

## **SPECIFIC PURPOSE AND NECESSITY OF THE REGULATIONS**

### **TITLE 14. NATURAL RESOURCES**

#### **DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

##### **Chapter 3. Minimum Standards for Solid Waste Handling and Disposal**

##### **Article 6.0. Transfer/Processing Operations and Facilities Regulatory Requirements**

##### **Section 17402. Definitions.**

This Article contains a number of terms that require definition to ensure regulatory consistency and clarity. These terms have specific meanings to describe the various types of transfer/processing operations and facilities and activities for the purposes of this Article. If these terms were not defined, the meanings might be unclear, and the regulated public as well as the regulators might fail to interpret the regulations properly. The definitions are placed in a separate section to avoid repetition throughout the Article each time they appear.

##### **Subdivision (a)(0.5)**

The purpose of this section is to define “consolidation sites.” This section is necessary to differentiate between facilities and operations that conduct processing as defined in existing regulation from those that do not. This section is not intended to create a new type of facility or operation but to clarify which existing types of transfer/processing facilities and operations are defined under this definition. This section is also necessary to define a key term used in the regulations. See Section 17409.5.10 for more information.

##### **Subdivision (a)(1.5)**

The purpose of this section is to define “contamination” or “contaminants.” The definition affirms that the term contamination or contaminates used in Chapter 3.1 of this division is the same as the definition of prohibited container contaminates defined in Chapter 12 of this division. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations. See Sections 17409.5.12, 17869, and 17896.45 for more information.

##### **Subdivision (a)(6.5)**

The purpose of this section is to define “gray container waste” or “gray container collection stream.” This section defines gray container waste and gray container collection stream by referencing how the material is collected in Section 18984.1. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations. See Sections 17409.5.6, 17409.5.7, 17409.5.11, and 18815.5 for more information.

Subdivision (a)(7.5)

The purpose of this section is to define “incompatible material.” The term is necessary to differentiate it from “residual” or “contaminant” since the terms are not interchangeable. This section clarifies that incompatible material includes human-made inert material and any organic material that the receiving activity is not permitted or designed to receive. Incompatible material includes human-made inert materials such as glass and metal because these pose a threat to public health, safety, and the environment. This section is also necessary to define a key term used in the regulations and for the purpose of determining the measurements described in Section 17409.5.8. See also Sections 17409.5.2, 17409.5.3, 17409.5.5, 17409.5.9, and 17414.2 for more information.

Subdivision (a)(11.5)

The purpose of this section is to define “mixed waste organic collection stream.” This term is defined by referencing how the material is collected in Section 18984.1, 18984.2, or 18984.3 of this division. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(18.4)

The purpose of this section is to define “organic waste recovery activities” or “Recovery.” These terms are defined by referencing the definition in Section 18982(a)(49) of this division. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations. See Sections 17409.5.1 and 17409.5.2 for more information.

Subdivision (a)(18.5)

The purpose of this section is to define “organic waste.” This section defines organic waste by referencing the definition in Section 18982(a)(46) of this division. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(23.5)

The purpose of this section is to define “remnant organic material.” This section differentiates between organic waste collected in the gray container of a three-container collection system from organic waste collected in the other containers. This section is necessary to clarify that any organic waste collected in the gray container of a three-container collection system is considered remnant organic material for the purpose of determining the measurements described in Section 17409.5.7. This section is also necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations. See also Sections 17409.5.6 and 17409.5.11 for more information.

Subdivision (a)(23.6)

The purpose of this section is to define “reporting period.” The term is defined by referencing the definition in Section 18815.2(a)(49). This section is necessary to provide

a clear schedule for when operators will report under these regulations and be consistent with the reporting period under AB 901 regulations. See Sections 17409.5.1, 17409.5.2, 17409.5.3, 17409.5.4, and 17409.5.5 for more information.

Subdivision (a)(26.6)

The purpose of this section is to define “source separated organic waste” or “source separated organic waste collection stream.” These terms are defined by referencing how the material is collected in Sections 18984.1(a)(1), 18984.2(a)(1), or 18984.1(a)(6) of this division. This section further specifies that “Containerized Green Waste and Yard Waste Collection Service” as defined in Section 18982 is included in this definition. This is necessary in order to clarify that services that collect organic waste at the point of generation meet this definition. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations. See Sections 17409.5.1, 17409.5.4, 17409.5.5, 17409.5.6, 17409.5.8, 17409.5.9, 17409.5.10, 17409.5.10.5, 17414.2, and 17896.44.1 for more information.

