



CALIFORNIA CHAPTERS
FOUNDING
SIERRA
GOLD RUSH
LEGISLATIVE TASK FORCE
www.swanacal-leg.org

LEGISLATIVE ADVOCATES
PAUL J. YODER
JASON SCHMELZER
Shaw / Yoder / Antwih, Inc.
1415 L Street, Suite 1000
Sacramento, CA 95814
(916) 446-4656
FAX (916) 446-4318
paul@shawyoderantwih.com
jason@shawyoderantwih.com

CHAIR
MARK A. BOWERS
City of Sunnyvale
PO Box 3707
Sunnyvale, CA 94088
(408) 730-7421
mbowers@sunnyvale.ca.gov

VICE CHAIR
GLENN ACOSTA, P.E.
Sanitation Districts of Los Angeles County
1955 Workman Mill Road
Whittier, CA 90601
(562) 908-4288
gacosta@lacsdc.org

TREASURER
ERIC ZETZ
City of Clovis
155 N. Sunnyside Avenue
Clovis, CA 93611
(559) 324-2612
ericz@ci.clovis.ca.us

SECRETARY
CHRIS HANSON
County Of Placer
3033 Fiddymont Road
Roseville, CA 95747
(530) 886-4965
Chanson@placer.ca.gov

January 17, 2017

Clerk of the Board
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812-2815

Via: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Subject: Comments on the Air Resources Board's November 2016
Proposed Short-Lived Climate Pollutant Reduction Strategy

Dear Chair Nichols and Board Members,

On behalf of the Legislative Task Force (LTF) of the California Chapters of the Solid Waste Association of North America (SWANA), I would like to thank you for the opportunity to comment on the Air Resources Board's (ARB's) Proposed Short-Lived Climate Pollutant (SLCP) Reduction Strategy (Draft Strategy). The California Chapters of SWANA represent much of the publicly-owned and operated solid waste management infrastructure in the state and the local governments responsible for implementing waste diversion and recycling programs. The SWANA LTF represents the California Chapters on legislative and regulatory matters.

The SWANA LTF acknowledges the State's efforts to address climate change through the implementation of the SLCP reduction strategies. We want to collaborate in these efforts but in a manner that is technically and financially feasible, and that recognizes that it will take time to build the necessary organics recycling infrastructure. Our comments below are intended to highlight these points.

SWANA's California Chapters signed on to a coalition letter on May 26, 2016, commenting on the April 2016 draft of the SLCP Reduction Strategy. After a review of the current draft of the SLCP Reduction Strategy, our comments and concerns essentially remain the same. Therefore, this letter reiterates our earlier comments and adds two additional comments.

MEASUREMENT OF ORGANIC WASTE REDUCTION SHOULD BE ONGOING

As stated on Page 76 of the Draft Strategy, a detailed analysis of the progress towards meeting 2020 and 2025 organics waste reduction goals will be completed by CalRecycle by July 1, 2020, in consultation with ARB. SWANA believes that evaluating progress towards meeting the 2020 and 2025 reduction goals should be an ongoing effort. The solid waste industry is currently working to meet the 2020 goal; however, waiting to begin the evaluation effort until 2020 could miss key opportunities to uncover and find solutions to roadblocks encountered along the way.

NEED FOR FINANCING OF ORGANICS RECYCLING INFRASTRUCTURE

Enormous challenges will be faced by local governments and private companies to finance the organics recycling infrastructure needed to meet the diversion goals. This letter and the May 26, 2016 letter go into greater detail on this issue. However, SWANA would like to emphasize that revenue sources outside of the cap-and-trade program (e.g. tipping fee increases) will need to be approved through legislative action. Fee increases developed through any other process would not be supported by SWANA.

OVERARCHING CONCERNS

Achieving 75 percent diversion of organics by 2025 may be unrealistic given the lack of infrastructure and the financial and policy challenges. The principal focus of ARB, CalRecycle, and the stakeholders in the near term should be on FULL implementation of AB 1826 (Chesbro, 2014 – Mandatory Commercial Organics Recycling), AB 341 (Chesbro, 2011 - Mandatory Commercial Recycling), and AB 1594 (Williams, 2014 – Green Materials Used as Alternative Daily Cover at Landfills). The mechanics to divert organics from landfills is not the problem; the main challenge is the infrastructure needed to process and manage the organics once diverted. This not only includes raising the capital to build the necessary facilities, but also addressing the regulatory constraints in siting and permitting the facilities, and developing markets for the end products produced.

CalRecycle estimated it will require an additional 100 new or expanded facilities to process the diverted organics from AB 1826 by 2020. Quite frankly, it is unrealistic to believe that this number of facilities can be built within the next three and one-half years given the challenges of the permitting process. Yet the Draft Strategy proposes to accelerate the existing organics diversion goal before implementation of AB 1826 has even begun.

California has added about 13 active anaerobic digestion (AD) facilities and 169 active composting facilities in the past 20 years. Using CalRecycle's estimate for the 50 percent diversion, approximately 165 to 180 new facilities must be financed, sited, permitted, and built in the next eight and one-half years to achieve the 75 percent target by 2025.

