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Silver Spring, MD 20910

April 28, 2009

The Honorable Henry Waxman  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Joe Barton  
Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Waxman and Ranking Member Barton:

On behalf of the Solid Waste Association of North America (SWANA), I would like to thank you for your leadership in climate change issues and take this opportunity to comment on the discussion draft released March 31, 2009. SWANA is a not-for-profit professional association with over 8,000 members from both the public and private sectors of the solid waste management field. Our mission is to advance the practice of environmentally and economically sound management of municipal solid waste (MSW) in North America. We believe that improved solid waste management practices like landfill gas recovery and use, recycling, composting and waste-to-energy can significantly reduce the emission of greenhouse gases that contribute to global warming and climate change.

#### **Overview**

As drafted, some parts of this legislation would impose regulations affecting the viability of certain environmentally sound solid waste management practices and impair their ability to support real greenhouse gas reductions at these facilities. SWANA agrees with the decision of the discussion draft to exclude landfills as a regulated source. We agree with the findings of the House Committee on Energy and Commerce report, Climate Change Legislation Design White Paper dated October 4, 2007. The document concludes that landfills, and other sources in the waste sector, generally do not lend themselves to regulation under cap and trade programs based on the difficulty in measuring the direct emissions accurately. However, SWANA also believes that waste-to-energy facilities should be exempt from any mandatory greenhouse gas reduction regime (such as a cap-and-trade system) given waste-to-energy's significant contribution in reducing greenhouse gases.

Overall the solid waste management sector has accomplished very significant reductions of GHG emissions from the activities for which we are responsible. Greenhouse gas emissions from this sector have been reduced by 75% while total generation of solid waste has more than doubled. No other major industrial sector in North America can make a similar claim for the goods or services they provide. These reductions have been achieved through an integrated system of solid waste management that includes landfill gas recovery, waste-to-energy, increased diversion from landfills through recycling and composting, as well as compliance with emissions requirements and improvement in overall management.

Waste is a “must manage” product of society and environmentally sound waste management is an essential public service. Solid waste management agencies and companies are responsible for safely managing wastes that are generated by other residential, commercial or industrial activities, while also protecting public health and welfare.

### **Waste-to-Energy is a valuable renewable energy source**

Waste-to-energy facilities produce clean, renewable energy through the combustion of municipal solid waste in specially designed power plants equipped with the most modern pollution control equipment to minimize emissions. Waste volume is reduced by 90% and the remaining residue can be safely reused or disposed of in landfills. In the US, there are 87 waste-to-energy plants operating in 25 states managing about 7 percent of America’s solid waste, or about 90,000 tons each day. The nation’s waste-to-energy plants have a baseload electric generation capacity of approximately 2,700 megawatts to meet the power needs of more than two million homes while serving the waste disposal needs of more than 36 million people.

A majority of the nation’s waste-to-energy facilities are owned by local governments that have invested in this critical municipal infrastructure to achieve long-term solid waste management solutions. It would be inappropriate to force these owners to purchase offsets for greenhouse gas emissions that for the most part are biogenic in nature.

Combustion of waste biomass, such as municipal solid waste, results in largely biogenic CO<sub>2</sub>, but can result in some anthropogenic CO<sub>2</sub> due to fossil fuel-derived waste, such as plastics. The amount of anthropogenic carbon released is difficult to measure with any accuracy but is generally much less than the biogenic emissions from these sources. Also it would vary over time depending upon the composition of the waste stream, which is generally not under the control of the facility owner/operator. Furthermore, waste-derived biomass is a renewable energy source that displaces fossil fuel-derived energy.

The direct emissions from waste-to-energy facilities are more than offset by the overall greenhouse gas reductions that waste-to-energy provides. Waste-to-energy achieves the reduction of greenhouse gas emissions through three separate mechanisms: 1) by generating electrical power or steam, waste-to-energy avoids carbon dioxide (CO<sub>2</sub>) emissions from fossil fuel- based electrical generation; 2) combustion of waste in waste-to-energy facilities eliminates the need for landfill of those wastes and effectively avoids landfill methane emissions; and 3) the recovery of ferrous and nonferrous metals from municipal solid waste at waste-to-energy facilities is more energy efficient than production from raw materials.

