

2021 LEGISLATIVE AND REGULATORY PLATFORM



MISSION STATEMENT:

To represent local government interests and the three California Chapters' membership in developing and advocating environmentally and technically sound, economical solid waste policy at the most appropriate government level.



Legislative Task Force
CALIFORNIA CHAPTERS

Created by the SWANA California Chapters Legislative Task Force



2021 Regulatory and Legislative Platform

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Message from the Chair

January 1, 2021

Over the last 30 years, the SWANA California Chapters Legislative Task Force (LTF) has represented local governments and publicly-owned solid waste facilities in the legislative and regulatory development processes. The LTF is a diverse volunteer group of solid waste industry professionals advocating for environmentally-sound and sustainable solid waste policies. The LTF also seeks funding from the State of California to support building and maintain the infrastructure needed to fulfill waste management mandating and adapt to global conditions such as COVID-19 and China's "National Sword/Blue Sky" Policy of 2018.

COVID19 and continued wildfires throughout the state have exacerbated the difficulties of local governments in complying with State waste management mandates, such as AB 939 (Sher, 1989), AB 341 (Chesbro, 2011), AB 1826 (Chesbro, 2014), and SB 1383 (Lara, 2016). The SB 1383 regulation sets ambitious management goals for organic waste, incorporating significant penalties for noncompliance - this in an era where COVID19 and wildfires have decimated revenue sources for local government. COVID19 has increased the use of disposable products, and it has shifted organic waste from commercial to more-difficult-to-manage residential sources. Providing efficient collection is the first challenge. Processing waste materials is the second, even more challenging, obstacle course of siting, permitting, and financing several billion dollars' worth of new facilities. And although last it is perhaps the most important, there must be markets for the materials once they are processed. China's "National Sword Policy/Blue Sky" allows the importation of some types of contaminant-free recyclables, but it highlights need for local markets as we saw a significant drop in demand for separated recyclable materials in the export markets.

In 2020, the LTF addressed SB 1383 challenges by 1) participating in CalRecycle's rule-making, 2) supporting legislation that would recognize "good faith efforts" toward compliance (SB 1191, Dahle), and 3) communicating the complexities of solid waste management with legislators, the Governor's office, CalRecycle, AB 1583's Statewide Commission on Recycling Markets and Curbside Recycling, and other stakeholders. In 2021 the LTF will continue to address these issues, and it will respond to the increased financial pressures resulting from COVID19. On behalf of the LTF, I would like to thank the SWANA membership and those agencies that have contributed financially to allow the LTF to continue our advocacy.

With warmest regards:



Eric Zetz, Chair

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Overview

The Solid Waste Association of North America (SWANA) is the world's largest association of solid waste professionals (more than 10,000 members). SWANA's three California chapters – Founding, Sierra, and Gold Rush - represent more than 1,100 of those members. The California Chapters Legislative Task Force (LTF) represents the California Chapters on solid waste-related legislative and regulatory issues, including:

- Collection and Processing: collection, transfer, processing and/or pre-processing, and hauling solid waste (refuse, organics, recyclables),
- Disposal: disposing of refuse and residue from collection routes and non-disposal facilities;
- Resource Recovery and Marketing: sorting and marketing of recyclables and processing organics for compost or conversion to fuel or power;
- Regulatory Compliance: regulatory reporting and compliance.

The LTF advocates environmentally- and economically-sound solid waste legislation and regulations. The LTF contracts with Shaw Yoder Antwih Schmelzer & Lange (SYASL) for legislative and regulatory advocacy services.

At the end of each year, the LTF prepares this Legislative and Regulatory Platform. It is comprised of:

An Advocacy Report (of the prior year's activities, 2020) and
A Work Plan (for the coming year, 2021).

This document also provides information on past legislation and regulations that continue to be policy drivers; information on the activities of the LTF; and, as an appendix, a Lobbyist Report detailing key issues that SYASL represented the LTF on in 2020. Additional information on the work of the group, including all LTF advocacy documents, can be found on the LTF website: <https://swanacal-leg.org>.

2020 ADVOCACY REPORT

2020 Advocacy Report

2020 Teleconferences and Meetings

Beginning in February, the LTF held monthly meetings via conference call. By April 2020 it was clear that, given the rapid changes associated with COVID19, more frequent e-mail exchanges and calls would be necessary, so additional teleconferences were added, while the usual “in person” meetings in Sacramento and in-person SWANA events were cancelled. Also as a result of the COVID19 pandemic, information regarding FEMA funding, operational impacts, safety measures, and the availability of PPE, and other issues of mutual interest were added to the agenda. Positions were taken on bills and on draft regulations. Meeting notes were taken, approved, and provided to the Chapters (see <https://www.swanacal-leg.org/ltf-approved-meeting-minutes>). Modifications were made to the 2020 LTF budget, as well as to the 2021 LTF budget, to minimize costs to adjust for reduced revenues due to COVID19.

In-person meetings with legislators and their staff were minimized, due to social distancing protocols, although on May 18, 2020, LTF representatives met with CalRecycle via conference call to discuss SB 1383 relief associated with COVID19 challenges. Additionally, SYASL continued to work with key stakeholders. The Governor’s Office responded to COVID19 with changes that affected local government requirements, such as temporarily lifting restrictions on plastic bag use (SB 270, Padilla 2014). COVID19 also further delayed issuance of SB 1383 regulations, but legislation that could have provided relief for local government was unable to move forward in the Senate (SB 1191, Dahle). The LTF’s workplan meeting was conducted by video conference in November 2020, with this 2021 Regulatory and Legislative Platform as the resulting product.

2020 Comments / White Papers / Fact Sheets

The LTF prepared facts sheets in 2020 on Photovoltaic Panels, Organic Wastes, Lithium Ion Batteries, PFAS and the China Sword/Blue Sky Policy, as well as submitting several policy proposals to AB 1583’s Statewide Commission on Recycling Markets and Curbside Recycling for their consideration in their preparation of their report to the Legislature. In addition, position letters were issued as listed on page 9. LTF documents, including correspondence regarding COVID, are posted on the LTF website <https://swanacal-leg.org/>.

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2020 Outreach

The LTF conferred with and provided comments to many other entities interested in solid waste and recycling, including:

Outreach	
Group	Individuals
Government organizations	League of California Cities CSAC / California State Association of Counties RCRC / Rural County Representatives of California AB 1583's Statewide Commission on Recycling Markets and Curbside Recycling
Public interest associations	CRRA / California Resource and Recovery Association CAW / Californians Against Waste CPSC / California Product Stewardship Council CCC / California Compost Coalition ACP / Association of Compost Producers
Industry groups and individual corporations	SWIG / Solid Waste Industry Group CWRA / California Waste and Recycling Association RRCC / Resource Recovery Council of California CWHC / California Waste Haulers Council Waste Management, Republic, Recology, Waste Connections, etc.
Elected officials	Legislators and their staff
Regulators and their staff	CalRecycle SWRCB / State Water Resources Control Board (and Regional Boards) CARB / CA Air Resources Board (and Regional Air Districts) DTSC / Department of Toxic Substances Control California Energy Commission

2020 LTF Website

The LTF reformatted and updated its website, <https://swanacal-leg.org/> to make it more user friendly and useful to SWANA members, local government representatives, and the general public. The website provides LTF meeting agendas and minutes, monitored bills and LTF positions (including bill number, sponsor if known and summaries), White Papers and Fact Sheets, comment letters and more. SWANA members are encouraged to register on the website to access all of its information. Additionally, a more informal facebook page was

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started, where general information articles could be posted, but it refers to the LTF Website for official positions <https://www.facebook.com/Solid-Waste-Association-of-North-America-Legislative-Task-Force-103896561077374>

2020-21 State Budget

The COVID19 pandemic completely changed the usual budgeting priorities. In May, Governor Gavin Newsom proposed major budget cuts, much of which the Legislature rejected, and instead balanced a projected \$54 billion shortfall on potential federal assistance, deferrals, and use of budget reserves. An August revision was also provided following the reporting of state income tax receipts in mid-July. Key budget bills include:

- SB 74, which would allocate \$50 million one-time General Fund for Community Power Resiliency to support additional preparedness measures that bolster community resiliency and includes budget bill language reflecting the Legislature's priorities in this area.
- AB 89, which would clarify language that allows local governments to access \$50 million for community power resiliency projects.
- AB 78, which establishes a Climate Catalyst Revolving Loan Fund at the IBank to receive funds from non-state governmental entities and private sources. The Climate Catalyst Fund will provide loans for climate catalyst projects that further the state's climate goals. Defines "climate catalyst projects" as any building, structure, equipment, infrastructure, or other improvement that furthers California's climate goals, activities that reduce climate risk, and the implementation of low-carbon technology and infrastructure.
- AB 92, which implements an omnibus related to resources. Specifically this measure: Authorizes the State Water Resources Control Board (SWRCB) to issue a certificate or statement before completion of an environmental review, which is required under CEQA, if SWRCB determines that waiting until completion of the environmental review poses a substantial risk of waiver of the state's certification authority under federal water quality control laws. Requires SWRCB, to the extent authorized by federal law, to reserve authority to reopen and revise the certificate or statement as appropriate based on the information provided in the environmental review document.

