



**SOLID WASTE AGENCY OF LAKE COUNTY, IL
2014 LEGISLATIVE POLICY**

The Solid Waste Agency of Lake County (SWALCO) is a Municipal Joint Action Agency established to implement the Lake County Solid Waste Management Plan. SWALCO is comprised of 42 Lake County municipalities, the County of Lake and the Great Lakes Naval Base. SWALCO's Board of Directors established the Legislative Committee to develop a legislative policy for ultimate approval by the Board of Directors. The Legislative Committee implements the approved policy.

Annually, the SWALCO Board of Directors approves a Legislative Policy that acts as a guide to our members, and informs our federal and state legislators and executive branch officials on SWALCO's legislative concerns and positions on issues. The following is SWALCO's 2014 Legislative Policy, which has been divided into state and federal levels.

SWALCO's 2014 LEGISLATIVE POLICY

SWALCO's legislative policy will be communicated to our elected representatives and will be used to provide input to organizations which SWALCO, or its members, are affiliated (for example: National Association of Counties, US Conference of Mayors, the Solid Waste Association of North America, Illinois Counties Solid Waste Management Association, Illinois Recycling Association, Lake County Municipal League, Northwest Municipal Conference and the Illinois Municipal League).

Legislative committees are the first, and most important, part of the process. At the state level, solid waste legislation is introduced and is generally referred to one committee in each of the chambers. In the Senate, the Environment Committee is the legislative starting point. In the House, it is also the Environment and Energy Committee. At the Federal level, the House Commerce Committee and its subcommittee on Commerce, Trade and Hazardous Materials handles solid waste initiatives. In the Senate, it's the Environment and Public Works Committee.

The following is a more detailed discussion of legislation of interest to SWALCO on both the state and federal levels.

State Level

1. ISSUE: INFORMATIONAL SUPPORT FOR OUR STATE DELEGATION

The SWALCO Legislative Committee and staff will coordinate with the Lake County legislative delegation in reviewing legislative initiatives.

Discussion

This past summer SWALCO attended two meetings held by Senator Morrison (July 24, 2013) and Representative Sente (August 28, 2013) that focused on environmental issues. At each meeting SWALCO discussed its current and upcoming legislative initiatives. SWALCO also stays in close contact with its legislative delegation through ongoing discussions with our lobbyist, Kip Kolkmeier. SWALCO staff and members of the Legislative Committee will strive to meet in person with all members of the legislative delegation in the coming year.

It is also important for SWALCO to support its delegation on an on-going basis regarding issues as they arise in Springfield. The state representatives often do not have the staff required to complete detailed assessments of issues. However, this is an area where the Agency can assist its legislators.

2. ISSUE: LOCAL SURCHARGE

Support amending the Illinois Environmental Protection Act to eliminate exempting wastes from state and local fees imposed by units of local government (\$1.27 per ton).

Discussion

Walter Willis was appointed to the Task Force on the Advancement of Materials Recycling and has attended all four meetings of the Task Force. The Task Force must submit a report to the General Assembly by January 1, 2015 and part of that report must address the funding of state and local programs that support oversight, regulation and new diversion programs. At this time, the Task Force has yet to take a position on the funding issue.

3. ISSUE: PRODUCT STEWARDSHIP AND PRODUCER RESPONSIBILITY, PAINT

Continue to support legislation, introduced in the 2013 session (HB 2274 and SB 1705), that fosters responsible product stewardship and producer responsibility and does not place unfunded mandates on local government resources. A primary focus for this legislative session will be on latex and oil based paints.

Discussion

The State of Oregon is the first state in the U.S. (since then California, Connecticut, Rhode Island, Vermont, Minnesota and Maine have passed similar legislation) to pass producer responsibility legislation for architectural paints (typical latex and oil based paints, not including industrial type paints). The legislation had the support of the American Coatings Association, the trade group that represents paint manufacturers. The legislation allows for the implementation of an "assessment fee" on paint that is passed on from the manufacturer, to the retailer and ultimately the consumer. This is different than the two other producer responsibility bills enacted in Illinois for electronics and mercury thermostats which don't provide for assessment fees. Another key component of the Oregon law is that the amount of the fee and the implementation of the program is determined and managed by the paint manufacturers not a state agency. The state does review, comment and approve the plan developed by the paint manufacturers on an

annual basis. The paint manufacturers are allowed to form a non-profit stewardship group, which required anti-trust language in the bill as well. The one downside of the Oregon bill is that it does not provide for the paint collector's collection costs to be covered by the manufacturers. Only the transportation and management of the paint is covered by the assessment fee.