Internationally, waste-to-energy has been recognized as a powerful tool to prevent greenhouse gas emissions and mitigate climate change. The Intergovernmental Panel on Climate Change (IPCC), the Nobel Prize winning independent panel of scientific and technical experts, has recognized waste-to-energy as a key greenhouse gas emission mitigation technology. The World Economic Forum in its 2009 report, “Green Investing: Towards a Clean Energy Infrastructure,” identifies waste-to-energy as one of eight technologies likely to make a meaningful contribution to a future low-carbon energy system. In the European Union, waste-to-energy facilities are not required to have a permit or credits for emissions of CO<sub>2</sub>, because of their greenhouse gas mitigation potential. In the 2005 report, “Waste Sector’s Contribution to Climate Protection”, the German Ministry of the Environment stated that “...waste incineration plants and co-incineration display the greatest potential for reducing emissions of greenhouse gases.” Treatment of waste-to-energy as a source of greenhouse gas emissions would be inconsistent with internationally accepted science and accounting procedures. Just as importantly, it would put the United States at a disadvantage in meeting CO<sub>2</sub> reduction targets because an important tool used by other countries would not be available domestically.

### **Recovery and Utilization of Landfill Gas**

Landfill gas recovery and utilization provide valuable opportunities for GHG reduction. Landfill gas methane can be collected in high efficiency gas collection systems. The methane can then be destroyed by combusting the collected gas in flares, or using it as a fuel in engines or furnaces for energy recovery.

Landfill gas combusted in engine-generator sets can produce electricity. Alternatively the gas can be used directly as a fuel for heating or other industrial uses or can be further processed and used as a vehicle fuel. Currently, there are 445 operational landfill gas to energy projects in the U.S., which create 1,180 megawatts (MW) of electricity and 236 million metric standard cubic feet per day (MMSCFD) of renewable fuel. However, there are many more landfills in the U.S. that have the potential to capture and utilize landfill gas. EPA identifies 535 candidate landfills that have the potential for landfill gas to energy projects. SWANA commends the Waxman-Markey draft for including this valuable tool for GHG reductions as an eligible source in the proposed federal renewable portfolio standard.

### **Recycling Investment Saves Energy**

Recycling can also play a key role in the GHG reductions that occur when recycled materials are used instead of virgin materials, saving energy. Reuse of recovered materials generally requires less energy than the use of virgin materials. For example, for every ton of recycled paperboard packaging produced, there is an overall net reduction of 3.6 metric tons of carbon dioxide emissions. In addition, the amount of energy that is wasted by not recycling paper, printed materials, glass, plastic, and aluminum and steel cans is equivalent to the output of 15 medium sized power plants. Recycling also diverts waste from landfills and offsets landfill methane emission in that manner.

In 2008, Congress supported recycling by including the Recycling Investment Saves Energy (RISE) Act in the Emergency Economic and Stabilization Act of 2008. This bill created financial incentives for recycling, which provide a great potential for increasing recycling rates and thus reducing GHG emissions.

Composting also has a role in reducing GHG emissions. Like recycling and waste-to-energy, composting offsets methane release from landfills. In addition, by reducing water consumption in agriculture, composting reduces energy usage, and thus emissions. Finally, composting sequesters carbon and produces carbon dioxide naturally (biogenic).

### **Recommendations**

We would like to offer the following recommendations on the discussion draft:

- *Landfills should not be a regulated source under the cap-and-trade system.*

SWANA commends the Waxman-Markey draft for not including landfills as a capped source. Recovery and utilization of methane has significantly reduced the emissions from landfills and provides a valuable source of homegrown energy to communities throughout the country.

- *Waste-to-energy facilities should not be a capped source in any greenhouse gas reduction program.*

This discussion draft fails to analyze sources on a life-cycle basis and rather only recognizes direct emissions. More importantly it considers anthropogenic and biogenic CO<sub>2</sub> equally once a source exceeds the reporting threshold. The Committee should consider greenhouse gases on a life cycle basis, since direct emissions are only one part of the equation. According to life cycle assessments, waste-to-energy achieves a net reduction of approximately one ton of CO<sub>2</sub> for every ton of trash processed. We believe that the March 31 discussion draft would better be able to fulfill its purpose or reducing greenhouse gas emissions by recognizing the life cycle values instead of focusing on only part of the system—the CO<sub>2</sub> from combustion of fossil-based municipal waste.

The consequence of using a system inconsistent with international science and accounting is to impose compliance costs on waste-to-energy facilities for all CO<sub>2</sub>, both biogenic and anthropogenic. The discussion draft improperly singles out waste-to-energy as the only source in the nation that would be required to submit compliance allowances for biogenic CO<sub>2</sub>.

