

# AB 876 - Organics Management Infrastructure Planning: First Year Analysis, Findings and Recommendations

## Background and Problem Statement

With the enactment of the California Integrated Waste Management Act of 1989 (Division 30 [commencing with Section 40000] of the Public Resources Code), the Legislature required the Department of Resources Recycling and Recovery and local agencies to promote recycling and composting over landfill disposal and transformation. Since then, local governments and private industries have worked jointly to create an extensive material collection infrastructure and have implemented effective programs. However, although California now leads the nation in waste reduction and recycling, the state continues to dispose of more than 23 million tons of organics (broadly defined) each year. This constitutes approximately 66 percent of the tons disposed of during 2014 in solid waste landfills.

To reduce the landfilling of organics, increase composting and anaerobic digestion, and meet the state's diversion goals, several laws have been enacted that now require cities and counties to plan for organics processing facilities that can process organics diverted from landfills. The first of these was [AB 1826 \(Chapter 727, Statutes of 2014\)](#), which requires businesses to recycle their organic waste and requires jurisdictions to implement organics recycling programs. Jurisdiction also are required to report to CalRecycle on: the availability, or lack thereof, of sufficient organic waste processing infrastructure and markets; and the extent to which the jurisdiction has taken steps, that are under its control, to remove barriers to siting and expanding organic waste recycling facilities.

Subsequently [AB 876 \(Chapter 593, Statutes of 2015\)](#) was enacted to address longer-term planning for organics infrastructure by requiring counties and regional agencies to report the following information in their Electronic Annual Report (EAR) beginning with the 2016 EAR due on August 1, 2017:

- (1) An estimate of the amount of organic waste in cubic yards that will be disposed by the county or region over a 15-year period. (Note: CalRecycle received clarification from the author that it is the amount of organic waste to be disposed, as opposed to generated, that should be estimated. Additionally, it is not necessary to conduct a waste characterization study since the focus is on estimating how much material will be disposed in the future.)
  - (1a) An estimate of the additional organic waste recycling facility capacity in cubic yards that will be needed to process the amount of organic waste identified in (1) above.
- (2) Areas identified by the county or regional agency as locations for new or expanded organic waste recycling facilities capable of safely meeting the additional organic waste recycling facility capacity need identified in (1a) above.

Since counties and regional agencies have now submitted the first annual report, staff analyzed the data to assess if the objectives of AB 876 are being reasonably met. Additionally, staff assessed if the data provided is helpful and sufficient to meet [SB 1383 \(Lara, Chapter 395, Statutes of 2016\)](#) draft regulation requirements regarding capacity planning.

Based upon the analysis of the reported AB 876 data, staff identified the following high-level findings (further details and examples are provided in the "Analysis" section on pages (4-6). To address the findings, staff are proposing a number of recommendations that can be addressed through EAR changes and guidance, assistance to counties, and recommendations for the SB 1383 rulemaking.

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### Findings

1. Not possible to determine if available capacity is being double counted:
  - a. Even for the counties/regional agencies that provided information about how their capacity needs would be met, staff could not determine if facility capacity is being double counted.
2. Lack of clarity in some responses and lack of verification of capacity:
  - a. Many counties/regional agencies reported that they did not need additional capacity, but they did not sufficiently explain how they determined this.
  - b. Some counties/regional agencies reported that they have a clear picture of what their long-term capacity needs are and a plan for obtaining that capacity; e.g., they addressed that existing capacity is already in place that will be sufficient for the long-term, identified facilities that are in the process of expanding, or are conducting studies to adequately assess the county's needs.
  - c. Conversely, it was not clear from some counties/regional agencies responses that they have fully determined available capacity; e.g., they did not indicate that they had contacted the facilities, cities, etc., or that they have begun specific steps to plan for new and expanded infrastructure.
  - d. Some counties/regional agencies were not clear about how their organic capacity needs compared to facility available capacity; e.g., it was not clear if the facility has available capacity, or the county/regional agencies did not indicate whether it is a facility they are already using and how much more space they may need at a particular facility.
3. Not clear if the capacity assessment included data from the cities:
  - a. Though some counties/regional agencies indicated that they have met and discussed infrastructure needs with franchised haulers and some elected officials, overall it was unclear to what extent many counties/regional agencies collaborated with the cities and other entities within their boundaries in regards to identifying potential sites and planning needs.
4. Rural counties reported capacity challenges:
  - a. For many of the rural counties that have exemptions from AB 1826, they do identify that they have capacity needs, but many of them are not yet developing plans for future organics capacity needs.

Based on these findings, CalRecycle staff's overall assessment is that while the initial data in these Annual Reports is helpful, it does not provide the department with a fully accurate picture of future organics processing capacity needed to address longer-term planning for organics infrastructure by counties and regional agencies. Additionally, the data is not entirely sufficient for the planning that will be needed to meet the requirements of SB 1383, e.g., edible food requirements, consultation with local task force, existing infrastructure, disadvantaged communities, etc. To further improve AB 876 reporting and inform the SB 1383 rulemaking, staff recommends the following changes to clarify information needed in the next AB 876 reporting cycle and to include in the SB 1383 rulemaking.