Given that 35% of what we collect in our HCW program is paint, SWALCO is very interested in creating a more sustainable program for managing paint. The budget woes of the IEPA are well known and any efforts we can make to find more sustainable funding are well worth the effort. We will want to pursue cost recovery for our collection costs in any bill proposed in Illinois if possible.

In 2012 and 2013, SWALCO worked with other units of local government in Illinois, along with the Product Stewardship Institute, to build a coalition and strategy that led to the American Coating Association (ACA, which represents paint manufacturers) agreeing to introduce legislation in 2013. While the legislation did not move out of committee last year due to concerns from IRMA, there was a subject matter hearing held on November 5, 2013 by both the House and Senate Environment Committees. SWALCO attended and testified in support of the bill at the hearing. The goal is to re-introduce the bill in 2014 and to make changes to the bill to address concerns raised during the subject matter hearing.

4. ISSUE: IL ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT

Support an amendment to the IL Electronic Products Recycling and Reuse Act that reduces the number of sorting categories that processors must sort electronics into as part of data reporting to IEPA under the Act. This is another area of primary focus for SWALCO in the 2014 session.

Discussion

This past summer Sims, SWALCO's e-scrap processor, approached the Agency about reducing the number of sorting categories it must sort the e-scrap into for reporting to the IEPA. Currently the Act requires e-scrap processors to sort the material into 18 different categories, the next closest State law requires sorting into 5 categories. This increased sorting requirement increases costs to the processor for limited statistical data benefit. SWALCO worked with Sims to develop draft amendatory language and has circulated the draft language to the IEPA, and two other major processors in the State (Vintage Tech and SSI) for comments. SWALCO has also discussed this proposed amendment with the IL Environmental Council (IEC), and NSWMA, both of which support the concept. It is estimated that reducing the sorting categories from 18 to 5 or 6 will save the processors about \$0.01 per pound in processing costs which statewide will save over \$400,000 per year. If the processors are kept economically viable that also helps collectors like SWALCO to continue to be paid for our collection costs by the processors.

Representative Sente and Senator Morrison have already agreed to sponsor the bill in the 2014 session on behalf of SWALCO.

5. ISSUE: PRODUCT STEWARDSHIP AND PRODUCER RESPONSIBILITY, CARPET AND PADDING

Support legislation based on the Extended Producer Responsibility (EPR) model that would require carpet and padding manufacturers to work with other stakeholders to develop a statewide program to divert carpet and padding from landfilling to higher and better uses.

Discussion

Approximately 2% of the waste landfilled in IL or 280,000 tons per year of carpet and padding are estimated to be thrown away each year in IL. In 2011, California became the first and only State to date to pass EPR legislation for carpet recycling. The carpet industry had already formed an association, Carpet America Recovery Effort (CARE), to help with carpet recycling and that entity has become the stewardship group responsible for implementing the law in CA.

In the winter of 2013 the IL Carpet Recovery Working Group (CRWG) was formed and SWALCO is a member. This effort started with the 2012 fall workshop held by the IL chapter of SWANA (Walter Willis is current president of the chapter) that focused on carpet recycling. The CRWG now has approximately 25 members who represent the carpet manufacturers, carpet recyclers, C&D recycling facilities, installers, retailers, local government and NGOs. The CRWG voted at its September meeting to support the introduction of EPR legislation for carpet and pad recycling in the 2014 session. The CRWG is currently working on the broad parameters of the bill and once completed will be approaching legislators to sponsor the bill. One of the primary motives for introducing the legislation is the shift in the carpet industry to PET carpet and away from nylon. Nylon carpeting can be easily processed and has strong markets. PET, on the other hand, has very weak markets and is a cost for the processor to manage. As it displaces nylon carpet it threatens to drive the processors out of business, and without the processors and their infrastructure, carpet will not be recycled.

The CRWG has discussed its legislative intent with the carpet manufacturer's association, the Carpet and Rug Institute, which has made it known that it will oppose any EPR legislation introduced in IL. Last year the CRI was successful in defeating EPR legislation in MN and NY. MN does intend to introduce legislation again in 2014.

6. ISSUE: CONSTRUCTION OR DEMOLITION DEBRIS RECYCLING

The Agency will actively support legislation that addresses the construction and demolition debris recycling facilities' compliance with the 75% diversion requirement in Section 22.38 of the Act and helps create markets for materials.

