



***In this issue:***

***2011 Legislation***

**[AB 34 \(Williams\)](#)**

[Solid waste: compost market program](#)

**[AB 341 \(Chesbro\)](#)**

[Solid waste: diversion](#)

**[AB 514 \(Hernandez\)](#)**

[Public works: prevailing wage](#)

**[AB 1178 \(Ma\)](#)**

[Solid waste: place of origin](#)

**[SB 515 \(Corbett\)](#)**

[Product stewardship: batteries](#)

**[SB 567 \(DeSaulnier\)](#)**

[Recycling: plastic products](#)

**[SB 568 \(Lowenthal\)](#)**

[Recycling: polystyrene food containers](#)

**[SB 833 \(Vargas\)](#)**

[Solid waste: facilities permit](#)

**[SB 841 \(Wolk\)](#)**

[Solid waste: enterprise contracts](#)

**[2011-12 Legislation](#)**

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. ***Please see this section for specific action requests.***

**[Legislative Task Force Business](#)**

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

## [2011 Legislative Session](#)

The 2011 legislative session is well under way. Many bills have now become two-year bills either because they did not make it out of the fiscal committees or because their authors have decided to take a little bit more time to work on the proposals. It is important to remember that all two-year bills will need to be taken up and passed out of their house of origin next January. That is one month to pass policy committees, fiscal committees and the floor in their house of origin or the bills are dead for the session.

### [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 consultation with the LEA and CalRecycle, at that particular compost facility.

**LTF Position: Concerns**

**Status: Held in Assembly Appropriations**

### [AB 341 \(Chesbro\) Solid waste diversion](#)

This bill would 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.

**LTF Position: Oppose**

**Status: Referred to Senate Environmental Quality Committee**

### [AB 514 \(Hernandez\) Public works: prevailing wage: refuse hauling](#)

This bill would include in the definition of “hauling of refuse” the hauling of materials other than bona fide commodities sold at fair market value, thereby expanding the definition of “public works” and thus requiring the payment of prevailing wages for that activity. This bill would define “bona fide commodity” to mean a commodity for which a publicly traded commodity market exists, such as for copper, steel, or aluminum.

**LTF position: Oppose**

**Status: Set in Senate Labor and Industrial Relations for June 29, 2011**

### [AB 1178 \(Ma\) Solid waste: place of origin](#)

The bill would prohibit a city, county, or local agency from otherwise restricting or limiting in any way the importation of solid waste into that city or county based on place of origin because ensuring adequate and appropriate capacity for disposal of solid waste is a matter of state and regional concern.

**LTF Position: Oppose**

**Status: Referred to Senate Environmental Quality Committee (anticipated hearing date June 27th)**

### [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.

**LTF Position: Support**

**Status: Held in Senate Appropriations Committee**

## **[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 would prohibit the sale of a plastic product that is labeled as "biodegradable," "degradable," "decomposable," or as otherwise specified.

**LTF Position: Support**

**Status: Referred to the Assembly Natural Resources Committee**

## **[SB 568 \(Lowenthal\) Recycling: polystyrene food containers](#)**

This bill prohibits 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 allows 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 also allows 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 city or county elects to adopt an ordinance establishing a specified recycling program for polystyrene foam food containers.

**LTF Position: Support**

**Status: Referred to Assembly Natural Resources Committee**

## **[SB 833 \(Vargas\) Solid waste: facilities permit](#)**

This bill would additionally prohibit 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.

**LTF Position: Oppose**

**Status: Referred to Senate Environmental Quality Committee**

## **[SB 841 \(Wolk\) Solid waste: enterprise contracts](#)**

This bill would prohibit the enforcement of an indemnity obligation that requires a solid waste enterprise to defend and hold harmless the local agency in connection with the local agency's imposition of fees, charges, levies, exactions, or assessments that are found by final judgment of a court to have been imposed in violation of Article XIII C or XIID of the California Constitution or that require a solid waste enterprise to refund certain fees.

