



SWANA LEGISLATIVE TASK FORCE

White Paper, January 2016

Funding for New Organics Recycling Infrastructure While Addressing CalRecycle's Budget Shortfall

The Legislative Task Force (LTF) for the California Chapters of the Solid Waste Association of North America (SWANA) provides regulatory and legislative advocacy on behalf of its members, who operate most of the publicly-owned and operated solid waste facilities in the state. Over the past year, the LTF has been actively participating in the legislative discussions in Sacramento revolving the long-term financial needs of CalRecycle in light of the declining revenue from landfill disposal. Equally important has been the recognition that a significant amount of new infrastructure will be needed in the near term in order to process and recycle the compostable organic material that will be diverted from landfills as a result of the recently enacted bills AB 1826 (Chesbro, Chapter 727, Statutes of 2014) and AB 1594 (Williams, Chapter 719, Statutes of 2014). During the 2015-16 legislative session, AB 1063 (Williams) was introduced with the goal of addressing these two funding needs.

CALRECYCLE FUNDING NEEDS

CalRecycle relies on the integrated waste management fee (IWWMF) of \$1.40 per ton of disposal to fund a large portion of its operations and programs. In FY 2013-14, CalRecycle received approximately \$43M from the IWWMF imposed on the 31 million tons of waste disposed statewide.¹ With the existing tipping fee of \$1.40 per ton, CalRecycle projects that the IWMA fund balance will go negative in FY 2017-18.² Should the statewide 75 percent recycling goal be achieved in 2020, CalRecycle projects this will result in a \$29M revenue shortfall.²

ORGANICS RECYCLING INFRASTRUCTURE NEEDS

CalRecycle estimates that 41 percent of the waste disposed of annually in California is compostable organics, half of which is food waste.³ Assuming 31 million tons of disposal, over 6 million tons of food waste will need to be managed every year if diverted from landfills. By 2020, this amount may reach 9 million tons. According to CalRecycle, the organics recycling capacity currently available statewide is approximately 2 million tons⁴:

¹ Senate Committee on Environmental Quality analysis, August 17, 2015

² CalRecycle's *State of Disposal* report, March 2015

³ CalRecycle's presentation to the Assembly Select Committee on Waste Reduction and Recycling on December 15, 2015, titled "*Overview of California's Waste Management and Recycling Infrastructure.*"

⁴ CalRecycle's *State of Recycling* report, March 2015

Facility Type	Statewide Active Facilities	Total Capacity (Tons/Year)	Current Throughput (Tons/Year)	Available Capacity (Tons/Year)
Anaerobic Digestion	13	467,000	187,000	281,000
Biomass Conversion	32	5,300,000	5,300,000	56,000
Composting	169	8,000,000	6,200,000	1,800,000

As a result, the amount of organics recycling infrastructure needed in the next five years is daunting. Significant capital investment will be required to build new organics processing and recycling infrastructure. Depending on the type of facility, CalRecycle estimates that the cost can range from \$8-15 million for a composting facility sized for 100,000 tons per year to \$30-50 million for an anaerobic digestion facility of equal capacity.³ Assuming 9 million tons of food waste needs to be processed annually, at least 100 new organics processing facilities of this size will need to be operational by 2020. Depending on the mix of composting facilities and anaerobic digestion ultimately selected, the capital investment required could reach \$1-3 billion.

AB 1063 PROPOSALS

Tipping Fee Increase

AB 1063 (8/17/15 version) proposes to increase the IWMF to \$4 per ton beginning January 1, 2017. Through January 1, 2022, a portion (at least \$1.50 per ton) of this higher IWMF may be designated to fund new organics recycling infrastructure and programs in the form of:

- Market incentive payments for recycling infrastructure and activities
- Grants to local governments to implement programs that increase recycling and reduce disposal
- Grants and loans to develop recycling infrastructure

Another portion (estimated to initially be \$0.50 per ton) would be allocated to the State Water Resources Control Board (SWRCB) to pay for its cost of regulating solid waste facilities, which we understand would replace the SWRCB's currently facility fee. This leaves \$2 per ton for CalRecycle to fund its operations and programs, \$0.60 per ton more than CalRecycle currently receives.