Subdivision (a)(26.7)

The purpose of this section is to define “source separated blue container organic waste.” This section clarifies that source separated organic waste collected in blue containers that meet this definition would also meet the definition of “Source Separated Organic Waste” as defined in Section 17402(a)(18.6). This section is necessary so entities know which set of regulations would apply to this type of organic waste. This section is also necessary to define a key term in the regulations and to maintain consistency in the department regulations.

**Section 17402.5. Definitions and Related Provisions Regarding Activities That Are Not Subject to the Transfer/Processing Regulatory Requirements.**

Subdivision (c)(6)

The purpose of this amendment is to change the term “regional produce distribution center” to “regional organic distribution center” and specify the requirements for these centers. This section is necessary to define which activities are not subject to the requirements of transfer/processing operations or facilities. The section is also necessary as the activity is no longer limited to only produce but includes packaged and unpackaged food produce. Establishing specific requirements will help to minimize public health, safety, and environmental issues at these types of centers. This section is also necessary to emphasize the organic waste stream and increase organic waste recovery.

Subdivision (c)(7)

The purpose of this amendment is to change the term “rendering plant” to “rendering activities.” This section was also revised to be consistent with the definition used in the in-vessel digestion regulations. This definition is necessary to clarify which type of activities are not subject to the requirements of transfer/processing operations or facilities and to maintain consistency in the department’s regulations.

## **Section 17403. Regulatory Tiers Requirements for Transfer/Processing Operations and Facilities.**

### **Table 1. Transfer/Processing Operations and Facilities Placement into the Regulatory Tiers**

The purpose of this section is to revise Table 1 to add the regional organic distribution centers section into the “Not Subject to Articles 6.0, 6.1, 6.2, 6.3 and 6.35” column. This section is necessary to reflect the changes in the definition in Section 17402.5(c)(6). The table was also revised to reflect the change in terms and to update the numbering of the definitions.

## **Article 6.2. Operating Standards**

### **Section 17409.5. Loadchecking—Prohibited Wastes.**

The purpose of this section is to add “Prohibited Wastes” to the heading of Section 17409.5. This section is necessary to clarify the purpose of the loadchecking requirements and to distinguish them from the gray container waste evaluation requirements in Section 17409.5.7.

#### **Section 17409.5.1. Organic Waste Recovery Efficiency.**

The purpose of this section is to require a measurement protocol to determine the level of efficiency of a facility to separate organic material for recycling. The data from the sampling will be recorded and reported. This section is necessary to demonstrate that a facility is a “high diversion organic waste processing facility” under Article 3 of this division.

##### **Subdivision (a)**

The purpose of this section is to clarify what type of operations and facilities will be required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

##### **Subdivision (b)**

The purpose of this section is to specify how recovery efficiency is measured at facilities. This section is necessary to provide a method for determining if a facility meets the definition of a high diversion organic waste processing facility.

##### **Subdivisions (c)(1) and (c)(2)**

The purpose of this section is to detail specific aspects of the measurement protocol an operator must use to determine recovery efficiency. This section is necessary to establish the measurement protocol for organics in organic waste recovered and organic waste sent to disposal in a mixed waste organic collection stream received at the facility, and will be used to demonstrate compliance with Subdivision (b).

##### **Subdivision (c)(3)**

The purpose of this section is to specify how to report the result of the measurement protocol the operator conducted to determine recovery efficiency. This section is necessary to establish the reporting frequency and method for reporting the information obtained in Subdivisions (c)(1) and (c)(2). Reporting of the information is necessary for the department to determine the efficiency of the facility.

#### Subdivisions (d)(1) and (d)(2)

The purpose of this section is to detail specific aspects of the measurement protocol an operator must use to determine the source separated organic content recovery rate. This section is necessary to establish the measurement protocol for organics in the source separated organic waste and will be used to demonstrate compliance with Subdivision (b).

#### Subdivision (d)(3)

The purpose of this section is to specify how to report the results of the measurement protocol the operator conducted to determine the source separated organic content recovery rate. This section is necessary to establish the reporting frequency and method for reporting the information obtained in subdivisions (d)(1) and (d)(2). This section is necessary for the department to gather information on the amount of organics in source separated organic streams that is not being recovered.

#### Subdivision (e)

The purpose of this section is to require that the operator maintain records of the information obtained in this section as approved by the enforcement agency (EA). This section is necessary to ensure the EA has access to the records as it provides a means to verify operator compliance with the requirements in this section.

### **Section 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream.**

The purpose of this section is to establish a measurement protocol to determine the efficiency level of a facility to recover organics from the mixed waste organic collection stream. The data from the sampling will be recorded and reported. This section is necessary to provide information to determine the efficiency of a facility to verify compliance with the high diversion organic waste processing facility requirements of Section 17409.5.1.