2020 Legislative Positions

The LTF advocated very successfully during the past year. Below is a summary table of legislation on which the LTF took a position or closely monitored during the 2019 legislative session. Additional information on the bills and SYASL's

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advocacy efforts can be found in Appendix 1, *2020 End of Session Report by Shaw, Yoder, Antwih, Schmelzer & Lange*.

Comments / Position Letters		
Bill Number	Document	Date
AB 2612	Letter in support of the funding for organic processing infrastructure provided by the Cap and Trade program.	April 2, 2020
SB 1258	Letter urging organic diversion infrastructure to be eligible for Climate Technology funding	April 7, 2020
AB 2287	Letter supporting efforts to provide "truth in biodegradability."	May 12, 2020
AB 3163	Letter supporting the expansion of the definition of biogas.	May 12, 2020

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Policy Drivers

State Requirements to Increase Waste Diversion

Many significant solid waste bills have been enacted since 2011 that have had a significant impact on the solid waste industry and local governments. Some of the more notable include:

- **AB 341 (2011)** - This statute, among other things, establishes the State's policy goal that 75% of solid waste generated be source reduced, recycled, or composted by 2020; the law imposes mandatory commercial recycling (MCR) on businesses and multi-family dwellings; and it requires jurisdictions to implement MCR programs and include those programs in their annual reports to CalRecycle.
- **AB 1594 (2014)** - This statute provides that effective January 1, 2020, the use of green material as alternative daily cover or alternative intermediate cover does not constitute diversion through recycling and would be considered disposal for purposes of AB 939 (1989) compliance (which requires that local governments achieve and annually demonstrate a 50 percent waste diversion rate from a 1990 "base year" disposal rate).
- **AB 1826 (2014)** - This statute requires certain businesses and multi-family dwellings to recycle organic waste (phased in over 4 years beginning in 2016) and jurisdictions to implement organic waste recycling programs. Under this Statute, "organic waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper.
- **AB 901 (2015)** - This statute requires recycling, disposal, and compost facilities, as well as exporters, brokers, and transporters of recyclables or compost to submit information directly to CalRecycle on the types, jurisdiction of origin, quantities, and destinations of materials that are disposed of, sold, or transferred inside or outside of the state. Civil penalties may be imposed for failure to comply.
- **SB 1383 (2016)** - This statute requires the Air Resources Board (ARB) to develop and implement a strategy to reduce short-lived climate pollutants (SLCP), including methane from landfills. The SLCP Reduction Strategy was approved by the ARB in March 2017. This statute requires CalRecycle to adopt regulations to achieve a 50 percent reduction in the level of statewide organic waste landfill disposal from the 2014 level by 2020, a 75 percent reduction by 2025, and not less than 20 percent recovery of edible food "currently" disposed by 2025. CalRecycle may impose penalties (up to \$10,000/day) on a jurisdiction for noncompliance with CalRecycle's adopted regulations.

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- **AB 617 (2017)/AB2588**- These statutes require the state to track emissions of criteria air pollutants and toxic air contaminants of stationary sources. AB 617 addresses the highest priority locations in the state for the deployment of community air monitoring systems, and to prepare and update, at least once every 5 years, a statewide strategy to reduce emissions of toxic air contaminants and criteria pollutants in communities affected by a high cumulative exposure burden. It also stipulates the provision of grants to community-based organizations for technical assistance and to support community participation in the programs. This statute requires a district that is in nonattainment for one or more air pollutants to adopt an expedited schedule for the implementation of best available retrofit control technology. AB2588 requires that facilities meeting the requirements of the legislation report toxics, from a recently adopted expanded list, and potentially prepare health risk assessments. Of concern to the LTF are the expanded list of toxics that will impact waste facilities and a new focus on recycling facilities. As of this writing, discussions are continuing with the California Air Resources Board on these issues to ensure that recent changes do not impact recycling or other waste facilities in a negative way.
- **AB 1583 (2019)** - This statute requires CalRecycle by July 1, 2020, to convene a Statewide Commission on Recycling Markets and Curbside Recycling and would require the commission by January 1, 2021, among other things, to issue policy recommendations to achieve State specified market development goals and waste reduction goals, identify products that are recyclable or compostable, and share findings with the Legislature as well as providing regular feedback to CalRecycle on public messaging designed to encourage proper recycling and to minimize contamination in curbside recycling programs. [Note: subsequent legislation, AB 2287 (2020) extend the January 1, 2021 deadline to July 1, 2021]

State Climate Change and Renewable Energy Requirements

Solid waste management and legislation in California is often driven by state policies related to climate change and renewable energy. Some of the more significant bills and policies enacted in recent years include:

- **SB 32 (2015)** – Extended cap-and-trade program to 2030
- **SB 350 (2015)** – Extended Renewable Portfolio Standard to 50% by 2030
- **SB 1383 (2016)** – Sets goals to reduce Short-Lived Climate Pollutants, including 40% reduction below 2013 levels in methane emissions by 2030

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- **Short-Lived Climate Pollutant Strategy (2017)** – ARB strategy to reduce livestock and landfill methane emissions via organic waste diversion
- **SB 100 (2018)** – Sets goal for renewable energy and zero-carbon resources to supply 100% of retail sales of electricity by 2045.

China National Sword/Blue Sky Policy

In 2017, China announced that 24 categories of materials including recovered mixed paper, recycled plastics, textiles and other materials, would be banned from import into the country later in the year. In January 2018, China confirmed strict contamination standards of 0.5% for plastic, ferrous metals, and other materials, that took effect March 1, 2018. The changes have resulted in significant challenges for statewide recycling industry and local governments as each year, California exports approximately one-third of its recyclable material – most of that to China. The LTF 2020 Fact Sheet on this topic is posted on the LTF website at <https://swanacal-leg.org/>.

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This coming year LTF advocacy will focus on the following priority issues. Once new bills are introduced in the 2021 session, additional priorities may be identified.

Legislation and Regulation

1. Organic and Recycling Infrastructure Development /SB 1383 Compliance

Issue: SB 1383 (Lara, Chapter 395, Statutes of 2016) established methane emissions reduction targets in a statewide effort to reduce short-lived climate pollutants. Specifically, the bill established targets to achieve a 50% reduction in the level of statewide disposal of organic waste from the 2014 level by 2020 and a 75% reduction by 2025. The bill also established a target of not less than 20% of currently disposed edible food to be recovered for human consumption by 2025. The regulations require expansion of organic waste collection to all generators; expand definition of organic waste; specify mandatory local enforcement programs; mandate procurement of diverted organic waste end-products; specify prescriptive standards for collection and outreach programs; prescribe hauler requirements, landfill and MRF performance standards; formulate verification of new technologies for the use and recovery of solid waste; and stipulate enforcement penalties of up to \$10,000/day on jurisdictions for noncompliance. For some jurisdictions, unique local conditions may prohibit compliance with all requirements; however, the regulations do not consider a jurisdiction's "good faith effort" to comply with the regulations.