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## Recommendations for Future AB 876 Reporting

**Issue 1: Not possible to determine if available capacity is being double counted or if there was collaboration with cities and existing facilities.**

### Issue 1 Examples:

- a. Some counties/regional agencies were unclear about how their organic capacity needs compare to facility available capacity, nor did they indicate whether it is a facility they are already using, and/or how much more space they may need at a particular facility to safely meet the additional amount of organic waste capacity. For example, multiple counties listed Jepson Prairie composting facility, but did not clarify if they are already contracted with the facility or if it is a potential facility.
- b. In this context “available” capacity is the permitted capacity that a facility is not currently (or potentially in the future) utilizing. Many reporting entities were unclear whether they were listing:
  - i. Maximum “permitted” capacities/throughputs at specific facilities,
  - ii. Maximum “available” capacities/throughputs at specific facilities,
  - iii. The estimated amount of organics only the reporting county/regional agency intends to take to a specific facility.

### Issue 1 Recommendations:

- a. Do not allow counties/regional agencies to simply list permitted capacity/throughput ranges, or the ranges for facilities that are provided in FacIT. If all counties list permitted throughput/capacity ranges, and not the actual amount of material they intend to send to a given facility, then determining double counting and actual capacity needs is still not possible.
- b. Revise questions to confirm that counties/regional agencies are engaging with the cities within their boundaries and how they collaborated on collecting the capacity information.
- c. Revise questions to confirm that there has been county/regional agency communication with existing facilities in order to compare a county’s organic recycling capacity needs to a facilities’ available capacity, in order to minimize double counting concerns.

**Issue 2: Lack of clarity in some responses and lack of verification of capacity. Many counties reported that they did not need additional capacity, but they did not sufficiently explain how they determined this.**

### Issue 2 Examples:

- a. A number of counties/regional agencies reported “0” cubic yards for estimating the additional capacity being needed; however, they did not explain how their organics capacity needs are being met for the next 15 years. One county said it did not need any additional capacity. However in a subsequent question it responded that there is insufficient in-county capacity for recycling food waste and explained that it had commissioned to conduct an Organic Waste Recycling Facility Feasibility Study to help the County plan, site, permit, and potentially build a facility that can process food waste.
- b. Some counties/regional agencies clearly reported why they had sufficient capacity. There were some counties and regional agencies that provided good examples of showing an active

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planning process that included noting specific facility projects that have been formally introduced in the exploratory and planning process and noted the different types of facilities that may be available (chip and grind, digestion, etc.). Some counties may have extrapolated that since they were planning new or expanded facilities now, that in 15 fifteen years they would have their needed capacity and therefore will need “0” cubic yards would be needed at that point in time; however, they did not explain this in the report. One county provided a great example of planning as well, reporting tangible information about expanding existing facilities to meet their organics capacity needs.

- c. It was not clear in some responses that the County/Cities contacted the facilities to determine if capacity was actually available. It appears that some counties conducted a Facility Information Toolbox (FacIT) search to provide a number of facilities within a reasonable distance. However, it was not possible to tell if these FacIT searches were conducted in a vacuum, meaning that while these facilities might be within a reasonable distance to a location, not all facilities reported may have available capacity to be a viable option for a jurisdiction to utilize. For example, a couple of counties listed more than 10 facilities as possible options to take organics to, but they did not report that they contacted the facilities to determine if they are viable options.
- d. Many counties reported organics facilities that may have multiple facilities under the same corporate/business name when asked in question 3 to list the names of facilities within a reasonable vicinity to them and the facilities’ capacities, e.g., Central Valley Composting Facility has three locations--Blossom Valley - North (Vernalis / Hammet). After the first round of reporting, CalRecycle determined that this makes it difficult to assess which exact facility a county or regional agency intends on taking organics to, further making it more difficult to analyze “double counting” and actual capacity needs in some areas.
- e. Many counties and regional agencies initially reported a cumulative total of projected organic generation and capacity needed for 15 years.

### **Issue 2 Recommendations:**

- a. Because it was not clear in all of the reports how capacity needs will be met, an additional question is needed.
- b. Many counties and regional agencies did not have an issue listing facilities, but it was not always clear which facility they were referencing. To ensure clarity, the questions may be revised to request the facility name and Solid Waste Information System (SWIS) #, if applicable.
- c. Instead of listing numerous “reasonably” distanced facilities, the questions may be revised to ask counties/regional agencies to delineate -- within an “x” mile radius or vicinity -- which organics processing facilities are viable options for the county to take organics to that would fulfill the county’s/regional agency’s capacity needs. Alternatively, the question may be revised to ask for an explanation as to why the facility is considered within a reasonable distance.
- d. Add clarification on the difference between reporting existing landfill capacity (accumulated) and organics processing capacity (yearly).