Discussion

Section 22.38 of the Illinois Environmental Protection Act encourages the development of facilities that accept exclusively construction or demolition debris (as defined in the Act) as long as they limit the amount of non-recyclable construction or demolition debris to 25% or less of the total incoming volume and/or weight. During the 2009 legislative session, SWALCO, with Senator Link's help as a sponsor, was able to enact legislation (Senate Bill 125) that will make it easier for C&D recycling facilities to be located in

Lake County. The remaining issue with these facilities is their compliance with the limit of 25% or less of non-recyclable materials resulting from the recycling process. In essence they must achieve a 75% recycling rate or lose their special status under Section 22.38 of the Act. In 2009 SWALCO also supported HB 266, which became law, and allowed the use of wood as a fuel to be counted toward the 75% goal.

During the 2011 session, SWALCO worked with Senator Harmon and the C&D recycling industry to develop compromise language that was introduced as SB 1929. This bill eventually became law (P.A. 97-0230) and addressed the 75% diversion requirement. Per SB 1929 C&D recycling facilities can count “landfill related uses” as defined by the law, up to 35% of the incoming volume to meet the 75% diversion requirement. All such facilities must also get scales and compute the diversion percentage based on weight, not volume (or a mix of the two).

7. ISSUE: FOOD SCRAP COMPOSTING

The Agency will actively support legislation that promotes and supports the marketing of compost or enhances the market demand for compost derived from landscape waste alone or commingled with food scraps.

Discussion

With the passage of SB 99 in 2009 (which SWALCO supported and worked hard to see enacted) significant barriers to the development of food scrap composting sites were removed. The focus now is to ensure that markets exist for the final compost product from landscape only and landscape waste with food scraps. There is now one permitted composting facilities in Lake County pursuing permit approval to accept food scraps beyond the 10% additive rule.

8. ISSUE: RENEWABLE ENERGY FROM MSW SOURCES

Support the designation of municipal solid waste (MSW) derived energy as a renewable energy source. SWALCO may, on a case-by-case basis, support the establishment of renewable energy goals/requirements as a percentage of total energy output. This may also include support for tax credits and other incentives, including greenhouse gas offset credits that provide financial and/or environmental incentives for the development of renewable energy from MSW sources.

Discussion

Under current Illinois law, energy derived from municipal waste from non-landfill related uses does not count as a renewable energy source and therefore cannot be counted toward the 25% renewable portfolio standard per Illinois law (25% by 2025). Ironically, landfill gas does count as a renewable energy source.

9. ISSUE: POLLUTION CONTROL FACILITIES

Oppose changes that affect the local authority’s control over the siting of pollution control facilities.

Discussion

SWALCO firmly supports the current practice of having local units of government approve or deny the siting of pollution control facilities within their jurisdictions. This law has proven to be successful in Illinois. Any attempt to tamper with local control will be opposed by SWALCO. However, minor changes to the law that help streamline or clarify the process (often due to case law) will be evaluated on a case-by-case basis.

10. ISSUE: LANDFILL MATERIAL BANS

Oppose the banning of individual materials from landfills unless a viable alternative disposal technology is available.

Discussion

Waste bans have been used previously to eliminate landscape waste, white goods, electronics and oil from municipal solid waste landfills. These bans have reduced the amount of material going to landfills. However, the infrastructure needed to support the alternative disposal plan is rarely in place. SWALCO believes that a two-year period is required to ban material from a landfill and to set up the alternative disposal technology. In this interim period, the state agencies can address the alternative disposal methodologies needed to handle the banned material.

11. ISSUE: ENVIRONMENTAL FEE TRANSFER

Oppose the transfer of any state fees imposed on municipal solid waste to offset any shortfall in general fund revenues.

Discussion

The State applies two fees on waste accepted at landfills: a Subtitle D fee (this refers to the portion of the federal law known as the Resource Conservation and Recovery Act, which regulates municipal waste landfills) and a solid waste fee. The Illinois Environmental Protection Agency, Bureau of Land (BOL) uses these fees for its programs. These fees are used for enforcement grants, which enable Lake County and others to inspect solid waste facilities. It is imperative that these fees stay in the BOL and not be used for other State purposes SWALCO does not support the transfer of fees to the general fund and supports the expansion of the enforcement program to other Illinois communities.

