



<http://www.calrecycle.ca.gov/Climate/SLCP/Comments/Form1/default.htm>

### **Short-Lived Climate Pollutants (SLCP) Rulemaking Concept Comments Form**

---

Submit your comments on the upcoming Short-Lived Climate Pollutants Rulemaking process here. Please refer to the most recent concept documents and handouts posted on [SB 1383 Stakeholder Workshop: Sacramento, September 20, 2017](#). You can still use the form below to comment on concepts presented at the [past workshops](#).

The information in this form cannot be saved, so consider drafting your comments in another format (i.e., Notepad or Word document) before inputting your comments into the form. This is also a good idea in case your web connection is lost. At the time of submission, a message with these comments is sent to CalRecycle and can be forwarded back upon written request to [SLCP.Organics@calrecycle.ca.gov](mailto:SLCP.Organics@calrecycle.ca.gov). Stakeholders may submit multiple comment forms, though we are prioritizing comments received by Friday, September 29, 2017.

#### **September 29, 2017**

On behalf of the California Chapters of the Solid Waste Association of North America's (SWANA) Legislative Task Force (LTF), we write to you to provide feedback on CalRecycle's proposed SB 1383 regulatory concepts.

SWANA is the world's largest association of solid waste professionals (7,700 members). SWANA's California chapters represent more than 900 members. SWANA represents 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 LTF is responsible for representing the California Chapters on legislative and regulatory issues. SWANA is committed to advancing the practice of environmentally- and economically-sound management of municipal solid waste.

Below we provide comments on the most recent set of concepts, as well as reiterate feedback previously provided after prior workshops.

#### **Organic Waste Processing, Recycling and Solid Waste Facility Concepts**

##### **Operations at Facilities Receiving, Processing, and/or Recycling Organic Waste:**

We are concerned with the requirement for tracking and reporting of contamination levels, as levels of acceptable contamination vary by management technique and end use. Additionally, we are opposed to a one-size-fits-all approach to facility performance standards, as it does not consider local conditions, such as the local waste stream, other recycling programs in place, facility design and capabilities, and, most importantly, available local markets.

#### **Infrastructure Capacity and Planning**

##### **Comments:**

As we have noted before, the main challenge solid waste facilities face is the infrastructure needed to process and manage organics once diverted from landfills. 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 end products produced.

LEGISLATIVE ADVOCATES

Jason Schmelzer and Melissa Immel

Shaw / Yoder / Antwih, Inc. • 1415 L Street, Suite 1000, Sacramento, CA 95814 • (916) 446-4656 • Fax (916) 446-4318

Our members are also experiencing permitting and enforcement actions by some air quality districts that indicate that air district priorities do not line up with CARB's perspective on the urgency and importance of reducing disposal of organics.

We know that the gap between existing infrastructure capacity and the identified need for new and expanded facilities to reach the 75% by 2025 target is sizable. The regulatory concepts propose that, beginning in 2022, counties will need to estimate the amount of organic waste that is currently disposed and would be disposed under current conditions in 2025, existing recycling capacity, the amount of additional organics recycling capacity needed to reach the 75% by 2025 goal, and the amount of capacity expected to be available by 2025 and thereafter. Gathering this information is an important first step. We support the concepts' necessary inclusion of requirements for counties to consult with owners and operators of existing facilities to gather information regarding plans for new or expanded infrastructure relative to those existing facilities, and the impacts of the overall capacity analysis and need for additional infrastructure during the planning horizon.

The regulatory concepts also propose that jurisdictions submit an implementation schedule to CalRecycle to identify planning efforts to secure additional capacity by 2025. We would point out that CalRecycle should consider how these reporting requirements will interact with existing processes, such as information provided in counties' annual reports that account for a 15-year horizon, as required by AB 876 (Chapter 593, Statutes of 2015).

Once CalRecycle has data regarding infrastructure needs, we would urge flexibility in enforcement to allow for reasonable timelines to achieve compliance based on the gap between current and needed levels of capacity and service availability.

Further, a sustainable funding source has yet to be identified. Sufficient infrastructure is not yet available throughout the state, and sustainable funding to build the necessary infrastructure does not yet exist.

We appreciate the Administration's recent support for a one-time \$40 million allocation from the Greenhouse Gas Reduction Fund to support these efforts, which will certainly be helpful. However, the GGRG is not a consistent, reliable long-term solution.