During the past five years, the LTF has actively engaged with CalRecycle and State lawmakers regarding the urgent and important need for infrastructure to comply with the requirements of Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016) (SB 1383). CalRecycle estimates 41 percent of the waste disposed annually in California is compostable organics (approximately 16 million tons), half of which is considered food waste. Californians will be required to reduce the amount of organic waste (compostable and non-compostable, e.g. textile, carpet, etc.) from landfill disposal by 75 percent by the year 2025 compared to 2014 disposal rates. This will require billions of dollars in new waste processing infrastructure.

CalRecycle estimates the cost to construct an anaerobic digester facility is upward of \$50 million and estimates the cost to construct a compost facility is upward of \$15 million. It is estimated that approximately 100 new facilities will be required, resulting in capital investment among processors of up to \$1 – \$3 billion. The current GGRF allocations are significantly insufficient to provide the necessary financial support and there are limited other grant funding sources for the successful development of infrastructure to support the implementation of SB

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1383. In addition, successful siting and permitting of sufficient new organics facilities needed for implementation will require a longer timeframe than is necessary for compliance with SB1383 mandates.

The 2020 LTF fact sheet on this topic is posted on its website at <https://swanacal-leg.org/>.

Actions:

1. Develop and disseminate information on capacity deficits and costs associated with organic waste diversion. Identify the capability of existing facilities to process the anticipated additional materials. Inform Legislature and local officials of the compliance challenges and costs, both to comply and for noncompliance. Document and disseminate data on COVID-related cost impacts.
2. Encourage permit streamlining. For example, promote the development of Programmatic Environmental Impacts Reports to help streamline permitting for organic facilities – similar to the one developed for anaerobic digestors. Track and comment, as necessary, on State Water Resources Control Board regulatory activities that pertain to solid waste and composting facilities (e.g., waste discharge requirements and general permits). Comment on the efforts by the California Air Pollution Control Officers Association (CAPCOA), ARB, and CalRecycle to address air quality permitting and regulatory issues.
3. Promote funding sources for development and expansion of organics diversion solutions. Urge ARB and CalRecycle to support waste diversion and to help fund SB 1383 implementation.
4. Advocate for the development and use of conversion technologies to divert organic materials (especially non-compostable materials).
5. Promote flexibility for CalRecycle, at its discretion, to use a “good faith effort” approach to determine if a jurisdiction has made reasonable and justifiable efforts to comply.
6. Emphasize that achieving organic waste reduction goals is a shared responsibility between the waste sector, State government, local agencies, business community, and the public.

2. Single-Use Plastics and Packaging

Issue: China’s National Sword/Blue Sky policy continues to have significant impacts on the market value of recyclable materials, with the added complication

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of protocols for worker safety at materials recovery facilities due to COVID19. Many materials are increasing in volume, but they have virtually no market value and increasingly must be landfilled. One of the best ways to address the massive volume of single-use plastics is to “source reduce” this material, or to generate less of it in the first place. A second important way to address plastic recycling challenges is to expand markets within California.

Actions:

1. Develop and discuss solutions with CalRecycle and legislators, including the authors of AB 1080 and SB 54 on Single-Use Plastic Packaging.
2. Encourage efforts to reduce the amount of unrecyclable, single-use packaging, or the cost to recycle it. (Some form of Extended Producer Responsibility (EPR) may play a role in this reform.)

3. Special Wastes: Lithium Ion Batteries; Vaping Wastes; PFAS; Photovoltaic Modules; Treated Wood Waste

a. Lithium Ion Battery Issue: Lithium Ion Batteries (LI Batteries) have the potential to catch fire and explode when crushed or penetrated, and thus pose a significant public health and safety risk, as well as proven significant risk to infrastructure, especially to solid waste transportation and processing facilities in California and across the nation. AB 1509 (Mullin) was introduced during the 2019-2020 Legislative Session to create an extended producer responsibility solution to the threat of improper disposal of LI Batteries. SB 1156 (Archuleta) was also introduced during that legislative session and attempted to address this issue by prohibiting a person from knowingly disposing of a lithium-ion battery in a container or receptacle that is intended for the collection of solid waste or recyclable materials, unless the container or receptacle is designated for the collection of batteries for recycling. Neither of these bills passed in 2019-20, so legislation on this topic may be introduced again in 2021. A 2020 LTF Fact sheet on this topic is on the LTF website at <https://swanacal-leg.org/>.

Lithium Ion Battery Actions:

1. Work with industry to identify solutions to Lithium Ion Battery issues, such as promoting recyclability, EPR, E-waste program inclusion, and/or “Right to Repair” legislation to improve product design.
2. Develop further understanding of and compile additional data on the problems (e.g., number of fires) and potential solutions related to, Lithium Ion batteries.

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3. Continue to monitor legislation related to LI Batteries in the coming 2021-2022 Legislative Session, and to take positions as appropriate.

b. Vaping Waste Issue: Health risks and waste product issues are associated with single-use vaping devices. The LTF supported SB 424 introduced by Senator Jackson, a bill that attempted to restrict single-use vaping devices. School districts inherit these waste products through abandonment or confiscation. The device has a small lithium-ion battery (universal waste), a small circuit board (e-waste), and a nicotine containing pod ("p-listed" RCRA hazardous waste), along with other materials. Currently, there is no economical way to process these devices in California due to the variety of components and how those components are regulated.

Vaping Waste Action: Support legislation that provides waste management solutions. Identify/develop/suggest solutions.

c. Per- and Poly-fluoroalkyl Substance (PFAS) Issue: Per- and Poly-fluoroalkyl substances (PFAS) are a human-made family of compounds that are resistant to heat, water, and oil. They are commonly used for non-stick coatings on paper plates, cookware, pizza boxes and similar products, which often are disposed of in landfills. Research indicates a potential for health impacts related to presence of PFAS in the environment, particularly as a contaminant in groundwater. Concerns about PFAS in drinking water have emerged and efforts are underway to understand the extent and severity of groundwater contamination, and landfills (e.g. via leachate) have been identified as one source of PFAS in both groundwater and municipal wastewater (i.e. when leachate is discharged to the sewer system). SB 1044 (Allen) passed in 2020, which will phase-out the use of PFAS in firefighting equipment and foam.

PFAS Actions:

1. Support efforts to reduce use of PFAS compounds in consumer products and other applications that may have a pathway to the environment via municipal solid waste management practices.
2. Track – and comment, as appropriate – on regulatory developments related to PFAS by state agencies.

d. Photovoltaic Module Issue: The first generation of large electricity generating photovoltaic panels (solar panels) are reaching their end of useful life. SB 489 (Monning) was signed into law in September 2015. This bill requires the DTSC to designate solar panels, both RCRA (federal hazardous waste) and non-RCRA (California-only hazardous waste), as Universal Waste and promulgate regulations for the processing of these panels. However, Federal EPA gave DTSC

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the authority to provide the necessary designation until 2020. Large electricity generating solar panels are made of a variety of components, one of which is the photovoltaic cells themselves. These cells are typically of two types, film type and silica type, and it is difficult to tell the difference between the two types. The film type cells have tested in the hazardous range and may be considered a RCRA waste (hazardous waste classification) or California hazardous waste. Unless DTSC develops regulations that allows for a DTSC designation of "universal waste," solar panels, unless tested and shown to be the non-hazardous type, can only be legally disposed of in an expensive Subtitle C lined Class I landfill. Further, the only processing and recycling option for solar panels in the state, ECS Refining, went out of business in 2018.

The LTF has been closely monitoring the process and has urged DTSC to move quickly to adopt regulations to designate end-of-life photovoltaic modules as universal hazardous waste. These regulations were approved in 2020. The LTF's 2020 Fact Sheet on this topic is on the LTF website at <https://swanacal-leg.org/>.

Photovoltaic Module Actions:

1. Identify solutions for the management of solar panels, such as improvement in labeling to reduce need to test. Assess the scope and cost of problem and discuss these details with solar manufacturers.
2. Include in outreach efforts the LTF fact sheet and other information about the problems associated with solar panel end-of-life management.

e. Treated Wood Waste Issue: The veto of SB 68 will result in Treated Wood Waste (TWW) becoming a fully regulated hazardous waste and the allowance for disposal in Class II and Class III landfills sunsets December 31, 2020 along with the alternative management standards.

