

RESOLUTION NO. 2022-03-03
RESOLUTION OF THE SAN LUIS OBISPO COUNTY
INTEGRATED WASTE MANAGEMENT AUTHORITY
ESTABLISHING A FEE SETTING POLICY

WHEREAS, the San Luis Obispo County Integrated Waste Management Authority (IWMA) is a Joint Powers Authority established pursuant to a Joint Powers Agreement originally executed on May 10, 1994 including the incorporated cities of Arroyo Grande, Atascadero, El Paso de Robles, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo, all being municipal corporations of the State of California and located within the boundaries of the County of San Luis Obispo California, hereinafter called "Cities;" and,

WHEREAS, in or around 2001, a Memorandum of Agreement ("MOA") was executed with certain special districts within the County ("Authorized Districts") amending the Original JPA Agreement to include the Authorized Districts for representation on the IWMA Board; and

WHEREAS, the Cities and Authorized Districts are collectively referred to herein as IWMA Participating Agencies; and,

WHEREAS, Section 5.2 of the Joint Powers Agreement granted the IWMA such powers that each Member could exercise separately; and

WHEREAS, Assembly Bill 341 (Chesbro, 2011) (Recycling of Commercial Solid Waste ("MCR")), Assembly Bill 1826 (Chesbro, 2014) (Recycling of Commercial Organic Waste ("MORE")), and Assembly Bill 827 (McCarty, 2019) were signed into law and established requirements for the diversion of organic waste generated by businesses and commercial solid waste recycling; and

WHEREAS, in 2016, Senate Bill 1383 (Lara, 2016) was signed into law and establishes methane emissions reduction goals of 50 percent in the level of the statewide landfill disposal of organic waste from the 2014 level by 2020, and 75 percent by 2025; and

WHEREAS, Senate Bill 1383 regulations require jurisdictions to implement an organic waste diversion program that includes providing organic waste collection services to businesses and residences, edible food recovery goals, public education and outreach, contamination monitoring and sampling activities, recordkeeping and reporting, organic and edible food recovery, infrastructure capacity planning, procurement of recovered organic waste products, and enforcement; and

WHEREAS, the IWMA requires funding to support the planning, programming, and implementation of the statutory mandates and related regulations established by the State of California; and

WHEREAS, Sections 41901 and 41902 of the Public Resources Code authorize the establishment and collection of a fee in order to fund the costs incurred by the IWMA in the

preparation, maintenance, adoption and implementation of the Integrated Waste Management Plan mandated by Section 40000 et seq. of the Public Resources Code; and

WHEREAS, Public Resources Code Section 42652.5 authorizes local jurisdictions to collect reasonable and necessary fees to recover the costs of implementing Senate Bill 1383 regulations and Title 14, Division 7, Chapter 3, Section 18991.1 of the California Code of Regulations and allows jurisdictions to fund compliance efforts through franchise fees, local assessments or other funding mechanisms; and

WHEREAS, it is in the public interest for IWMA to adopt a fee setting policy to promulgate the regulatory nature of fees that IWMA must establish, and increase from time to time, as a result of statutory mandates and regulations established by the State of California and to establish IWMA requirements that include compliance with legal requirements, fee setting objectives and determinations, data required to support fee determinations, fee monitoring, and administrative requirements including coordination with the Cities and Authorized Districts, coordination with industry representatives, and public review.

NOW, THEREFORE, BE IT RESOLVED, that the San Luis Obispo County Integrated Waste Management Authority:

1. IWMA Fees Fund Services for the IWMA Region.

The fees that IWMA establishes and/or modifies are for the IWMA Region as a whole, which comprises the combined territories of the Participating Agencies. The scope of services provided by IWMA in serving the IWMA Region is based on several guiding requirements included in California statutes and regulations. In accordance with those requirements and the JPA, specific guidance is established by the IWMA Board based on strategic and action plans, annual budgets, letters of designation and agreements from and/or with Participating Agencies, other directives, and duly authorized determinations by the IWMA Executive Director or designee.