After January 1, 2022, it is at CalRecycle's discretion how much of the \$4 per ton will be allocated to the above recycling-related activities, if any. The level of allocation will depend on the revenue obtained from disposal, which is uncertain given the current 75 percent recycling goal and other landfill diversion strategies being considered by CalRecycle and the California Air Resources Board (CARB).

New Generator Fee

AB 1063 would also impose a fee on all solid waste generators in California commencing on January 1, 2019. This fee would apply to residential, commercial and public entities. It would be collected by local governments at their expense and remitted to the Board of Equalization (BOE) on a quarterly basis.

The generator fee is intended to accomplish two goals: (1) remediate the budgetary shortfalls CalRecycle projects to occur due to declining revenue from the IWMF, and (2) raise at least \$15M per

year for a period of four years (2019-2022) to possibly fund the organics recycling infrastructure and activities mentioned above. The \$15M assessment is estimated to be \$1-2 per household per year. Unlike the IWMF, the generator fee would be adjusted every three years based on CalRecycle’s budgetary needs.

Total Revenue Generated

As shown in the table below, it is estimated that AB 1063 would result in over \$370M in additional fees over a six year span (2017-2022). While a significant portion of the increase would be used to incentivize new organics recycling infrastructure and programs, it is still a sizeable fiscal impact on local governments.

FEE	REVENUE GENERATED (\$ MILLIONS)						
	CURRENT	2017	2018	2019	2020	2021	2022
Tons Disposed* (millions)	31	30	27	24	22	21	20
STATE WATER RESOURCES CONTROL BOARD							
\$0.50 / ton (replaces SWRCB’s facility fee)	-	\$15	\$13.5	\$12	\$11	\$10.5	\$10
CALRECYCLE							
\$2 / ton (IWMF Portion for CalRecycle’s Operating Budget)	\$43.4 (based on \$1.40/ton)	\$60	\$54	\$48	\$44	\$42	\$40
ORGANICS RECYCLING INFRASTRUCTURE AND PROGRAMS							
\$1.50 / ton (Allocated to Organics Recycling Infrastructure through Jan. 1, 2022)	-	\$45	\$40.5	\$36	\$33	\$31.5	\$30
Generator Fee (\$2/household/year**)	-	-	-	\$15	\$15	\$15	\$15
TOTALS							
ANNUAL TOTAL	\$43.4	\$120	\$108	\$111	\$103	\$99	\$95
NET INCREASE (FROM CURRENT)	-	\$76.6	\$64.6	\$67.6	\$59.6	\$55.6	\$51.6
CUMULATIVE NET INCREASE***	-	\$77	\$141	\$209	\$269	\$325	\$377

* Projected disposal extrapolated from Figure 4 in CalRecycle’s State of Disposal report under low growth scenario

** Per resident generator fee is estimated; assumes generator fee continues at \$15M per year

*** Rounded

CONCERNS AND CHALLENGES WITH PROPOSALS

The SWANA LTF recognizes that significant capital will be required to build new organics recycling infrastructure and/or expand the existing facilities and that CalRecycle faces potential budgetary shortfalls due to a disposal-based revenue stream. AB 1063 attempts to address these issues with significant fee increases and a new assessment or tax on residents and businesses. The SWANA LTF has the following concerns with these proposals:

