



June 17, 2014

The Honorable Wesley Chesbro  
California State Assembly  
State Capitol, Room 2141  
Sacramento, CA 95814

**RE: AB 1826 (Chesbro) – Mandatory Commercial Organic Waste  
Recycling - SWANA - SUPPORT IF AMENDED**

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Dear Assemblyman Chesbro,

The Solid Waste Association of North America (SWANA) is the world's largest association of solid waste professionals (7700 members). SWANA's California chapters represent more than 900 members. SWANA is committed to advancing the practice of environmentally- and economically-sound management of municipal solid waste. SWANA's California Legislative Task Force (LTF) is responsible for representing the California Chapters on legislative and regulatory issues.

**Specific Changes Needed**

The SWANA LTF believes that the goal of AB 1826 – to increase diversion of organic waste to reduce greenhouse gas emissions – is laudable. We believe that AB 1826 as amended in Senate June 16, 2014, while in need of some essential modifications to be workable for the local jurisdictions responsible for implementation, is a good starting point. Given the similar goal and structure of Mandatory Commercial Recycling (AB 341) and Mandatory Commercial Organic Waste Recycling (AB 1826), it is critically important that the standards, thresholds and obligation of the legislations also remain consistent to streamline compliance. The SWANA LTF would be pleased to **SUPPORT AB 1826 IF AMENDED** to operate as outlined below.

*Compliance Trigger*

AB 1826 contains a tiered approach to implementation that captures smaller generators of commercial organic waste into the program over time. The SWANA LTF is concerned that the approach taken in the third tier will create unnecessary complications for the local jurisdictions responsible for demonstrating a "good faith effort" to track and monitor compliance by commercial entities subject to the bill.

SWANA's specific concern is how the bill triggers compliance requirements for commercial entities, which impacts how local jurisdictions will be required to track compliance for purposes of demonstrating a good faith effort. The third tier as

proposed would require a separate tracking mechanism from that established for Mandatory Commercial Recycling by AB 341 and currently implemented throughout the State.

SWANA would respectfully request that the bill be amended to be consistent with the existing mandatory commercial recycling regulations, with inclusion of a *de minimus* exemption, as outlined below. Again, consistency with existing regulations will avoid unnecessary complications and streamline implementation for both local jurisdictions and businesses, which will help attain full compliance. Specifically, we propose the following amendment to PRC § 42649.81(a)(3):

*"On and after January 1, 2019, a business that generates four cubic yards or more of solid waste, as defined in Section 42649.1, per week shall arrange for recycling services specifically for organic waste in the manner specified in subdivision (b)."*

And to PRC §42649.82(e)(3):

*Exemptions deemed appropriate by the jurisdiction for reasons such as, but not limited to, zoning requirements, lack of sufficient space in multi-family complexes or businesses to provide additional recycling bins, generation of less than ½ cubic yard of organic waste per week, or current implementation by a business of actions that result in recycling of a significant portion of its commercial organic waste.*

#### Addition of a Fourth Implementation Tier

The SWANA LTF believes that AB 1826 addresses the need to reduce the disposal of organic wastes, and this is especially true when combined with further reductions expected to be achieved through the passage of AB 1594 (Williams, 2014). The SWANA LTF has adopted the position of "Neutral" on AB 1594 as amended in Senate June 12, 2014, and is communicating this position with the author's office under separate cover.

There is currently a discussion among stakeholders regarding the addition of a fourth implementation tier that could trigger additional requirements in the mandatory commercial organic waste recycling program as of 1/1/2020, but only if overall disposal of organic waste is not reduced by 50% from 2014 levels.

SWANA does not believe that AB 1826 should include a trigger for a fourth implementation tier whereby CalRecycle is provided full discretion to administratively expand the mandatory commercial organic waste recycling program in 2020 based on the supposition that projected goals may not be met. At that time, if additional reductions in organic waste disposal are necessary, the Legislature should consider the best options available related to how and where the desired reductions can be achieved. As such, SWANA would oppose the inclusion of a pre-determined fourth implementation tier.

### Food-Soiled Paper

When AB 1826 was amended on June 16, 2014 the definition of "organic waste" was changed to include "*food-soiled paper that is mixed in with food waste.*" The SWANA LTF is concerned that the definition of "organic waste" should exclude food-soiled paper because the material does not readily break down in most anaerobic digestion and composting facilities, and mandated inclusion of this waste stream in the definition of organic waste will introduce a source of contamination to many organic waste handling facilities.

AB 1826 creates a locally-based organic waste recycling program, and because not all jurisdictions will have the technology available to appropriately process food-soiled paper the SWANA LTF strongly believes that "food-soiled paper" should be excluded from the definition of "organic waste". As we read the bill, all jurisdictions would be required to include food-soiled paper in their programs whether they are able to recycle the material or not. In many cases, food-soiled paper will be combined with other organic wastes and will then have to be separated from that waste stream and ultimately disposed.

In order to find a middle ground on this issue, we would suggest the following amendment to PRC 42649.8(c)

"Organic Waste' means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and compostable food-soiled paper."

The SWANA LTF believes that this minor modification to the bill would provide local jurisdictions with the flexibility to include food-soiled paper only where appropriate – in composting as well as other jurisdiction-specific initiatives.

Alternatively, if food-soiled paper is ultimately included in the definition of "organic waste" then local governments should be given the explicit ability to specifically exclude that material from their program.

### **Rural County Definition**

AB 1826 as amended in the Senate June 16, 2014 includes a substantial change to the definition of a Rural County. AB 1826 would change the definition of Rural County from a County that disposes of less than 200,000 tons of waste annually, to a County with a total population of less than 100,000. The SWANA LTF has not had the opportunity to evaluate how this substantial change will impact its members and factor this into our position. However, given a change of this magnitude at this time, it is critically important that the recommended exemption language of PRC §42649.82(e)(3) referenced above be as consistent as possible.

## **Closing Comments**

The SWANA LTF would like to commend the author and sponsor for working closely together with stakeholders to develop a workable organic waste recycling program. The SWANA LTF continues to be in support of the development of a mandatory commercial organic waste recycling program. However, as outlined above, we are concerned that the current bill unduly obligates local jurisdictions to create a separate monitoring and tracking mechanism as a result of establishing different thresholds for commercial recycling and commercial organic waste recycling. Additionally, if the implementation of AB 1826 does not achieve the desired level of increased diversion of organic waste and the projected reduction of greenhouse gas emissions, then all options and waste sectors should be evaluated to determine the most cost-effective and equitable manner of expanding organic waste diversion programs.

For these reasons, the SWANA LTF would be happy to **SUPPORT AB 1826**, but only **IF IT IS AMENDED** to address the concerns outlined above.

Sincerely,



Jason Schmelzer

SWANA Legislative Advocate

Cc: The Honorable Jerry Hill, Chair, Senate Environmental Quality Committee  
Members and Consultants, Senate Environmental Quality Committee