2. The IWMA Fees are Needed for Regulatory Compliance

The need for IWMA to establish and/or increase revenues is a result of statutory and regulatory requirements imposed on the local agencies and whether the revenue stream is characterized as a fee, a rate, a charge, or otherwise, the nature and substance of the revenue is that of a regulatory fee.

3. The attached "Fee Setting Policy" is hereby approved.

4. Effective Date.

This Resolution will be effective on March 9, 2022. The Executive Director of the IWMA is authorized to amend Section #1 to reflect any changes in IWMA Participating Agencies that may occur from time to time.

PASSED AND ADOPTED, this 9th day of MARCH, 2022, by the following roll call vote:

AYES: GORTON, HELLER, BURGESS, HAMON, WAREX Newton ROBERT
NOES: 0
ABSTAIN: 0
ABSENT: 0
BOURBEAU

Charles Bourbeau
Charles Bourbeau, President

ATTEST:

Sasha Del Giorgio
Sasha Del Giorgio, Clerk of the Board

APPROVED AS TO FORM AND LEGAL EFFECT:

Jeffrey A. Minnery
Jeffrey A. Minnery, Legal Counsel

FS-1 Fee Setting Policy

San Luis Obispo County Integrated Waste Management Authority
 870 Osos Street, San Luis Obispo, CA 93401



POLICY NAME	Fee Setting Policy	POLICY NUMBER	FS-1	
EFFECTIVE DATE	March 9, 2022	LAST REVISION DATE		VERSION NUMBER .00
IMPLEMENTED DATE				

I. Policy Purpose

This Fee Setting Policy is intended to provide guidance on requirements established in the IWMA Joint Powers Agreement (JPA) that covers the local agencies within the County of San Luis Obispo listed below. This policy recognizes that IWMA’s need to establish revenues is a result of statutory and regulatory requirements imposed on the local agencies and whether the revenue stream is characterized as a fee, a rate, a charge, or otherwise, the nature and substance of the revenue is that of a regulatory fee.

IWMA Participating Agencies

Cities	Special Districts	
Atascadero	Avila Beach CSD	Oceano CSD
Arroyo Grande	California Valley CSD	San Miguel CSD
Grover Beach	Cambria CSD	Templeton CSD
Morro Bay	Cayucos Sanitary District	
Pismo Beach	Ground Squirrel Hollow CSD	
San Luis Obispo	Heritage Ranch CSD	
Paso Robles	Nipomo CSD	
*CSD – Community Services District		

Specifically, the intent of this policy is to provide information and/or guidance on the following:

- a) Authority to set fees.
- b) Fee setting objectives and determinations.
- c) Data required to support fee determinations.
- d) Fee monitoring.
- e) Administrative requirements including coordination with member and participating agencies, coordination with industry representatives, and public review.

II. Scope

This policy applies to all actions that may be recommended for consideration by the Board of Directors to establish and increase fees.

Revenues that are generated from IWMA fees shall be used solely for IWMA costs incurred and reserves needed for the scope of services provided by IWMA while serving the IWMA Region. The scope of some services provided by IWMA may also be implemented in cooperation with other agencies, including the County of San Luis Obispo, Participating Agencies, and/or others subject to an agreement approved by the IWMA Board.

The scope of services provided by IWMA in serving the IWMA Region is based on several guiding requirements included in California statutes and regulations. In accordance with those requirements and the JPA, specific guidance is established by the IWMA Board based on strategic and action plans, annual budgets, letters of designation and agreements from and/or with Participating Agencies, other directives, and duly authorized determinations by the IWMA Executive Director or designee.

III. Authority to Set Fees

The IWMA authority to set fees is derived from both statutory authority and the JPA. The JPA identifies several types or categories of fees that the IWMA may consider. Prior to establishing a new fee category, the IWMA Board shall consider and adopt an attachment to this policy that addresses the following policy requirements specific to that category of fee.

- a) Description of the fee
- b) Authority to set the fee
- c) Fee setting objectives and determinations
- d) Data requirements to support fee determinations
- e) Other requirements

Three categories of fees including tipping fees, customer fees, and fees based on gross hauler revenues have been implemented by IWMA prior to the adoption of this policy. Thus, Attachment "A" incorporates each of those fee categories in this policy.