New Generator Fee

- *Inefficiency of local governments serving as the collection agency for the state* – There is an inherent inefficiency in having cities, counties, or joint power authorities (JPAs) be the collection agency for the state. The new generator fee would likely trigger Proposition 218 requirements for noticing and be subject to protest. Local governments would bear the costs of administering all the aspects of the Proposition 218 process as well as the actual fee collection from residents and businesses. Additionally, accounting staff would need to setup and administer the local bank account and arrange for the regular transfer of monies to BOE. Should the author proceed with this proposal, there should be a provision included in the bill for local governments to be reimbursed for these expenses. We suggest that the author estimate how much of the \$15M collected would go towards reimbursing local governments, which could be significant on a statewide basis. If an exemption from Proposition 218 is not possible, the bill needs to hold local governments harmless should the fee imposition fail due to a successful protest or a fee repeal initiative.
- *Fair and equitable redistribution of the funds collected* – Certain areas of the state, such as Southern California and the Bay Area, would contribute a disproportionate share of both the IWMF and new generator fee because this is where most of the waste is generated. These funds should be redistributed back at a level commensurate with the region’s contribution, particularly since highly populated areas will generate the most organic waste and will require significantly more infrastructure than rural areas. A fair and equitable redistribution formula needs to be part of the bill and implementing regulations.
- *Generator fee may hinder local governments’ efforts to implement other fees* – Cities, counties and JPAs need to implement fees or rate increases for a variety of reasons: ensure that the costs of the services provided are recouped (a statutory requirement), environmental compliance, and initiating new programs or services (typically associated with new regulations or ordinances) to name a few. Consequently, residents already face multiple fees on a regular basis and are very reluctant to accept more fees. Even though the generator fee is a state fee, residents will simply view it as another local fee since it is the local government collecting it. In financially disadvantaged communities, elected officials may be even more hesitant to impose new fees on their constituents.
- *A flat fee does not incentivize recycling* – Given that the fee or charge is assessed on a per generator basis, it is essentially applied to the entire amount of solid waste generated, including the recyclable components. Residents who have extraordinarily high recycling practices would be assessed the same fee as those with little to no recycling practices. While the monies collected will be used to facilitate greater recycling, the perception by California residents may be otherwise.
- *A cap is needed to limit fee increases and a sunset to ensure an end point* – Without a cap provision in the bill, there would be no limit on generator fee increases. A sunset should be included since CalRecycle has stated that the generator fee is a short-term need to fund the abovementioned programs. The Legislature can reassess the need for continuing the fee prior to the sunset.

IWMF Increase

- *IWMF increases need to be phased in over time* – Local governments need time to implement rate increases given that existing contracts would need to be modified or revisited, Proposition 218 may be triggered in some jurisdictions, and that the revised budgets need approval by their respective

governing boards. Communities would also appreciate phasing in the rate increases, nominally over a three to five year period.

Use of Funds Collected

- *Grant awards have winners and losers* – Legitimate, worthy, locally-approved projects may not get selected for grant funding for reasons beyond the applicant’s control, such as the timing in the grant cycle, how “new organics” are determined, or not being classified as “shovel ready” due to certain criteria.
- *Proposed market incentive payment system needs further vetting* – Stakeholders need a robust understanding of how the proposed market incentive payment system will work, how the monies will be disbursed and for what time period. Without clarity on how this new form of infrastructure subsidy will work, it will be difficult for local governments to support or seek support from their elected officials for this new program.
- *Funds used for their intended purpose* – We believe that the monies collected from the generator fee and that portion of the IWMF designated for organics recycling infrastructure and programs should be deposited into a separate restricted account. This would help ensure that the AB 1063 revenue is indeed used for its intended purpose.

RECOMMENDATIONS

- *Cap & Trade funds should be used for developing new organics recycling infrastructure and programs* – Given that greenhouse gas (GHG) reductions are the main policy driver for organics diversion from landfills, Cap & Trade revenue should be the primary funding source to build the necessary infrastructure to achieve these goals, not a new generator fee. While the greenhouse gas reduction fund (GGRF) is appropriated on an annual basis, the California Air Resources Board should request a multi-year set aside to implement the Waste Sector Implementation Plan of the AB 32 Scoping Plan Update and designate a consistent and sufficient amount for organics recycling infrastructure.
- *IWMF should be imposed on both disposal and non-disposal solid waste facilities* – Currently the IWMF only applies to disposal facilities. Consideration should be given to imposing the IWMF or a facility fee on non-disposal solid waste facilities, even if it is a lesser amount. Non-disposal facilities, such as composting and anaerobic digestion facilities, transfer stations, and material recovery facilities, that are permitted and overseen by CalRecycle should pay for this the regulatory oversight cost. Landfills should not subsidize the oversight of non-landfill facilities. More importantly, the revenue from non-disposal facility fees would alleviate or eliminate CalRecycle’s budgetary shortfall and would not decline over time. The ability of private haulers to pass through a facility fee under their existing franchise agreements needs to be addressed.
- *Change the legal framework to allow jurisdictions to implement a surcharge* – Consideration should be given to modifying the legal requirements to allow cities, counties and JPAs to implement a surcharge for building organics recycling infrastructure and programs without triggering Proposition 218. Local jurisdictions would retain control over the monies collected, have the ability to demonstrate a long-term revenue stream to financial institutions, and be able to develop the mix of recycling infrastructure that best fits their needs.