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### **Issue 3: Additional technical assistance needed for counties and regional agencies.**

#### **Issue 3 Examples:**

- a. Rural examples—most rural counties provided the needed capacity data, but because they are exempt from 1826 they reported little to no activity in identifying capacity options. Some rural counties noted that due to the low population density in many areas of the county it would pose a significant challenge to develop capacity, as well as distance between material sources and collection sites. Some counties reported that they did not have facilities within a reasonable distance or if they have sufficient capacity.

#### **Issue 3 Recommendations:**

- a. Regarding rural counties that are exempted from 1826 – Pursuant to statute, in 2020 CalRecycle will have to make a determination if this exemption is to continue or not. If not, then rural counties will need to be reporting this info in their EAR. CalRecycle will continue to work with Rural County Representatives of California (RCRC) / Environmental Services Joint Powers Authority (ESJPA) and the rural counties to identify existing capacity, what may be planned, etc.
- b. Provide additional technical assistance such as GIS mapping, etc. These tools would assist the counties and cities in identifying what is existing/planned, so that they can better collaborate with facilities/haulers. Also, these tools would assist CalRecycle staff in determining if the planning is reasonable.

### **Issue 4: Data is presented in tons and cubic yards.**

#### **Issue 4 Examples:**

- a. The requirements of AB 876 requires counties and regional agencies to report in terms of cubic yards. However, the data that counties/regional agencies gather on facility capacity, e.g., FacIT data, permit data, is in tons per year (TPY). The tool we provide to the jurisdictions converts from TPY to cubic yards. When submitting the electronic annual report the counties/regional agencies then input cubic yards. CalRecycle staff then convert this back to TPY because that is how we look at the data. Additionally, many counties/regional agencies reported capacity information that is not specific, and just report on a facility's full range of capacity e.g. the capacity listed in FacIT, that inhibits CalRecycles' effort to determine if there is double counting of available capacity by counties.

#### **Issue 4 Recommendation:**

- a. The questions in the annual report will be revised to allow jurisdictions the choice of reporting facility capacity data in tons/year and not in cubic yards. This alternative is provided as a convenience to jurisdictions since facilities report in tons. If needed, then CalRecycle can convert data to cubic yards. Allowing this choice will save time for the jurisdictions and CalRecycle staff. Further, the annual report will be revised so that counties/regional agencies will be unable to list the range of a facility' capacity, but will be asked to provide a single capacity tonnage/year.

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### **Considerations for SB 1383 Regulation**

The waste sector aspects of SB 1383 ultimately require California to reduce the disposal of organic waste by 75 percent, and to recover 20 percent of edible food currently disposed, by 2025. The organics disposal reduction targets will require a significant expansion of recycling infrastructure and capacity. CalRecycle's perspective is that this will require more coordinated, regional infrastructure planning than has occurred to date. The planning efforts resulting from AB 876 are a step in this direction, but they are not sufficient for multiple reasons including those outlined above. While CalRecycle plans to clarify AB 876 questions and ask for more information in the EAR, much of that will be voluntary. In addition, SB 1383 has a broader definition of organics and requirements regarding edible food recovery. If CalRecycle desires to hold jurisdictions accountable for more robust, comprehensive, long-term planning that addresses the problems identified above and these additional considerations, then more – and enforceable -- requirements will be needed.

Therefore, to help ensure that necessary planning steps are more comprehensive, accurate, and taken as soon as possible, CalRecycle is proposing to include the following provisions in the SB 1383 regulations for organics recycling and edible food capacity planning:

- a. Ensure reported capacity is not double counted and is verified that it is available:
  - i. Identify existing organic waste recycling capacity that is verifiably available, rather than just listing ranges and maximum permitted throughputs of existing facilities.
- b. Ensure collaboration among jurisdictions, facility operators, etc., to facilitate common understanding of the capacity needs and the future planning needs. This would include:
  - i. Conducting outreach with citizens to provide a venue for soliciting input on the benefits and impacts of facilities.
  - ii. Consulting with the Local Enforcement Agencies (LEA) and the Local Task Force to help the County/Regional Agency and its cities to be aware of planned expansions or new facilities and provide an opportunity to seek input and collaboration.
  - iii. Collaborating with haulers and owners of existing facilities to help the County/Regional Agency and its cities to be aware of impacts on existing facilities, as well as any plans by private industry to expand or build new infrastructure.
- c. Hold cities and counties/regional agencies responsible for planning and identifying capacity if they lack sufficient existing, new or planned capacity:
  - i. If a county/regional agency or one of its cities lacks future capacity to meet its projected need, that entity would have to submit a schedule to show how it will take the necessary steps. CalRecycle would monitor the schedule to ensure it is being implemented.