Treated Wood Waste Actions: The LTF will be working with the legislature and DTSC to reinstate the exemptions for alternative management and disposal in solid waste landfills.

f. Fee Reform: AB 995 proposed to convert DTSC from a department into an appointed Board and restructure hazardous waste fees including removal of the exemptions for household hazardous waste, used oil collection, and load checking programs. AB 995 was vetoed by the governor for not providing more comprehensive measures.

Fee Reform Actions: The LTF will continue to engage in stakeholder discussions regarding fee reform and concern with removal of the fee exemptions for public service programs.

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4. CRV / California Redemption Value

Issue: California's California Redemption Value (CRV) program, also known as the "Bottle Bill," is a \$0.05 or \$0.10 deposit charged on eligible beverage containers. Established in 1986 (AB 2020) and operated and administered by CalEPA's California Department of Resources Recycling and Recovery (CalRecycle), the deposit system generates approximately \$1.3 billion collected by the state. Since an average of only 80% of containers are returned, CalRecycle uses some of the surplus fees to subsidize privately-owned and -operated redemption centers established in "convenience zones" located near beverage retailers. The CRV program has resulted in an average of 80% of qualified containers being recycled, but to remain fiscally stable, the program has required more than 60 legislative amendments.

In the past few years the state's supplemental formula has become outdated, China's recycling policy changes have crippled the global market, scrap value of beverage containers material has plummeted, and operating costs have steadily risen. The cumulative effect of these factors has resulted in a critical reduction in operating revenue for the privately-operated redemption centers and led to the closure of approximately half of the 2,500 CRV convenience zone centers statewide. The CRV program also requires beverage retailers to provide deposit redemption services to customers or pay penalties. Some retailers have attempted to provide service but were unprepared for the volumes and complexity of the program, while other retailers have just chosen to pay the fines associated with non-compliance with the law. With convenience center closures, the surviving convenience centers have been overwhelmed with customers trying to redeem their deposits.

Action: Support efforts to reform beverage container funding, such as adjustments to CRV and recycling-related payments.

5. Conversion Technologies / Advanced Recovery Technologies

Issue: Advanced Conversion Technologies (ACT) are also sometimes referred to as Waste Recovery Technologies. ACTs are non-incineration technologies that convert non-recyclable municipal solid waste to electricity, fuels, and/or industrial chemical feedstocks. Interest is growing in ACTs because of their potential role in addressing renewable energy and low carbon mandates and green jobs initiatives as well as meeting state and local solid waste management needs.

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Older burning technologies (waste to energy, or WTE) produced an undesirable level of emissions, and in an effort to protect air quality, California has enacted statutory obstacles that have discouraged not only the older WTE facilities, but also the cleaner more efficient ACTs commonly used in the EU and other nations that are eagerly participating in programs to minimize climate change. While California has enacted aggressive waste diversion goals (e.g., 75% by 2020) the California Public Resources Code (PRC) defines most ACTs as a form of “disposal” rather than waste diversion. Only Composting and Anaerobic Digestion are considered forms of recycling. To encourage climate-friendly low carbon fuels, energy, and chemicals, more technologies must be considered “resource recovery.”

SB 1383 provides a mechanism to promote appropriate technologies: CalRecycle may approve technologies that reduce the disposal of organic waste in landfills and achieve equal or greater GHG benefits than attained by composting technologies. ACTs that may be used to support SB 1383 include, but are not limited to:

- Gasification. Gasification is a commercially proven manufacturing process that converts hydrocarbons and biomass to a synthesis gas (syngas), which can be further processed to produce chemicals, fertilizers, liquid fuels, hydrogen, and electricity.
- Pyrolysis. Pyrolysis involves thermal decomposition of feedstock at high temperatures in the absence of air. The resulting product is a mixture of solids (char), liquids (oxygenated oils), and gases (methane, carbon monoxide, and carbon dioxide) that may be further processed in energy, fuels, or chemicals.
- Hydrolysis/fermentation. Also known as waste-to-ethanol, this anaerobic biological process uses microorganisms to metabolize sugars and produce alcohols to produce such fuel liquids as ethanol and other chemicals.
- Autoclave/mechanical processing. This technology subjects wastes to high temperature (usually with superheated steam) under high pressure for a length of time sufficient to kill all the bacteria and pathogens that might be in the waste. The process may involve several steps to remove plastics, metal and glass if present. After preprocessing, the wastes are shredded and processed to produce an organic product for low carbon fuel and other uses.

Actions:

1. Support the development and use of ACTs through amended California statutes and regulations, particularly to enhance the production of low

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carbon energy, fuels, and chemicals needed to achieve California’s GHG reduction goals.

2. Advocate for policies that promote and recognize the benefits of producing low-carbon renewable energy from solid waste, particularly from organic waste, to the Legislature and administrative agencies. Monitor and comment on policies related to biogas, landfill gas, and biomass, and regarding emerging technologies.

6. Heavy Duty Transportation Infrastructure

Issue: The solid waste and recycling industry in California that has largely transitioned from diesel fueled vehicles to cleaner fuels, such as Natural Gas and Renewable Natural Gas. This industry is estimated to have invested more than \$1 billion in California to develop and use low carbon renewable natural gas in refuse and recycling vehicles. Renewable natural gas has the lowest carbon intensity of all available transportation fuels. The Governor issued an Executive Order in September 2020, stating his intent for California to transition to electrification. Grants now emphasize electrification. ARB’s Advanced Clean Truck regulations focus almost exclusively on zero emission vehicles and electrification instead of promoting the lowest carbon fuels that are available and consistent with the other mandates. While zero-emission vehicle (ZEV) transportation currently has a carbon intensity of about 30 gCO₂e/MJ, renewable gaseous and liquid fuels have been shown to have virtually the same or much lower carbon intensity generally as follows:

	<u>gCO₂e/MJ</u>
Landfill RNG	33.89 – 52.57
Renewable Diesel	19.65 – 39.33
Bio-Diesel	11.76 – 83.25
Wastewater RNG	8.68 – 34.36
Municipal Organic Waste RNG	– 25.48
Dairy Waste RNG	– 281.1

To date, ZEVs have not been shown to substantially reduce greenhouse gas emissions. This disappointing result is because of weight considerations and the need for more ZEV trucks to handle the same amount of refuse and recycling materials. Eventually, ZEV technology may be more cost-effective and more effective at GHG reduction. However, in the meantime, SB 1383’s focus on reducing short-lived climate pollutants, such as methane generated by organic waste, underscores the importance of using organic waste-derived methane as a fuel. SB 1383 mandates that 75% of all organic waste must be recycled and recovered from landfill disposal by 2025. One of the most effective ways to divert organic waste from landfills is to use it as feedstock in anaerobic digesters and

2021 WORK PLAN

other advanced technologies to produce very low carbon transportation fuels – that can be used to fuel refuse, recycling and other transportation vehicles.

Actions:

1. Promote a technology-neutral approach to encourage the development of alternative transportation fuels suitable for specific purposes based on performance standards rather than a specific technology.
2. Promote the lowest carbon and most sustainable transportation fueling options, including renewable natural gas.

7. Market Development

Issue: The solid waste industry can collect, sort, and transport the waste materials that are generated, but solid waste policies are needed at the federal, state, and local level to 1) reduce the amount of waste generated by all sectors of society, 2) ensure that the greatest proportion as possible of waste materials generated can be reused, recycled, or composted, and 3) promote markets for the recyclable materials and compost. With the 2017 China National Sword/Blue Sky policy, the need for local markets and “closed loop” products, was highlighted. Additionally, increased organic waste processing will result in the generation of increasing amounts of compost material. Markets for compost are already challenging. The agricultural industry usually has very exacting specifications for soil amendments, and it has little use for composted organic waste. Markets for an increasingly abundant product must be promoted, for example with policies for use of these materials on State lands, and with local land use policies.

When there is no market for composted or recyclable materials, local governments are unable to comply with waste diversion mandates. When infrastructure to process materials does not exist, often because there is no market for the resultant products, local government cannot comply with waste diversion mandates.