SWALCO is reliant on our agreement with the Illinois Environmental Protection Agency for funding the disposal of the household chemical wastes we collect in our program. Securing and maintaining funding for this agreement is of the greatest importance to SWALCO.

12. ISSUE: DEPOSIT LEGISLATION

Oppose the imposition of a deposit on beverage containers. A \$0.05 or \$0.10 tax on beverage containers will negatively impact our recycling program, create a tax on residents and penalize retailers.

Discussion

Eleven states have enacted this deposit legislation. Hawaii adopted a deposit system in 2002. The remaining states adopted a deposit system prior to 1987. Generally it is aimed at reducing roadside litter by creating a financial incentive as well as recycling discarded materials. New York experienced a 30% reduction in roadside litter with their bottle bill.

SWALCO has approved a Capacity Agreement (effective January 1, 2009) with Waste Management Recycle America that will pay SWALCO members for their recyclables based on the actual value or blended value of the recyclables. Under the Agreement, if Illinois or the federal government enacts a bottle bill, WMRA has the authority under the Agreement to assess the impact of the bottle bill on its operations and potentially alter the terms of the Agreement as it relates to the amount paid for SWALCO members' recyclables.

Deposit legislation can expand access to the recycling system to all residents, but handling of deposit containers, either through retail stores or redemption, is an increased burden from a transportation and space standpoint - such as additional trips by residents to redeem containers and space required by retailers to store deposit containers. This financial burden on retail stores may be partially offset by the fees imposed by the deposit. The deposit is an additional tax on residents when they fail to redeem their containers. Curbside recycling represents a convenient way for residents to recycle their beverage containers.

13. ISSUE: LEAF BURNING BAN

The Agency will support a leaf burning ban bill, which provides for local control of burning ordinances.

Discussion

Over the last several years, SWALCO considered supporting a ban on burning leaves. Landscape waste is prohibited from being disposed of in landfills. Therefore, property owners must compost/mulch leaves at home, subscribe to a service for collection (which costs money) or burn them. Many member communities have banned or restricted the burning of leaves within their communities, while other communities have decided to not restrict the burning of leaves.

Burning leaves creates particulate emissions and causes the release of chemicals in the burning process. Many residents suffer respiratory distress as a result of this process. Leaf burning is a significant air pollution hazard and may be an increased health risk to humans. The Agency will consider supporting a leaf burning ban bill which provides for local control of burning ordinances.

14. ISSUE: RECYCLE RETAIL PLASTIC BAGS AND FILM

During the 2014 legislative session, the Agency will not pursue legislative action on plastic bags and film recycling. If other parties decide to pursue legislation, the Agency will review the proposed bill and make a determination on whether to support, oppose or go neutral at that time.

Discussion

While the issue of diverting plastic bags and film from final disposal remains important, the Agency has spent considerable time and resources on this issue during the 2011 and 2012 legislative sessions.

Federal Level

1. ISSUE: INTERSTATE WASTE

Support federal legislation which recognizes and "grandfathers" current interstate waste transport and disposal. Any bill that limits the future importation or exportation of waste should be evaluated to assess its impact on SWALCO's members before a final policy position is taken.

Discussion

Midwest states do not want to be considered dumping grounds for east coast or Canadian generated waste. Many communities, however, signed agreements to accept waste from outside of their state when their local landfill was developed. They benefited in this arrangement by receiving host fees for this waste. Several states, primarily Michigan with its concerns over waste imports from Canada, have attempted to enact federal legislation to limit or restrict the flow of waste from other states and/or countries. In Illinois we recognize that a significant quantity of Chicago metro waste is transported to landfills in Wisconsin, Michigan and Indiana. Any federal attempt to legislate the flow of waste must be closely scrutinized and evaluated before a position can be taken.

2. ISSUE: PERMITTING SOLID WASTE FACILITIES

Support legislation, which provides for state permitting and local land development controls over solid waste transportation facilities.

Discussion

The Surface Transportation Board (STB) has regulatory authority of all rail facilities. This Board is part of the US Department of Transportation. Currently, the STB exempts rail operators from complying with state and local solid waste laws and regulation. Solid waste handling facilities require active environmental regulation to ensure minimal impact to the environment. State and local governments engage in long-term planning for

waste management facilities. The development of solid waste rail capacity is desirable to reduce the impact of truck traffic on local and state roads. However, solid waste rail facilities have potential negative environmental consequences and therefore local and state permits are essential.

Therefore it is necessary to ensure that these solid waste facilities are compliant with environmental permitting and local land use planning. Therefore, Title 49 of the United States Code should be amended to require state permitting of rail solid waste facilities.