Additionally, we'd note that any potential tip fee or generator charge reform would have to be approved with a 2/3 vote by the Legislature, and we have not seen any signals to indicate the feasibility of passing such a proposal. So, further conversations need to be had about sustainable funding sources to provide certainty and develop the necessary infrastructure to achieve the state's diversion goals.

### **Reporting**

#### **Facilities:**

As we've commented before, in mixed waste systems, quantifying incoming organics will be nearly impossible. Tracking source separated food waste will be doable, but not green and wood waste that may come in with other waste.

### **Compliance and Enforcement**

#### **Entities with Potential Implementation Obligations:**

We would urge the regulations to clarify how CalRecycle will determine compliance and specify the desired accuracy of the measurable criteria.

#### **Potential Compliance and Enforcement Structure:**

When the time comes for determining compliance and enforcement, these efforts should be tempered by infrastructure capacity and end market factors. Additionally, we urge CalRecycle to use the "good faith effort" process and to develop factors similar to those found in PRC Section 42649.82(h).

LEGISLATIVE ADVOCATES

Jason Schmelzer and Melissa Immel

Shaw / Yoder / Antwih, Inc. • 1415 L Street, Suite 1000, Sacramento, CA 95814 • (916) 446-4656 • Fax (916) 446-4318

### **Indicators of Compliance and Factors Relevant to Enforcement Decisions:**

The SWANA LTF acknowledges the State's efforts to address climate change through the implementation of the SLCF reduction strategies. As previously stated, we want to collaborate in these efforts but they must be implemented in a manner that is technically and financially feasible, and that recognizes that it will take time to build the necessary organics recycling infrastructure and end use markets. Overall, we'd like to see some consideration of good faith efforts in the regulations put forward next month. We foresee significant gaps between unreasonable timelines and the current reality we face, so we would urge the inclusion of good faith efforts in compliance standards.

Specifically, we would point to Sections 42649.82, 42649.83, and 42649.84 of the Public Resources Code, as enacted by AB 1826 (Chapter 727, Statutes of 2014), as an example of good faith considerations within commercial organic recycling programs. We'd like to see similar standards and processes extended to the SB 1383 organics recycling efforts via the regulatory process.

We encourage CalRecycle to begin by implementing a robust technical assistance program to jurisdictions, facility operators, and haulers, as well as to provide technical assistance and education to commercial and residential generators. These efforts will be critically important to fully implement and achieve the goals of a statewide organic waste diversion program.

We look forward to continuing to work with CalRecycle and CARB in these efforts.

### **Market Development**

#### **Comments:**

We understand that SB 1383 directed CalRecycle and others to increase the sustainable production of renewable natural gas, including biomethane and biogas, based on recommendations from the CEC's 2017 Integrated Energy Policy Report. SB 1383 also directs the Air Resources Board to make recommendations to the Legislature for expanding biogas as a credit-generating fuel under the Low Carbon Fuel Standard.

We look forward to reviewing the recommendations from the IEPR, which have yet to be released. We would support efforts to allow and encourage energy recovery and other alternative technologies, as 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.

The regulatory concepts also propose establishing minimum post-consumer recycled content products and compostable or recyclable products procurement standards. We would support such standards, and particularly would urge the state to engage agencies such as Caltrans and DGS to achieve procurement standards as well, so that the state's practices are aligned with the policies it proposes for localities.

We cannot currently discuss markets without acknowledging the recent announcement that China has formally stated its intent to ban, by the end of this year, imports of certain recyclable materials, including plastics and mixed paper. China is currently the predominant market for recycling such materials generated in California. CalRecycle's report, published in June 2017 and titled, "2016 California Exports of Recyclable Materials," notes that, "China was the top destination country for recyclable materials exported from California ports, receiving 9.2 million tons (62 percent) in 2016." It is imperative that CalRecycle develop the SB 1383 regulations within the context of this enormous threat to current and future markets. This is an important reminder that diversion or recycling requirements alone cannot achieve the State's goals, and that develop of in-state markets is critically important to the success of this program.

Thank you for the opportunity to provide feedback. We look forward to continuing to work with CalRecycle and CARB in these efforts.

LEGISLATIVE ADVOCATES

Jason Schmelzer and Melissa Immel

Shaw / Yoder / Antwih, Inc. • 1415 L Street, Suite 1000, Sacramento, CA 95814 • (916) 446-4656 • Fax (916) 446-4318