- *Landfill gas and waste-to-energy are valuable sources of energy and should be included in any federal renewable portfolio standard.*

SWANA commends the Waxman-Markey draft for including landfill gas as a renewable source in the proposed federal renewable portfolio standard. This source of energy will be vital in allowing states to reach their mandated targets using local energy sources.

However SWANA strongly recommends that waste-to-energy also be included in a federal renewable portfolio standard. Organic material in municipal solid waste is derived from biomass and meets the basic criteria for a renewable energy source. Waste-to-energy facilities use this renewable fuel to generate clean electricity while also providing safe and reliable disposal of municipal solid waste. The sustainable nature of municipal solid waste is a major component of its historic renewable status. Not identifying waste-to-energy as a renewable source in a federal RPS would be the first time in more than three decades that waste-to-energy was not recognized by the federal government as a renewable energy source.

- *Drafted reporting requirements should be reconciled with EPA Proposed Reporting Rule for greenhouse gas emissions.*

Sections 711 and 712 of this draft outline GHG reporting requirements that are different and more stringent than those recently proposed by the Environmental Protection Agency. EPA went through an extended stakeholder input process to develop their proposed rule on mandatory reporting of greenhouse gases and this legislation would override their work. Stationary facilities emitting 10,000 metric tons of CO<sub>2</sub>e (versus 25,000 mtCO<sub>2</sub>e in EPA rule) would be required to report, as would fleets emitting more than 25,000 mtCO<sub>2</sub>e (fleet reporting not required by EPA rule).

In addition, SWANA recommends using the IPCC recommended global warming potential for methane.

- *Allow waste-to-energy to remain eligible in the federal renewable purchasing program.*

The Energy Policy Act of 2005 established section 203 to require federal agencies to purchase 7.5 percent of its electricity from renewable sources, including waste-to-energy, by 2013. Section 203 is consistent with 24 state programs and a long history of federal laws defining renewable energy. We oppose Section 161 in the March 31 draft that prevents federal agencies from meeting their renewable energy requirements by entering into agreements for the purchase of power from waste-to-energy facilities. It singularly targets for elimination a historic renewable fuel, and gives other renewable energy technologies a competitive advantage over waste-to-energy facilities.

- *Source categories with promulgated NSPS standards which reduce GHG emissions should not be subject to additional NSPS standards.*

Section 811 of the bill directs EPA to regulate through NSPS rulemakings uncapped sources that individually exceed 10,000 tons of CO<sub>2</sub>e and that in aggregate were responsible for emitting at least 20% of the uncapped GHG emissions. This provision should not apply to landfills and other sources that are already subject to New Source Performance Standards (NSPS) and through an existing NSPS are already controlling their methane and GHG emissions accordingly.

- *Exclude greenhouse gases from regulation under Clean Air Act programs.*

Since this legislation would establish a national control system for GHGs it would be inappropriate and duplicative to regulate these under Clean Air Act programs as well. Therefore we support

Sections 831 – 834 of this bill that would exclude these gases from such duplicative controls.

- *Identify modern solid waste operations as greenhouse gas offsets.*

Landfill gas, waste-to-energy, recycling, composting, and carbon sequestration should all be eligible for offsets credits, and the credits should be valued equally with other technologies according to the level of emissions reductions. Landfill management as well as composting practices offer an additional environmental benefit of sequestering carbon and preventing its release. In addition to receiving credits for the other emissions reductions associated with these practices, landfill management and composting should also be eligible for additional credits due to carbon sequestration.

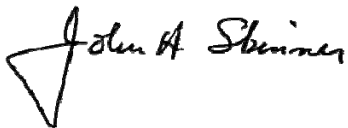
Projects should be eligible for both renewable energy credits (RECs) and offset credits, and any trading program should not interfere with RECs. If a federal renewable portfolio standard is established, RECs should be “unbundled” so that the RECs do not have to be sold to the power purchaser.

- *A National GHG Credits Trading Program must be rule-based and transparent.*

SWANA proposes that any national credits trading program must be rule-based and transparent. The program must reconcile any existing cap-and-trade programs in the United States, whether they are on the State or local level, and it must create one uniform trading program. The program should be compatible with emission trading in international markets as well.

In conclusion, SWANA appreciates the opportunity to submit comments on the March 31 discussion draft. I look forward to working with you and your staff to craft changes that are fair and reasonable and meet the goals of reducing greenhouse gas emissions and promoting renewable energy that we all share. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "John H. Skinner". The signature is written in a cursive style with a large, stylized initial 'J'.

John H. Skinner, Ph.D  
Executive Director and CEO  
SWANA