KEY ISSUES THAT NEED FURTHER CONSIDERATION

- **AB 341, AB 1826, & AB 1594 will not be fully implemented until 2020 – or later.** AB 1826 requires the diversion of organic waste collected from all large generators of solid waste by 2020 at a likely cost of more than \$1 billion. Although CalRecycle is seeking authority to expend as much as \$100 million per year between now and 2020, the availability of this funding is uncertain, and a complete plan to site, permit, and finance the necessary facilities has yet to be developed. The results and effectiveness of these programs will not be known until sometime after 2020. It is unclear how the proposed Draft Strategy would overlap or conflict with these existing legislative requirements.
- **To implement the Draft Strategy, what are the costs, who pays and how difficult is it to site new facilities?** Getting to 75 percent diversion of organics by 2025 will require a focus on materials that are much more difficult to separate and beneficially use – either at the point of generation or after subsequent processing. It is not clear how this will be done for that massive amount of material, nor at what cost. Certainly it will take time. To create sufficient infrastructure to get beyond the existing statutory requirements to 75 percent may require an additional \$1-\$2 billion or more of capital investment. It is not clear how this will be financed, who will pay, and what the true benefits will be when weighed against all the environmental impacts.
- **Energy Recovery Technologies.** Energy recovery and other alternative technologies are currently discouraged, both in law and in practice, in California, although conversion of organic waste streams to fuels can produce very low (or negative) carbon fuels. Beneficially using up to 75 percent of the organics in the waste stream may

require the use of alternative technologies to process low value, difficult to manage mixed residual solid wastes containing organics to extract energy and/or fuel value.

- **Landfill early action measure.** One of the first measures that CARB implemented after the passage of AB 32 was the development of the Landfill Methane Control Measure to reduce the concentration of methane at the surfaces of virtually all California landfills. After a significant investment by the solid waste industry, approximately 95 percent of all landfills in California now have an active gas collection system operating in compliance with this early action measure. The Draft Strategy does not provide any findings on the success or adequacy of this measure and does not appear to recognize any benefit from this landfill emission control measure. Coupled with an expanded program for organic waste diversion that goes beyond the new programs referenced above, the efficacy of this early action measure should be thoroughly evaluated in comparison to emissions and environmental impacts under an organics landfill disposal ban.
- **Uncertainty over landfill methane emissions.** The Draft Strategy acknowledges that there is incomplete and uncertain information about actual landfill methane emissions. There has been much recent research performed to try to close this information gap. SWANA recommends that ARB review these studies and encourages the development of a program to more accurately assess landfill methane capture efficiencies.

RECOMMENDATIONS

We believe that the existing 50 percent organics diversion by 2020 established in AB 1826 is a reasonable target. Prior to considering higher goals we must first implement and assess the impacts of the ambitious goals set by AB 1826, as well as the 75 percent recycling and composting goal set by AB 341, and the green material goals set forth in AB 1594.

However, even these goals cannot be achieved without more than just a commitment from agencies to cooperate on permitting and siting issues. We will need concrete policy and financial support at the local and state level to facilitate siting and permitting of the facilities that are needed. This cannot be accomplished without creative input and cooperation from local government, state government, and the solid waste industry. We recommend that CalEPA, in implementing AB 1045 (Irwin), establish a workgroup specifically related to siting issues.

We also believe in a reasonable market-based approach as exemplified in AB 1826. We need to focus on fully implementing the mandatory commercial organics program required by that bill. At that point, we will know how effectively the siting and funding strategies outlined in the Draft Strategy have worked and we also will know if the State is on track to site, permit, and build the required organics infrastructure to reach the 50 percent organic waste diversion goal.

Setting the 75 percent organic waste diversion goal requires much more analysis of the available AD and composting capacities. In the near term, excess digester capacity at municipal wastewater treatment plants should be available. We recommend that ARB and CalRecycle, in consultation with the State Water Resources Control Board, the California Energy Commission, and the California Public Utilities Commission, work with the appropriate local agencies on:

- the necessary processing requirements to ensure that available food waste streams are compatible with wastewater digester requirements
- the funding required for managing this additional waste stream
- barriers that must be lowered for these facilities to effectively utilize the additional biogas to its highest use (e.g., pipeline injection).

We strongly support the conclusion in the Draft Strategy that landfills should not be placed under cap-and-trade. We also support the reasoned approach recommended in the Draft Strategy that a Phase 2 of the Landfill Methane Rule should not be undertaken without additional technical analysis. We need to know what has been accomplished from Phase 1 before determining if adding additional measures will be effective in reducing methane emissions and whether

any new measures would be cost effective. The ARB should form a workgroup to fully evaluate how best to estimate emissions from landfills.

Finally, we need more certainty regarding funding and the availability of State funding to help with capital costs and/or incentive payments. There is concern in the private sector that the rate structures set through contracts and franchise agreements will not be revised to help fund organics infrastructure. Also, funding from the Greenhouse Gas Reduction Fund (GGRF) will be helpful, but only if that amount is allocated on an ongoing basis for at least 5 years. These very aggressive organic waste diversion goals set by the Draft Strategy can only be implemented if adequate funding is committed by the State.

Please contact me at Jason@shawyoderantwih.com if you have any questions or require further information about our comments, recommendations and concerns.

Sincerely,

A handwritten signature in black ink that reads "Jason Schmelzer". The signature is written in a cursive, flowing style.

Jason Schmelzer
Partner
Shaw / Yoder / Antwih, Inc.