**LTF Position: Pending review of amendments**

**Status: Referred to Senate Rules**

## **[Resources](#)**

### **[Commercial Recycling](#)**

#### **New Commercial Recycling Resource Available from the Institute for Local Government**

The Institute for Local Government recently released a new resource to help cities and counties increase recycling by the business in their community. The Institute's new, sample commercial recycling flyer template is now available at: [www.ca-ilg.org/CommercialRecyclingFlyer](http://www.ca-ilg.org/CommercialRecyclingFlyer).

The sample flyers for businesses and apartments are available in English and Spanish and may be modified to fit the needs of individual cities and counties. Besides the sample flyers, cities and counties will also find an accompanying sample cover letter to connect and instructions for modifying the flyers.

The flyers will help cities and counties meet the “education and outreach” requirements of the proposed new commercial recycling regulations being developed by CalRecycle.

Additional Institute resources related to commercial recycling include [a sample commercial recycling ordinance](#), [case stories](#) about successful commercial recycling programs and education and outreach activities, and archived editions of the Institute’s commercial recycling [webinar series](#).

The Institute also offers a new series of short videos highlighting the experiences of local officials and others related to commercial recycling. The videos provide an opportunity to learn from colleagues and other experts. Topics covered include resources available on the [Commercial Recycling Resource Center](#), adopting a [commercial recycling ordinance](#) and taking advantage of [webinars](#) to learn about expanding recycling.

All resources are available at [www.ca-ilg.org/commercialrecycling](http://www.ca-ilg.org/commercialrecycling).

Resources developed for this project were supported through a partnership with CalRecycle. The Institute for Local Government is the non-profit research and education affiliate of the League of California Cities and the California State Association of Counties. The Institute’s mission is to promote good government at the local level with practical, impartial, and easy to use resources for California communities. ([www.ca-ilg.org](http://www.ca-ilg.org)).

## **Regulatory Information**

### **Department of Resources Recycling and Recovery (CalRecycle)**

#### **EPR Regulations**

##### **Paint Stewardship Program**

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.

##### **Key Elements of the Law**

[Chapter 420, Statutes of 2010 \(Huffman, AB 1343\)](#) sets forth the requirements of the statewide Paint Stewardship Program. Below are basic descriptions:

**Purpose:** To reduce the generation of postconsumer architectural paint, promote the reuse of post-consumer architectural paint, and manage the end-of-life of post-consumer architectural paint, in an environmentally sound fashion, including collection, transportation, processing, and disposal.

##### **Definitions:**

- “Architectural paint” means interior and exterior architectural coatings, sold in containers of five gallons or less for commercial or homeowner use, but does not include aerosol spray paint or architectural coatings purchased for industrial or original equipment manufacturer use.
- “Manufacturer” means a manufacturer of architectural paint.
- “Department” means the Department of Resources Recycling and Recovery (CalRecycle).

See the [law](#) for more definitions.

**Key roles:** In very basic terms, manufacturers (either individually or through a stewardship organization), design their own stewardship program. They prepare and implement a plan to reach certain goals and report to CalRecycle on their progress. CalRecycle approves plans, checks progress, and provides oversight and enforcement to ensure a level playing field among paint manufacturers. Other service providers, such as HHW management contractors, local HHW programs, and/or retailers, participate in the program as negotiated through the manufacturer or stewardship organization.

**Stewardship Plans:** The stewardship plan defines how a manufacturer or stewardship organization intends to fulfill its responsibilities under the law and communicates a course of action to stakeholders and the public. Plans will be posted at this website, along with ensuing annual reports which document a program's progress. Plans must include the following information:

- Demonstrate sufficient funding for the program, including a funding mechanism for securing and dispersing funds to cover administrative, operational, and capital costs, including the assessments of charges on architectural paint sold by manufacturers in this state.
- Coordination of the program with existing local HHW collection programs.
- Goals established by the manufacturer or stewardship organization to achieve the purpose, including recovery and recycling of post-consumer paint, as practical, based on current HHW program information.
- Education and outreach efforts.