In 2018, proposed legislation AB 3178 would have required CalRecycle to consider the availability of markets and a jurisdictions’ good faith efforts to recycle. Although the bill passed the legislature, it was vetoed by the Governor whose veto message stated that CalRecycle already has the authority to do that.

In 2019 SB 667 (Hueso) was introduced to comprehensively address market issues associated with GHGs and solid waste. This bill would have required the development of a needs assessment to support innovation and technological and infrastructure development, to meet specified organic waste reduction and recycling targets. It also included provisions to support development of interstate

2021 WORK PLAN

recycling infrastructure and markets for recyclable materials. However, the bill did not make it through the legislative process.

The crucial need for local markets, resources to support necessary diversion infrastructure, new technologies to recover energy, fuels and chemicals, and support for producer responsibility will dominate the LTF's 2021 efforts.

Actions:

1. Develop recommendations to promote markets and provide the recommendations to CalRecycle and other stakeholders.
2. Support market development efforts.

B. Agency Monitoring

Not all LTF work entails legislative activities. Although most regulatory agency work is in response to legislation, ongoing programs can be modified by agencies and this can result in major impacts to the solid waste industry and to local government. The following are some of the key aspects of agency monitoring in 2021:

Action: AB 901. Monitor CalRecycle AB 901 implementation to assure that it balances development of robust and accurate data with the administrative burden on haulers, facilities and jurisdictions.

Action: E-Waste. Watch and support CalRecycle efforts to add more products to the E-waste program. Watch and participate in proposed legislation related to the expansion of CalRecycle's E-waste program.

Action: Greenhouse Gas. Track and comment as appropriate on implementation of new greenhouse gas reduction programs and requirements as well as air quality monitoring and reduction programs pursuant to SB 32.

Action: ARB. Track and comment, as necessary, on Air Resources Board and regional air control/management districts regulatory activities that impact solid waste facilities permitting and operation. This also includes activities associated with the AB 617 programs and updates to the AB 2588 (toxic hot spot) program.

Action: Photovoltaic Modules. Track and comment, as necessary, on DTSC's implementation of the universal waste photovoltaic regulations.

Action: Fee Reform. Monitor and comment, as necessary, on efforts for DTSC's fee reform.

2021 WORK PLAN

Action: AB 1583 Commission on Recycling Markets and Curbside Recycling. Proactively monitor and comment, as necessary on the Commission development of policies and recommendations on California markets for processing and re-manufacturing recycled materials and organics as well as related activities in re to 75% diversion of organics from landfills by 2025, development of needed infrastructures, and creation of funding mechanisms for implementation and consideration by CalRecycle and/or the Legislature.

C. Outreach and Education

The LTF positions on legislation are important, but coordination with other stakeholders and dissemination of fact sheets and white papers is also vital. The LTF will seek, in 2021, to:

- Maintain an active advocacy presence in the Legislature and at state agencies that oversee the management, recycling, and disposal of municipal solid waste, household hazardous waste, and pertinent special wastes, through involvement in the legislative and regulatory processes.
- Develop relationships with key members of the Legislature and their staff, and with the appropriate staff in the Governor's office and at CalRecycle, the Department of Toxic Substances Control, Air Resources Board, State Water Resources Control Board, and other agencies as appropriate.
- Reach out to and engage other solid waste organizations (such as CAW, CRRA, SWIG) and local government organizations (such as CSAC, CA League of Cities, and RCRC).
- Coordinate advocacy efforts with other local government groups, particularly for issues impacting local authority, governance and discretion.
- Support SWANA International in advocacy and policy areas that apply to California, such as product stewardship policy, disposal bans, "Pushing the Envelope" documents, and applied research on emerging technologies.
- Further enhance education and awareness of key legislation and regulations to SWANA membership through communications such as fact sheets, targeted communications such as the annual legislative platform, discussions at Chapters.
- Improve and enhance the convenience and effectiveness of the LTF website to better serve and inform SWANA members of LTF activities. Ensure mobile compatibility of the website.

LTF OFFICERS & MEMBERSHIP

LTF Officers and Membership

Nominated Officers

Eric Zetz, MCRWMA, Chair
Doug Kobold, California Product Stewardship Council, Vice Chair

Appointed Officers

Christina Hanson, Placer County/WPWMA, Secretary
Hans Kernkamp, Riverside County Dept. of Waste Resources, Treasurer

Membership

GOLD RUSH CHAPTER:

Doug Kobold, California Product Stewardship Council
Christina Hanson, Placer County/Western Placer Waste Management Authority
Larry Sweetser, Sweetser & Associates, Inc.
Mark Bowers, City of Sunnyvale
Charles White, Manatt, Phelps, & Phillips, LLC
Guy Petraborg, Monterey Regional Waste Management District (Alternate)
Joe La Mariana, South Bayside Waste Management Authority (Alternate)

SIERRA CHAPTER:

Eric Zetz, Merced County Regional Waste Authority
Curtis Larkin, Fresno County
Herb Cantu, City of Santa Maria
Chuck Magee, Kern County
Nicole Riley, Kings Waste and Recycling Authority
Brooks Stayer, Clovis (Alternate)
Dawyne Balch (Alternate)

FOUNDING CHAPTER:

Brian Probolsky, Orange County Waste and Recycling
Hans Kernkamp, Riverside County Dept. of Waste Resources
Sharon Green, Los Angeles County Sanitation Districts
Mike Mohajer, P.E., So. California Waste Management Forum
Lisa Wood, City of San Diego
Frank Caponi, P.E., Los Angeles County Sanitation Districts (Alternate)
Constance Hornig, Esq., Law Offices (Alternate)

LTF Goals and Principles

LTF Advocacy Goal

Ensure, through active participation in the development and review process, that proposed laws and regulations protect health, safety and the environment, and are economically and technically feasible.

LTF Principles

The basis for establishing LTF's policy positions on legislation and regulation are based on the following principles:

- **Local Authority.** Oppose state regulations and legislation that undermine or preempt local authority or discretion. Support local government control of solid waste policy and operations. Promote legislation that provides opportunities for local government stakeholder participation in regulatory and policy matters proposed for adoption by state and regional agencies.
- **State Funding:** Increase State funding for mandated activities.
- **CalRecycle Review of IWMPs.** Push for transparency, consistency, and consideration of reasonable and realistic "best efforts" in CalRecycle's review of Integrated Waste Management Plan and Annual Reports.
- **Due Process:** Develop regulatory frameworks that provide the regulated community with independent due process in State agency enforcement proceedings.
- **EPR:** Extended Producer Responsibility: Foster product stewardship. Shift the financial burden of managing hazardous and difficult-to-handle products from local government to the producers of those products
- **Organics Management:** Develop cost-effective organics management programs and infrastructure that best fits each jurisdiction's demographics, waste characteristics, and facility availability.
- **Recyclables Market Development:** Encourage the development of domestic markets for recycled materials, including organics; and increase of recycled content requirements for specific products.
- **Emerging Technology:** Develop local and state regulatory framework, and create incentives, that encourages development of emerging technology to recover resources such as energy, fuels and chemicals from all waste streams (garbage, C&D, yard waste, organics, etc.). Eliminate legislative and regulatory barriers.
- **Worker Safety:** Protect workers' safety in the solid waste industry
- **Stakeholders:** Foster opportunities for meaningful stakeholder input in the development of platforms, policies, and regulations.
- **Regulatory Clean-up:** Streamline redundant and overlapping regulations and oppose underground regulations.

Appendix 1

2020 End of Session Legislative Report

Shaw Yoder Antwih Schmelzer & Lange



1415 L Street
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Sacramento
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916-446-4656

DATE: December 22, 2020

TO: Solid Waste Association of North American Legislative Task Force

FROM: Jason Schmelzer, Partner
Priscilla Quiroz, Legislative Advocate
Shaw Yoder Antwih Schmelzer & Lange

SUBJECT: SWANA LTF 2020 Year-End of Session Report

On behalf of all the employees of Shaw Yoder Antwih Schmelzer & Lange (SYASL), we'd like to thank the Solid Waste Association of North America Legislative Task Force (SWANA LTF) for once again entrusting our firm with the important task of providing legislative and regulatory advocacy services to the California chapters of SWANA.