3. ISSUE: FLOW CONTROL

Take no action on flow control, other than to work with other solid waste and municipal organizations to monitor the progress of any flow control legislation and ensure that local governments can institute franchise refuse collection and continue to act as a market participant to direct their waste and/or recyclables to facilities pursuant to competitively bid contracts.

Discussion

The US Supreme Court has upheld the right of communities to enact flow control by acting as a market participant. The Court went further with its April 30, 2007 decision in the *United Haulers v. Oneida-Herkimer Solid Waste Management Authority* case where the Court sustained the flow control ordinances of the Waste Authority. The Court held that directing waste or recyclables to publicly owned facilities was constitutional. The Court has now created a public-private distinction with respect to the Commerce Clause of the U.S. Constitution.

This means that SWALCO has the legal authority to direct its waste and recyclables to publicly owned disposal sites and recycling centers. What isn't clear in the decision is what ability public entities have to direct materials to privately owned or operated facilities. Regardless, SWALCO does have the authority to act as a market participant and direct materials to facilities as part of competitively bid contracts.

4. ISSUE: SUPERFUND RE-AUTHORIZATION

Work with our federal legislators on revisions to the Superfund Act to cap municipal liability. Participate with national organizations as they consider positions on the reform of the Superfund law.

Discussion

It is widely accepted that the existing Superfund law is not working as envisioned. The "polluter pays" approach is an important part of the original legislation. However, the due process provision, for the Potentially Responsible Parties (PRP), often delays cleanups from occurring.

Any change in the liability and cost distribution will impact funding for Superfund. Funding, in general, is a key issue for Congress.

5. ISSUE: RENEWABLE ENERGY FROM MSW SOURCES

Support the designation of municipal solid waste (MSW) derived energy as a renewable energy source. SWALCO may, on a case-by-case basis, support the establishment of renewable energy goals/requirements as a percentage of total energy output. This may also include support for tax credits and other incentives, including greenhouse gas offset credits that provide financial and/or environmental incentives for the development of renewable energy from MSW sources.

Discussion

Methane gas energy production is an example of energy production from waste sources. The primary method of waste management in Lake County is landfilling. All three landfills serving Lake County collect and generate energy from methane gas. This capability is facilitated through tax incentives. It is also a source of renewable energy production.

Also of interest is energy derived from alternative waste management technologies including anaerobic digestion and MSW gasification. Both technologies are well proven with other feed stocks, but have yet to be utilized for MSW in the U.S. due to unfavorable economics and the U.S.'s continued reliance on landfilling. Several alternative technology projects are proceeding in both California and Florida. Essential to the economics of these projects is the designation of the energy as a renewable energy source. Large utilities are now searching for renewable energy projects and are often willing to pay a premium for the energy. These projects also have the potential to reduce the amount of greenhouse gases (GHG) emitted in the production of energy, especially as related to coal power plants.

6. ISSUE: PRODUCT STEWARDSHIP AND PRODUCER RESPONSIBILITY

Support legislation that fosters responsible product stewardship and producer responsibility. Most attention is currently focused on the electronics industry. SWALCO supports a national policy, but in the absence of a national policy will support a state-based program (please refer to the state level discussion).

Discussion

Product stewardship is a product-centered approach to environmental protection. Product stewardship calls on all those in the product life cycle--manufacturers, retailers, users, and waste managers --to share responsibility for reducing the environmental impacts of products. States such as Illinois, California, Maine and Massachusetts have enacted legislation to divert electronic products, such as home computers and Cathode Ray Tubes (CRTs), from municipal waste disposal facilities.

Product stewardship recognizes that product manufacturers should take on new responsibilities to reduce the adverse environmental impact of their products. However, all participants in a product life cycle, including retailers, consumers, and waste managers have important roles to play in working in cooperation with product manufacturers to develop the most workable and cost-effective solutions.

From a solid waste manager's perspective, product stewardship refers to the actions that should be taken with respect to product design, reuse, collection, recycling and disposal

in order to avoid adverse environmental impacts from the disposal of the product. Manufacturers must design their products to facilitate disassembly and recycling. Consumers must be educated on how to properly dispose of products. Education can be approached through information developed by manufacturers and provided to consumers through product stickers, operation manuals and advertising. Most importantly, an infrastructure must be developed to properly and responsibly handle the product if it's diverted from the municipal solid waste stream