**Financing:** A unique and very important aspect of the paint stewardship law is that it requires sustainable funding. Paint manufacturers are required to demonstrate sufficient funding for the program via an architectural paint stewardship assessment that must be approved by CalRecycle as part of the plan approval process. The architectural paint stewardship assessment for each container of architectural paint sold by manufacturers in the state will be remitted to a stewardship organization, if applicable. That assessment will be added to the cost of all architectural paint sold to California retailers and distributors, and, in turn, each of those retailers and distributors must add the assessment to the purchase price of all architectural paint sold in the state. The amount of the assessment shall be sufficient to meet, but not exceed, the cost of carrying out the plan. Any surplus funds must be put back into the program to reduce the costs of the program, including the assessment amount.

**Enforcement and Compliance:** Maintaining a level playing field among manufacturers is addressed through a combination of civil penalties for non-compliance and transparency that allows all stakeholders and the public to evaluate progress. For manufacturers to be in compliance, they must develop and implement a CalRecycle-approved stewardship plan, submit annual reports on the progress of their program, and submit an administrative fee to CalRecycle to cover the cost of services to administer and enforce this law.

**Reporting:** Annual reports will be posted at the CalRecycle website. These reports shall include information on volume of paint sold, postconsumer paint recovered, the methods used to collect, transport, and process postconsumer paint, the total program cost, an evaluation of the funding mechanism, an independent financial audit, and examples of educational materials provided to consumers.

You can subscribe to the [CalRecycle Paint Product Stewardship listserv](#) to receive periodic e-mail updates specific to CalRecycle-related implementation activities.

### **Carpet Stewardship Program**

In addition to the development of the Paint Stewardship Program regulations, CalRecycle is also in the beginning stages of developing regulations for the Carpet Stewardship Program and submitted the proposed regulations to the Office of Administrative Law on March 16, 2011.

## Key Elements of the law

[Chapter 681, Statutes of 2010 \(Perez, AB 2398\)](#) sets forth the requirements of the statewide Carpet Stewardship Program.

**Purpose:** Carpet product stewardship is to increase the amount of postconsumer carpet that is diverted from landfills and recycled into secondary products or otherwise managed in a manner that is consistent with the state's hierarchy for waste management to promote the following waste management practices in order of priority:

- Source reduction
- Recycling and composting
- Environmentally safe transformation and environmentally safe land disposal

## Definitions:

- "Carpet" means a manufactured article that is used in commercial or residential building affixed or placed on the floor or building walking surface as a decorative or functional building interior feature and this is primarily constructed of a top visible surface of synthetic face fibers or yarns or tufts attached to a backing system derived from synthetic or natural materials. It includes broadloom and carpet tiles; it does not include a rug, pad, cushion, or underlayment.
- "Department" means the Department of Resources Recycling and Recovery (CalRecycle).
- "CARE" means [Carpet America Recovery Effort](#), a third-party nonprofit carpet stewardship organization.

See the [law](#) for more definitions.

**Key roles:** In very basic terms, manufacturers (either individually or through their stewardship organization) design their own stewardship program: they prepare and implement a plan to reach certain goals, and report on their progress. CalRecycle approves plans, checks progress, and provides oversight and enforcement to ensure a level playing field among carpet manufacturers. Other service providers participate in the management system as negotiated.

**Stewardship Plans:** The stewardship plan plays a very important role in the program because it defines a program that is in compliance with the law and communicates a course of action to stakeholders and the public. Plans will be posted at this website, along with ensuing annual reports. Plans must include information on:

- How the plan will achieve the purpose;
- Goals that increase recycling of postconsumer carpet and increase diversion of postconsumer carpets from landfills, increase the recyclability of carpets, and incentivize the market growth of products made from postconsumer carpet;
- How the plan is consistent with the state's solid waste management hierarchy;
- Funding that is sufficient to carry out the plan, including administrative, operational, and capital costs, and payment of fees and incentive payments to cover costs of services provided;
- Education and outreach efforts; and
- Process for independent audits.