For new fee categories adopted and established by the IWMA under this policy, subsequent modifications to that fee are subject to the requirements of this policy.

All fees are subject to current and future statutory and other legal requirements. If a conflict is identified between this policy and legal requirements, the legal requirements shall supersede this policy.

IV. Fee Setting Objectives and Determinations

Fee setting objectives and determinations are based on a) the regional nature of IWMA services and b) evaluations incorporated into fee studies.

Objective #1: Fee Requirements are Based on Regional Services

IWMA services are provided on behalf of constituents within the combined territories of the Participating Agencies, herein referred to as the "IWMA Region." Some specific services may be provided outside of the IWMA Region on behalf of constituents within the IWMA Region.

IWMA fees can only be used to pay costs and fund necessary reserves applicable to constituents within the IWMA Region. As a Joint Powers Authority providing regional services, the IWMA recognizes that there will be variations in the nature and extent of services provided within the individual communities represented by the Participating Agencies, and that matching revenues generated from constituents in individual communities to expenses incurred specifically on behalf of the constituents of those individual communities is neither required by or the intent of the JPA, nor a known requirement of law. This IWMA policy, consistent with the JPA, recognizes that the IWMA provides its scope of services and establishes fees based on the IWMA Region as a whole, and that the JPA does not require nor does it intend for the IWMA to provide its scope of services on a community-by-community basis, nor to a) track IWMA costs on a community-by-community basis, b) match revenues with costs on a community-by-community basis, c) negotiate services with each Participating Agency on a community-by-community basis d) establish fees on a community-by-community basis, or e) seek reimbursement from the Participating Agencies for costs that might otherwise be incurred on a community-by-community basis.

Objective #2: Fee Determinations Require Fee Studies

Prior to establishing or increasing a fee, a Fee Study shall be prepared for the IWMA by a qualified consultant selected through the Request for Proposal process for consideration by the IWMA Board. Any action approved by the IWMA Board to establish or increase fees shall incorporate the final Fee Study and any applicable plan and/or determinations regarding the scope of services provided within the IWMA Region that necessitates the action to establish or increase a fee.

V. Data Required to Support Fee Determinations

Specific fee recommendations shall be based on and shall not exceed the estimated cost of IWMA services and the funding of necessary reserves. Fee Studies shall describe, document, and illustrate the estimated cost of services, the revenue and reserve requirements, and relevant calculations and evidence used to determine the specific fee recommendations. The Fee Study shall include all necessary facts,

data, information, and analyses related to justification and/or explanation of the proposed fees that meet all applicable legal requirements to support their adoption.

Cost and reserve requirements shall be projected over a period of not-less-than 3 years with the intent that fee recommendations are based on multi-year projections. Additionally, the Fee Study shall include current year estimates and at least one year of prior actual costs and reserve balances.

Reserve requirements shall be included in fee determinations based on legal requirements established by statute, regulations or agreement and those specifically approved by the IWMA Board either by resolution, separate policy or budgetary action.

VI. Fee Monitoring

Revenues that are generated from IWMA fees will be monitored by the IWMA Executive Director and reported to the IWMA Board as follows:

- a) On a quarterly basis - a comparison of actual revenue versus expected revenue for that quarter and year-to-date.
- b) On a semi-annual basis – a comparison of actual revenue versus budgeted revenue, together with a comparison of actual to budget for the entire IWMA budget.
- c) Final year-end comparisons of actual revenue versus budgeted revenue should be included in subsequent year proposed and final budget documents.

Additionally, fee monitoring stated above shall include a comparison of targeted reserves versus actual reserves.

The reports provided to the Board of Directors shall be placed on regular or special meeting agendas. The semi-annual budget review and the review of the proposed and final budgets shall be coordinated with Participating Agencies.