This report highlights key legislation that SYASL worked on in 2020 for the SWANA LTF. We also discuss significant state budget developments and major legislative actions taken by the legislature this year. Furthermore, we highlight other policy objectives we pursued on behalf of SWANA LTF this year.

Attachment 1 to this memo displays a summary of the **18 bills we actively lobbied or monitored**.

The following is a **brief summary of relevant major actions taken by the Legislature** this year:

Covid-19/Emergency Response

The 2020 legislative session started off the way that most sessions begin in the second year of the biennial sessions: with a frantic race in January to pass bills out of their house of origin introduced in the prior year, in this case, 2019. Things proceeded apace with the bill introduction deadline in late February. The world then turned upside down with the global pandemic of COVID-19.

On March 4, 2020, Governor Newsom declared a state of emergency to address the spread of COVID-19. He subsequently issued several executive orders in response to the pandemic. This included allowing state and local legislative bodies to meet remotely, canceling large gatherings, and waiving the one week waiting period to apply for unemployment insurance benefits.

On March 16, at Governor Newsom's request, the Legislature passed SB 89 (Committee on Budget and Fiscal Review), which appropriated up to \$1 billion for any purpose related to the March 4, 2020 emergency declaration. SB 89 established a process whereby the Administration must notify the Joint Legislative Budget Committee (JLBC) 72 hours before using any of the funds. The Governor transferred \$1.3 billion to the Disaster Response Emergency Operations Account (DREOA), bringing its balance to \$1.4 billion. The DREOA is the source of funds that the Administration uses to respond to emergencies. Immediately after the Governor's emergency declaration, the Legislature approved the emergency funding and immediately suspended legislative activity. The Legislature commenced their Spring Recess on March 16.

The Governor issued several other executive orders in mid-March, authorizing local governments to enact strict eviction protections for tenants, slow foreclosures, and protect against utility shutoffs for Californians affected by COVID-19. On March 19, the Governor issued an executive order asking Californians to stay in place at home or their place of residence unless going to an essential job or to shop for essential items. This led to the shutdown of most schools and businesses throughout the state. On March 27, another executive order was issued, which expanded protections for tenants and put in place a statewide moratorium on evictions.

The Legislature extended their Spring Recess until May 4 for the Assembly and May 11 for the Senate. Given the extended recess, legislative leadership ordered a reduction in the number of bills members planned on carrying through the shortened legislative process. In some cases, committee staff and Chairs, rather than authors, took the lead on reducing the number of bills that would be heard in committee. Many committee chairs only set bills for hearing that they deemed necessary to address the COVID-19 crisis or other priorities such as housing and homelessness. This, along with the authors' voluntary bill package reduction, led to a significant decrease in the number of bills that moved through the legislative process. These actions compressed the legislative schedule and resulted in some policy committees meeting only once or twice before the house of origin deadline (June 19 in the Assembly and June 26 in the Senate).

On May 14, the Governor released his May Revision to his proposed state budget for 2020-21, which eliminated many of the new programs proposed in his first budget. Given the projected downturn in the economy, the May Revision proposed substantial cuts across many state programs.

The Legislature passed a compromise budget on June 15 and sent to the Governor for his approval. The budget provided for "trigger cuts" on various state programs and entities that will go into effect if the state does not receive additional relief funding from the federal government. One of the budget's primary components allowed for the distribution of a portion of the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding that the state received from the federal government.

While the Legislature worked on moving bills through the committee process, the Governor utilized the Legislature's emergency funding to purchase and distribute Personal Protective Equipment (PPE). The Governor would also issue several more executive orders during this time. Several legislators expressed concerns with the lack of oversight over the expenditures made by the Governor's Administration, particularly the \$1 billion contract the Governor awarded BYD to manufacture facemasks. In response, the Senate and Assembly held several oversight hearings in which they reviewed the Administration's actions in-depth.

On July 2, the Legislature adjourned for their summer recess with the stated intent to return on July 13. However, due to a surge in COVID-19 cases around the state, the Legislature postponed their return to the Capitol until July 27. The legislative session continued until August, with legislators participating remotely and in-person at the Capitol, and the Legislature adjourned for the year on August 31.

2020-21 STATE BUDGET REPORT

2020-21 State Budget

On June 29, 2020, Governor Gavin Newsom signed 20 bills that implemented the 2020–21 State Budget. Even after enacting hundreds of pages of new legislation and spending authority, the state’s fiscal fate over the 12-month fiscal year with billions of dollars at play is fraught with uncertainty. The \$202.1 billion state spending plan relies on a combination of emergency pandemic funding, expanded unemployment and other forms of assistance as well as billions of dollars in cuts forced by the coronavirus-induced recession. Governor Newsom started the year projecting a multi-billion dollar surplus, but by May Governor Newsom projected a \$54 billion deficit due largely to the virtual overnight shut down of the economy and the stay at home orders issued because of the COVID-19 pandemic. According to the Governor, this budget takes a balanced approach to closing the budget deficit and sets aside \$2.6 billion in the Special Fund for Economic Uncertainties, including \$716 million for the state to respond quickly to the changing conditions of the COVID-19 pandemic. The budget, which took effect July 1, also maintains spending on schools and health and safety net programs by tapping reserve accounts, borrowing from special funds, delaying billions of dollars in payments until future years and temporarily limiting corporate tax credits to raise new revenue.

Greenhouse Gas Reduction Fund

The State Budget Package did not include an expenditure plan for Cap-and-Trade Auction proceeds. The Legislature delayed action on appropriating the discretionary portion of the funds, which populates the Greenhouse Gas Reduction Fund (GGRF), until a future date when a clearer picture of what the anticipated 2020-21 auction proceeds might look like. Note that the May quarterly Cap-and-Trade auction brought just \$25 million in revenues to California due to COVID-19-related industry shutdowns, which was down from more than \$600 million in February’s auction — a 96 percent drop in revenue.

In early September, the California Air Resources Board published the preliminary results from the August 2020 Cap-and-Trade action, suggesting that the state will collect approximately \$475 million from the quarterly auction. While the results are not yet final, they show a marked improvement from the May 2020 Cap-and Trade auction, which raised questions about the viability of the Cap-and-Trade market during the pandemic.

2020 REGULATORY REPORT

Short-Lived Climate Pollutants

SB 1383 (Lara, Chapter 395, Statutes of 2016) codified that ARB’s Short-Lived Climate Pollutants Reduction Strategy, establishing methane emissions reduction targets in a statewide effort to reduce short-lived climate pollutants. Specifically, the bill established targets to achieve a 50% reduction in the level of statewide disposal of organic waste from the 2014 level by 2020 and a 75% reduction by 2025. The bill also established a target of not less than 20% of currently disposed edible food to be recovered for human consumption by 2025. Proposed regulations impose numerous requirements on

generators, jurisdictions, and solid waste facilities Including, among other things, that organic waste processing facilities must meet certain organic waste recovery targets. CalRecycle submitted their final regulatory package for SB 1383 to the Office of Administrative Law (OAL) in early September. These regulations were approved on Tuesday, November 10, and they will go into effect on January 1, 2022.

In response to the COVID-19 pandemic, SWANA worked with local governments and associations, such as the League of California Cities, California State Association of Counties, and Rural Counties Representatives of California, in April, and requested state officials and CalRecycle to grant limited grace periods and temporary relief from specific requirements related to solid waste and recycling. Specifically, the request was to delay implementation of SB 1383, until at least six months after the COVID-19 emergency is deemed over by the State of California. Since the solid waste and recycling industry services are part of the essential infrastructure, under the Governor Gavin Newsom's March 19, 2020 [Executive Order N-33-20](#), the coalition is concerned with their ability to meet specific statutory obligations during the COVID-19 pandemic.

The coalition met with CalRecycle several times and discussed the development of a guidance document that outlines the compliance program for SB 1383, which was subsequently released on August 11. In regards to the delayed implementation for SB 1383, CalRecycle expressed the dates could only be delayed if there is legislation. The coalition is currently discussing if there should be legislation introduced next year that will delay implementation of SB 1383. SYASL will continue to monitor and update SWANA LTF on these efforts.