**Financing:** A unique and very important aspect of carpet stewardship is long-term, sustainable funding. There are two phases to funding outlined in AB 2398. There is an initial period, July 1, 2011 to January 1, 2013, where manufacturers will assess five cents (\$0.05) per square yard that can only be used for early action measures that are consistent with the purpose and designed to achieve measureable improvement in landfill diversion and recycling of postconsumer carpet. After January 1, 2013, manufacturers shall add

an assessment to the purchase price of carpet that is approved by CalRecycle. The amount of the assessment shall be sufficient to meet, but not exceed, the anticipated cost of carrying out the plan.

**Enforcement and Compliance:** Maintaining a level playing field among manufacturers is addressed through a combination of civil penalties for non-compliance and transparency that allows all stakeholders and the public to evaluate progress. For manufacturers to be in compliance, they must have an approved plan and demonstrate achievement of continuous and meaningful improvement in the rates of recycling and other goals included in an organization's plan.

**Reporting:** Annual reports will be posted at the CalRecycle website. These reports shall include information on amounts of carpet sold, postconsumer carpet recycled, ultimate disposition of collected carpets, program costs, an evaluation of performance and how to improve it, and examples of educational materials.

The proposed regulations can be viewed [here](#) on the CalRecycle Carpet Stewardship Program [webpage](#).

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 (CO<sub>2</sub>) 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](http://www.swanacal-leg.org).

You can view all related documents on the CalRecycle Mandatory Commercial Recycling [webpage](#).

### **Project Timeline**

CalRecycle and ARB staff have developed the following timeline for adoption, implementation and enforcement of the measure:

- **TBD**--ARB submittal of regulation package to the Office of Administrative Law, starting the 45-day comment period.
- **TBD**--ARB hearing to consider the adoption of the commercial recycling regulation.
- **January 1, 2012**--Effective date of the commercial recycling regulation.
- **July 1, 2012**--Effective date for jurisdictions and businesses to implement commercial recycling programs.
- **August 2014**--First review of jurisdictions' implementation of the regulation with reviews conducted every biennial or quadrennial review cycle thereafter.
- **2014 and 2019**--Staff conducts comprehensive waste characterization studies to measure the commercial recycling disposal and emission reductions at the statewide level.
- **2015**--CalRecycle evaluates effectiveness of regulation and reports to the ARB on progress; potentially sets additional goals.

## Upcoming CalRecycle Events

CalRecycle wants to assure all stakeholders that transparency and stakeholder involvement remains a high priority for the new department. 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 a [calendar of events](#) for the next few months by visiting the CalRecycle website.

## State Water Resources Control Board

### SWRCB Landfill WDR Fee

The State Water Resources Control Board (SWRCB) and the Solid Waste Industry have continued meeting to discuss the waste discharge fee (WDR) assessed on open and closed landfills. This fee has historically been assessed only on closed landfills since they do not contribute to the \$1.40 per ton Integrated Waste Management Account (IWMA). Due to a decline in landfill tonnage, CalRecycle’s revenue has also declined and a decision was made to not fully fund the SWRCB portion of the IWMA surcharge. Consequently, the SWRCB has decided to start billing landfills for their WDRs.

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.

The solid waste group will be working with the state and regional boards on development of a rating system that can be equitable and quantifiable especially between regional boards. The staff needs to provide a recommended funding system to the SWRCB in July 2011 with bills to be issued to landfills in November 2011. Given the unfortunately timing of the SWRCB process, the operator group reluctantly agreed to accept the proposed rating system for the upcoming fee since it is too late for most landfill operator’s 2011/2012 budgets.

***SWRCB staff has been proactively looking to include all landfill stakeholders in the review process and to verify the landfill operator contact list. The SWRCB staff contact for the landfill list is Glen Osterhage at 916-341-5032 and [gosterhage@waterboards.ca.gov](mailto:gosterhage@waterboards.ca.gov). Please be sure to contact Glen to ensure that your facility is accurately notified of any changes. The next Land Disposal Fee Stakeholders meeting is scheduled for Thursday June 30, 2011 at the Cal/EPA building or a conference line at 916-227-1132.***