VII. Administrative Requirements

The Executive Director or designee shall coordinate the review of Fee Studies, fee recommendations, and monitoring of fees, and the development and monitoring of the IWMA proposed and final budgets with Participating Agencies. The Executive Director shall develop administrative procedures in collaboration with the Participating Agencies to ensure that IWMA efforts undertaken to establish, increase or otherwise modify IWMA fees will be coordinated with the Participating Agencies in a timely and organized manner with a goal that IWMA fee modifications are scheduled to coincide with normal recurring fee processes conducted by the Participating Agencies. The IWMA shall coordinate with the Participating Agency managers in this regard to ensure the facts, data, information, and analyses provided by the IWMA is adequate to enable the Participating Agencies to implement the IWMA's proposed fees and fees through the Proposition 218 process, if deemed applicable to a Participating Agency by that Agency.

VIII. Forms and Attachments

- A1 – Tipping Fees
- A2 – Fees Based on Customer Accounts
- A3 – Fees on Gross Hauler Revenues

VERSION HISTORY				
VERSION	APPROVED BY	REVISION DATE	DESCRIPTION OF CHANGE	AUTHOR

Policy FS-1: Fee Setting Attachment A-1 Tipping Fees



San Luis Obispo County Integrated
Waste Management Authority
870 Osos Street, San Luis Obispo, CA 93401

POLICY NAME	Fee Setting Policy	POLICY NUMBER	FS-1		
EFFECTIVE DATE	March 9, 2022	LAST REVISION DATE		VERSION NUMBER	.00
IMPLEMENTED DATE					
Description of the Fee		Tipping fees are collected at landfills and distributed to IWMA based on the tonnage of materials disposed.			
Authority to Set the Fee		JPA, Public Resources Codes 41901, 41902, 42625.5, and Tipping Fee Memorandum of Agreement between the County and Cities.			
Fee Setting Objectives and Determinations		The objective of setting tipping fees is to develop revenues in proportion to waste disposed.			
Data Requirements to Support Fee Determinations		Tonnage of waste disposed at the landfill.			
Other Requirements		Coordination with waste haulers, landfill operators and the County of San Luis to ensure revenues that are allocated to IWMA are based on materials generated from the IWMA Region.			

**Policy FS-1: Fee Setting
Attachment A-2
Fees on Customer Accounts**



San Luis Obispo County Integrated
Waste Management Authority
870 Osos Street, San Luis Obispo, CA 93401

POLICY NAME	Fee Setting Policy	POLICY NUMBER	FS-1		
EFFECTIVE DATE	March 9, 2022	LAST REVISION DATE		VERSION NUMBER	.00
IMPLEMENTED DATE					
Description of the Fee		Fees on Customers Accounts are charged to haulers based on the types and number of customers accounts by type.			
Authority to Set the Fee		JPA and Public Resources Codes 41901, 41902 and 42625.5			
Fee Setting Objectives and Determinations		The objective of setting fees based on the type and number of customer accounts is to develop revenues in proportion to those accounts.			
Data Requirements to Support Fee Determinations		Number of customer accounts by type.			
Other Requirements		Coordination with Participating Agencies and waste haulers, to ensure revenues paid to IWMA by haulers are accurate for IWMA Region.			

**Policy FS-1: Fee Setting
Attachment A-3
Fees on Gross Hauler Receipts**



San Luis Obispo County Integrated
Waste Management Authority
870 Osos Street, San Luis Obispo, CA 93401

POLICY NAME	Fee Setting Policy	POLICY NUMBER	FS-1		
EFFECTIVE DATE	March 9, 2022	LAST REVISION DATE		VERSION NUMBER	.00
IMPLEMENTED DATE					
Description of the Fee		Fees on Gross Hauler Receipts are charged to haulers based on the revenues generated from customer accounts.			
Authority to Set the Fee		JPA and Public Resources Codes 41901, 41902 and 42625.5			
Fee Setting Objectives and Determinations		The objective of setting fees based on the gross hauler receipts is to develop revenues in proportion to revenues collected from customers and services provided to customers.			
Data Requirements to Support Fee Determinations		Gross hauler receipts.			
Other Requirements		Coordination with Participating Agencies and waste haulers, to ensure revenues paid to IWMA by haulers are accurate for IWMA Region.			