- *Partner with the California Association of Sanitation Agencies (CASA) to identify suitable wastewater treatment facilities for co-digesting food waste with biosolids* – CASA estimates that there is a significant amount of anaerobic digestion capacity available at wastewater treatment plants to co-digest most of food waste generated in California. Given that this infrastructure is already built, food waste could be co-digested with the biosolids in a shorter timeframe and at a lower cost than building new facilities.

HURDLES BEYOND FUNDING THAT NEED TO BE ADDRESSED

While capital is needed to build infrastructure, other hurdles need to be addressed in order for the organics recycling infrastructure to be viable over the long-term:

- *Markets are needed for finished products* – While food waste can be converted to fertilizer through composting or anaerobic digestion, there needs to be a market for the end product. CalRecycle has engaged with other agencies in an attempt to foster greater demand for these fertilizers, but more needs to be done, particularly as the amount of organic waste diversion increases.
- *Financially viable options are needed for utilizing the biogas generated from anaerobic digestion* – When digesting or co-digesting food waste, biogas (largely methane) is generated. If the facility does not have a financially viable option for utilizing the biogas, there is no choice but to flare the gas. The potential revenue stream and additional GHG reductions (by displacing fossil fuels) would be lost.

The following are the potential uses for the biogas and their encumbrances:

- a) **Power Generation** – Air districts in areas of severe non-attainment for NO_x have very stringent air quality regulations for combustion devices and require that offsets be purchased for new NO_x emissions. For example, in the South Coast Air Quality Management District (SCAQMD), the Bay Area AQMD, and San Joaquin Valley Air Pollution Control District, internal combustion engines are becoming more and more difficult to permit for power generation given the lower emission limits being adopted. CalRecycle should work with CARB, SCAQMD and similar air districts to develop a regulatory framework that encourages biogas-fueled engines for power generation, particularly since biogas displaces fossil fuels and contributes to GHG reductions. Otherwise, new sources of biogas may simply be flared to destroy the methane.
- b) **Pipeline Injection** – Several key factors make it difficult for biogas to be injected into natural gas pipelines:
 - i) California’s new pipeline biomethane cleanup standards are significantly more stringent than other states. The cleanup standards adopted by the Public Utilities Commission pursuant to AB 1900 require complex gas cleaning equipment and increased monitoring, making pipeline injection cost-prohibitive. In most cases, the biogas needs to be blended with natural gas in order to meet the 990 BTU per standard cubic foot (scf) California standard. The common industry standard is 950 BTU/scf. This standard needs to be revisited.

- ii) Biomethane is inherently more expensive to produce than the fossil fuel-derived natural gas. Oil companies have economies of scale, whereas an anaerobic digestion facility would not. Additionally, natural gas prices are at the lowest level in decades.
 - iii) Pipeline interconnection fees charged by California utilities are significantly higher than most states, ranging from \$1M to \$6M for several proposed projects. In other states, the interconnection fees range from \$50,000 to \$1.5M. The Public Utilities Commission (PUC) recently adopted a \$40M grant program to help cover up to 50 percent or \$1.5M toward the cost of building new pipeline biomethane project. However, this type of project is only viable for the largest 5-10 wastewater treatment plants in the state. Lower interconnection fees are needed for pipeline injection to be financially viable.
- c) Vehicle Fuel – Cleaning up biogas and delivering it to a fueling station may be attractive economically, but there needs to be sufficient demand for alternative fuels. A regulatory framework that drives the need for alternative fuels would be helpful.

PRIMARY AUTHOR: Glenn Acosta, SWANA LTF Vice Chair

LEGISLATIVE ADVOCATES: Paul Yoder & Jason Schmelzer, Shaw/Yoder/Antwih, (916) 446-4656