SB 212 Regulatory Process

On September 30, 2018, Governor Brown signed SB 212 (Jackson, Ting, and Gray), a bill to create a statewide takeback program for pharmaceutical medications and sharps products from households. The bill requires manufacturers of these products to create, fund, and operate a stewardship program that provides for the takeback of covered drugs and home-generated sharps waste from households as well as reimbursement of local agency sharps disposal costs. CalRecycle is required to adopt implementing regulations by January 1, 2021, with full implementation of stewardship by June 1, 2021.

On January 3, 2020, CalRecycle began the formal rulemaking process and on September 30, 2020, CalRecycle's Acting Director approved the proposed regulations. CalRecycle submitted the final regulatory package to the Office of Administrative Law as required per the Administrative Procedure Act.

SYASL will continue to monitor and engage in the SB 212 regulatory process on behalf of SWANA LTF.

Solar Panel Regulations

In 2015, Senate Bill 489, Monning, authorized DTSC to designate solar panels as Universal Waste and promulgated regulations for the processing of these panels, similar to the existing eWaste processing existing today. In May 2018, the California Energy Commission mandated that all new homes under three stories will have solar systems installed. This mandate takes effect on January 1, 2020.

Many facilities have begun to receive solar panels that have reached the end of their useful life and expects to receive many more in the future. Large electricity generating solar panels are made of a variety of components, one of which is the photovoltaic cells themselves. Some cells exhibit the hazardous waste characteristic of toxicity, and some do not. Unless a determination can be visually made on the extent of toxicity, they must be managed as hazardous wastes, meaning they can only be legally disposed of in a Subtitle C lined Class I landfill, which can be very costly (up to \$1,300 per ton). If the DTSC designates solar panels as Universal Waste, it would provide a simpler, alternative management option and enable them to be managed similar to electronic wastes and in a way that is commensurate to their low risk.

On March 25, 2019, the DTSC held a public informational seminar on California's Universal Waste Program and the proposed regulations to included waste photovoltaic modules (PV modules) on the list of hazardous waste eligible to be managed as universal waste. On September 28, 2020, DTSC received approval from Office of Administrative Law of the rulemaking. These regulations go into effect January 1, 2021.

2021 Preview

The following is a brief preview of potential issues that could surface next year.

CalRecycle: Statewide Commission on Recycling Markets and Curbside Recycling

In 2019, Governor Newsom signed into law The California Recycling Market Development Act (AB 1583, Eggman). This act requires CalRecycle to convene a Statewide Commission on Recycling Markets and Curbside Recycling consisting of representatives of public agencies, private solid waste enterprises and environmental organizations that have expertise in recycling. The Commission is tasked with providing policy and messaging recommendations to CalRecycle and identifying which items are truly recyclable or compostable.

The Commission held their first meeting on June 24, 2020 and have since been holding meetings on the first and third Wednesday every month. They have also developed four committees that cover: market development, organics, recycling, and labeling and media. These committees are currently reviewing policy proposals that have been submitted through the Commission's public portal. The commission is required to submit preliminary policy recommendations to the legislature by January 1, 2021. However, with the governor approving AB 2287 (Eggman, 2020), it has given the Commission an additional six months to development policy recommendations. SYASL will continue monitoring the Commission's actions for SWANA LTF.

Treated Wood Waste

On September 29, Governor Newsom vetoed SB 68 (Cathleen Galgiani), which would have deleted the December 31, 2020, sunset on treated wood waste (TWW) statute. According to the veto message, the governor believed this bill would create a significant additional mandate for DTSC to perform regular inspections of generators and disposal sites for treated wood waste. The governor also stated the Hazardous Waste Control Account (HWCA) currently has a structural deficit, and this unfunded new mandate will cost the department millions of dollars to implement, exacerbating this deficit.

Since SB 68 was vetoed, starting January 1, 2021, TWW is subject to full hazardous waste standards- 90 days on generators site, storage, labeling, shipment on a hazardous waste manifest, and sent to a full hazardous waste facility (landfill or transfer

station). TWW sent out of state will still need to follow California requirements for generation and transport – used a manifest and hazardous waste transporter – as long as that receiving facility is permitted in that state to accept TWW (which is basically any solid waste landfill outside of California). Department of Toxic Substances Control (DTSC) indicates Class I disposal is required but that designation is a California term. DTSC cannot interfere with interstate commerce.

A coalition group, including the SWANA LTF and local government associations, drafted a letter of concern to DTSC and the governor's office. The letter outlines concerns that the veto of SB 68 leaves them with no effective management standards or guidance for TWW, no clear alternatives for managing the handling and disposal of this waste and leaves them with very little time to adapt current practices without immediate guidance from the agency. On December 18, DTSC a [fact sheet](#) on management of treated wood waste in California that explains the new requirements, and their [website](#) states the department intends to offer interested parties a variance to allow the variance recipient's TWW to be managed according to variance conditions that are similar to the existing AMS. The variances are intended to be short term in nature, providing time for the Legislature, DTSC, and impacted stakeholders to develop a longer-term strategy to effectively and safely manage TWW. SYASL will continue monitoring this issue.

Attachment 1 contains a list and descriptions of bills on which the SWANA LTF took a position or closely monitored during the 2020 legislative session, along with their final status, organized by issue area. Please note that in 2020, the Governor signed 457 and vetoed 56 bills.

Please do not hesitate to contact us if you have any questions about this material.

ATTACHMENT 1

Key Legislation by Issue Area

Beverage- Container Recycling

AB 793 (Ting) Recycling: plastic beverage containers: minimum content. - Support

This bill establishes minimum recycled content requirements for plastic beverage containers, and makes California's standards the strongest in the world. Specifically, AB 793 would require that beverage containers contain, on average, no less than 50 percent postconsumer recycled plastic content by January 1, 2030. The legislation is intended to develop domestic markets for recycled materials and take a critical step towards a circular economy.

Status: Signed Into Law

AB 2287 (Eggman) Solid waste: plastic products certification. - Support

This bill authorizes the use of agricultural mulch film plastic labeled "soil degradable" if it meets specified standards. AB 2287 also gives the Statewide Commission on Recycling Markets and Curbside Recycling an additional six months to make

certain market development policy recommendations. According to the author, the bill will help support the development and use of truly degradable alternatives to traditional plastics by updating California's existing "Truth in Environmental Advertising" law to reflect updated standards, certifications, and best practices for labeling products.

Status: Signed Into Law

SB 372 (Wieckowski) Beverage Container Recycling Act of 2020. - Watch

This bill would require distributors of beverage containers in the state to form a beverage container stewardship organization. The organization would be required to develop and submit a plan and budget for the recovery and recycling of empty beverage containers similar to that described in the Used Mattress Recovery and Recycling Act, and would require the organization to establish a stewardship fee, to be paid by distributor members of the organization, to assist in covering the costs of implementing the program. The act would require the organization to reimburse the department for the department's costs of enforcement. The bill would impose similar administrative civil penalties for a violation of these provisions.

Status: Failed on Senate Floor

Environmental Quality

AB 1672 (Bloom) Solid waste: flushable products. - Support

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste. This bill would, among other things, on or after January 1, 2021, prohibit a covered entity, as defined, from labeling a covered product as safe to flush, safe for sewer systems, or safe for septic systems, unless the product is a flushable wipe that meets certain performance standards. The bill would require nonflushable products to be labeled clearly and conspicuously to communicate that they should not be flushed, as specified.

Status: Held in the Senate Appropriations Committee

Hazardous Waste Regulations

AB 995 (Garcia, Cristina) Hazardous waste. - Concerns

This bill would create the Board of Environmental Safety within the California Environmental Protection Agency (CalEPA) to provide policy direction to and oversight of the Department of Toxic Substances Control (DTSC). The bill would provide requirements for the membership of the board and would require the board to conduct no less than 6 public meetings per year. The bill would provide for the duties of the board, which would include, among others, reviewing specified policies, processes, and programs within the hazardous waste control laws; proposing statutory, regulatory, and policy changes; and hearing and deciding appeals of hazardous waste facility permit decisions and certain financial assurance decisions. The bill would establish an office of ombudsperson in the board to receive complaints and suggestions, to evaluate complaints received, to report findings and make recommendations to the Director of Toxic Substances Control and the board, and to

render assistance. According to the veto message, the governor believed that the bill as written falls short of the goals the state has previously set for needed changes to better protect public health and safety. Without necessary funding, DTSC will be unable to deliver on the promise of this legislation.

