) sets forth the requirements for the commercial recycling program. This new legislation, passed and signed by Governor Brown in 2011, provides a new legislative basis for mandatory commercial recycling.

Purpose: To conserve landfill capacity and decrease GHG emissions by increasing the diversion of recyclable materials from the waste stream through mandatory commercial recycling.

Key Provisions: AB 341 mandates local jurisdictions to implement commercial recycling programs by 7/1/2012. Under the bill, commercial waste generators are required to comply if they generate four cubic yards of solid waste per week. Multifamily residential dwellings of five or more units are also required to comply. To comply, a commercial waste generator must take at least one of the following actions:

- Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements.
- Subscribe to a recycling service that may include mixed waste processing and yields results comparable to source separation.
- A property owner of a multifamily residential dwelling may require tenants to source separate in compliance with this section.

CalRecycle can review a jurisdiction's compliance as a part of their review required by Section 41825 and jurisdictions are required to report specified information to CalRecycle in the annual

report required by Section 41821. In reviewing jurisdictional compliance with the requirements, local jurisdictions can be evaluated on the following factors:

- The extent to which businesses have complied with the requirements.
- The recovery rate of the commercial waste from the facilities utilized by businesses.
- The extent to which jurisdictions provide education and outreach to businesses.
- The extent to which jurisdictions monitor and notify those businesses not in compliance.
- The availability of markets for collected recyclables.
- Budgetary constraints
- In the case of rural jurisdictions, the effect of small geographic size, low population density, and distance to markets.

The SWANA LTF has been an active participant in the regulatory process, submitting several rounds of comments to CalRecycle. The SWANA LTF is concerned that the regulations will impose an unfunded mandate on local governments at a time when local governments have significant budget limitations. Additionally, there is concern that the recyclables markets cannot absorb the additional tonnage that will result from the new mandate.

[State Water Resources Control Board](#)

[SWRCB Landfill WDR Fee](#)

The State Water Resources Control Board (SWRCB) finalized the waste discharge fee (WDR) assessed on open and closed landfills. This fee was already assessed in spring 2011. In preparation for the 2011/2012 WDR fee, the SWRCB has convened a group of public and private landfill operators for a dialogue on how to determine the appropriate fee for landfills. The current annual fee ranges from about \$2,000 to over \$35,000 depending upon the landfill's historically assigned rating of potential threat and complexity.

SWRCB adopted [Resolution 2011-0042](#) on September 19, 2011. That resolution adopts [emergency regulations](#) that outline the 2011-2012 Fees.

[General Industrial Stormwater Permit](#)

The State Water Resources Control Board has proposed a General Industrial Stormwater Permit which would apply to cities, counties, and other public agencies. SWANA is a member of the WATER (Workable Approach to Environmental Regulation) Coalition. To learn more about the coalition, please visit their website [here](#).

SWANA and other stakeholders are concerned that the regulations are cost-prohibitive for local governments that are struggling with consistent and severe budget problems.