Status: Vetoed by Governor

AB 1509 (Mullin) Solid waste: lithium-ion batteries. - Support

Creates a producer funded recycling program for lithium-ion batteries, including both loose batteries as well as ones embedded in products, reducing the number of improperly disposed of Li-ion batteries entering the waste stream. The intent of the bill is to improve the recycling of these products and also reduce fire hazards at solid waste facilities started by Li-ion batteries. Given the extended recess and legislative leadership ordering legislators to trim down their bill packages and focus on bills dealing with COVID-19 relief or homelessness, AB 1509 fell victim to this, and it did not make it through the legislative process.

Status: Held in the Senate Environmental Quality Committee

SB 68 (Galgiani) Hazardous waste: treated wood waste. - Support

This bill deletes the December 31, 2020, sunset on treated wood waste (TWW) statute. It requires the wood preserving industry to prepare training materials on how to best handle, dispose of, and otherwise manage TWW. SB 68 passed through the legislative process with bi-partisan support but was vetoed by Governor Newsom. According to the veto message, the governor believed this bill would create a significant additional mandate for DTSC to perform regular inspections of generators and disposal sites for treated wood waste. The governor also stated the Hazardous Waste Control Account (HWCA) currently has a structural deficit, and this unfunded new mandate will cost the department millions of dollars to implement, exacerbating this deficit.

Status: Vetoed by Governor

SB 1156 (Archuleta) Lithium-ion batteries: illegal disposal: fire prevention. - Support

This bill would require the Department of Forestry and Fire Protection (CAL FIRE), in consultation with relevant state agencies like the California Highway Patrol (CHP), the Department of Toxic Substances Control (DTSC), and the waste industry to develop protocols for the proper management of the disposal of lithium-ion batteries using existing resources, including safe handling, detection, and the suppression of fires originating from discarded lithium-ion batteries. It also requires CalRecycle to develop a guidance document to increase public knowledge and awareness regarding fire risk from improper disposal of lithium-ion batteries. The bill received bi-partisan support on the Assembly floor, but since amendments were made to the bill in the Assembly, the bill still needed to be taken up for a vote on the Senate floor for a concurrence vote. However, the clock ran out, and bill was not taken up before midnight, and therefore, failed passage out of the Legislature before the end of the legislative session.

Status: Failed on Senate floor

Miscellaneous

AB 2959 (Calderon) Solid waste: byproducts from the processing of food or beverages. – Watch

The California Integrated Waste Management Act of 1989 authorizes each county, city, district, or other local governmental agency to determine, among other things, whether solid waste handling services are provided for by means of a nonexclusive, partially exclusive, or wholly exclusive franchise, contract, license, permit, or otherwise. The act prohibits those local governmental entities from exercising that authority with regard to the hauling of byproducts from the processing of food or beverages if certain conditions are met, including the condition that the byproducts originate from, among others, entities required to be registered for the manufacture, packing, or holding of any processed food in this state and certain entities exempt from that registration. This bill would reauthorize those local governmental entities to exercise that authority if those byproducts originate from a supermarket, grocer, restaurant, or other retail food establishment. Given the extended recess and legislative leadership ordering legislators to trim down their bill packages and focus on bills dealing with COVID-19 relief or homelessness, AB 2959 fell victim to this, and it did not make it through the legislative process.

Status: Failed on Senate Environmental Quality

AB 3163 (Salas) Energy: biomethane procurement. - Support

This bill adds methane that is produced from the noncombustion thermal conversion of eligible biomass feedstock, as specified, to the definition of “biomethane” for purposes of gas utility biomethane procurement targets. Woody waste is a significant portion of organic waste in landfills which must be diverted to beneficial alternatives pursuant to SB 1383 (Lara, 2016).

Status: Signed Into Law

AB 3256 (E. Garcia) Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020. - Support If Amended

This bill would enact the Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$6,980,000,000 pursuant to the State General Obligation Bond Law to finance projects for an economic recovery, wildfire prevention, safe drinking water, drought preparation, and flood protection program.

Status: Held In Assembly Rules

SB 45 (Allen) Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020.- Support If Amended

This bill would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$5,510,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

Status: Held In Assembly Rules

SB 424 (Jackson) Tobacco products: single-use and multiuse components. - Support

This bill would prohibit a person or entity from selling, giving, or furnishing to another person of any age in this state a cigarette utilizing a single-use filter made of any material, an attachable and single-use plastic device meant to facilitate manual manipulation or filtration of a tobacco product, and a single-use electronic cigarette or vaporizer device. The bill would prohibit that selling, giving, or furnishing, whether conducted directly or indirectly through an in-person transaction, or by means of any public or private method of shipment or delivery to an address in this state.

Status: Held in the Assembly Governmental Organization Committee

Organic Source Reduction

SB 1191 (Dahle) Organic waste: reduction goals: local jurisdictions. - Support

This bill would allow low population counties and rural jurisdictions, as defined, to develop and implement alternative organic waste management programs in place of the rigid and costly Senate Bill 1383 (Lara; 2016) mandates. SB 1191 aligns the California Department of Resources Recycling and Recovery's (CalRecycle) organic waste management SB 1383 statute with the long-standing provisions that require CalRecycle to consider whether a jurisdiction or entity made a "good faith" effort to implement its recycling program before issuing a compliance order or imposing penalties on that jurisdiction or entity. However, given the truncated timeline, the proposal did not make it through this legislative session. The sponsor of this bill intends to reintroduce similar legislation the next legislative session.

Status: Held in Senate Environmental Quality

Recycling & Packaging Reform

AB 1080/SB 54 (Gonzalez/Allen) Solid waste: packaging and products. - Watch

Would establish the California Circular Economy and Plastic Pollution Reduction Act, which would have established a framework to address the pollution and waste crisis and set a statewide goal of ensuring that manufacturers reduce the waste generated by single-use plastic packaging and food ware products by 75% by 2032 through source reduction and recycling and composting. On the last month of session, the authors significantly amended both bills, which narrowed their scope to plastic and plastic coated fiber. Even though the authors attempted to address the concerns of the opposition, in the end many groups continued to oppose this measure and it failed. There has been no indication yet if the authors plan to reintroduce the measures next year.

Status: Failed on the Assembly Floor

Recycling

SB 667 (Hueso) Greenhouse gases: recycling infrastructure and facilities. - Support

This bill would have required CalRecycle to develop a five-year investment strategy necessary to meet specified organic waste reduction goals and allocate funding on a multi-year basis to CalRecycle's organic waste recycling program. However, the authored made amendments to this two-year bill the last month of the legislative session to require CalRecycle to develop by January 1, 2023 a 5-year needs assessment to support waste reduction and recycling targets.

Status: Held in the Assembly Appropriations Committee

Transportation

AB 2920 (Oberholte) Hazardous waste: transportation: consolidated manifesting procedure.- Support

This bill would authorize the consolidated manifesting procedure to be used additionally for retail hazardous waste, as defined, collected from a retailer engaged in business in the state. The bill would require, when using the consolidated manifesting procedure for retail hazardous waste, that incompatible materials transported in the same transport vehicle be managed pursuant to specified provisions that govern the transportation of hazardous waste.

Status: Signed Into Law

SB 895 (Archuleta) Energy: zero-emission fuel, infrastructure, and transportation technologies. - Watch

Current law requires the State Energy Resources Conservation and Development Commission, within the limits of available funds, to provide technical assistance and support for the development of petroleum diesel fuels that are as clean or cleaner than alternative clean fuels and clean diesel engines. This bill would instead require the commission, within the limits of available funds, to provide technical assistance and support for the development of zero-emission fuels, zero-emission fueling infrastructure, and zero-emission fuel transportation technologies.

Status: Signed Into Law