#### Subdivision (a)

The purpose of this section is to clarify that operations or facilities that accept a mixed waste organic collection stream are required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

#### Subdivision (a)(1)(A)

The purpose of this section is to specify the sampling frequency for performing the measurement protocol for organic material recovered from the mixed waste organic collection stream described in Section 17409.5.2 (b). The requirement to collect

composite samples for 10 consecutive operating days is necessary to account for daily variations due to the fluctuations in moisture content in samples and to provide a more representative weight to determine the efficiency of the facility to comply with Section 17409.5.1.

The sampling frequency of 10 consecutive days was based on two consecutive weeks per quarter, yielding 10 samples per quarter and 40 samples per year. This is consistent with ASTM calculation method (*Standard Test Method for Determination of the Composition of Unprocessed Municipal Solid Waste; ASTM International; Designation: D-5231-92 (Reapproved 2003)*) for estimating the number of samples required to achieve a pre-determined precision of specific material type.

Using data from CalRecycle's statewide 2014 waste characterization study, the two most abundant "organics" material types found at landfills and/or curbside pick-up collection systems were "Uncoated Corrugated Cardboard" and "Food." Furthermore, the 2014 study used a confidence interval of 90 percent for all data calculations (*2014 Disposal Facility-Based Characterization of Solid Waste in California, Page 22*). Applying this information to the equation outlined in the ASTM publication, a 200-pound sample and a precision of 10 percent yields a required sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food." Since "Organic Waste Recovery Efficiency" is not specific to a material type such as "Uncoated Corrugated Cardboard" or "Food," rather just "Organic" or "Not Organic," it is rational to average the two numbers (a sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food") and present a more inclusive required sample number. The average of those two numbers is 37.

Additionally, a significant number of jurisdictions use "every other week" collection for a portion of their waste stream. Many of these jurisdictions use the same facility or facilities for waste processing. A consecutive two-week sampling standard would ensure that jurisdictions with "every other week" collection streams are reflected in the sampling. Based on the data, 10 consecutive days was used instead of 14 to help minimize concerns over frequency of sampling and cost to facilities associated with extra time, labor, space, and other logistics required for the analysis and still obtain the needed data.

#### Subdivision (a)(1)(B)

The purpose of this section is to specify the requirements for collecting more than 10 days of samples. This section is necessary to allow the operator the flexibility to collect more often than the required frequency described in Subdivision (a)(1)(A) to produce the most accurate information to determine the efficiency of the facility to comply with Section 17409.5.1.

#### Subdivision (b)(1) through (b)(6)

The purpose of this section is to establish the sampling and measurement protocol for the organics recovered from the mixed waste organic collection stream. This section further specifies that the sample size be 200 pounds. The 200-pound sample size established in the measurement protocol was based on statewide waste

characterization studies performed during the past five years by California (CalRecycle), Washington, New York, Georgia, and Connecticut that used a sample weight from 200 to 300 pounds. Furthermore, ASTM International (American Society for Testing and Material) suggests a minimum sample weight of 200 pounds be used in waste characterization studies. This section is necessary to establish a methodology to collect data that will be used to determine the efficiency of the facility to comply with Section 17409.5.1.

Subdivision (c)

The purpose of this section is to allow the EA the ability to observe the operator conduct measurements in order to evaluate the operator's performance to comply with Subdivision (b). This section will also allow the EA to identify where problems may occur in order to help the operator produce the most accurate data.

Subdivision (d)

The purpose of this section is to allow the EA flexibility to increase the frequency of measurements, revise the measurement protocol, or both if the EA determines, based on its review of the records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

Subdivision (e)

The purpose of this section is to specify that material sent by operators to a POTW not authorized to receive that material under Section 17896.6(a)(1)(C) or (D) will be considered landfill disposal and that weight will be added to the total weight calculated under Section 17409.5.3. This section is necessary to differentiate which type of material sent to a POTW will be considered recovery and which will be considered landfill disposal. This is also to discourage facilities from burdening POTWs with loads of material they are not authorized to recover. This section also clarifies how this material will be recorded and reported.

**Section 17409.5.3. Measuring Organic Waste in Material Removed from Mixed Waste Organic Collection Stream for Disposal.**

The purpose of this new section is to require a measurement protocol to determine the amount of organics in the residuals removed from the mixed waste organic collection stream. The data from the sampling will be recorded and reported. This section is necessary to provide information to determine the efficiency of the facility as a means to verify compliance with the high diversion organic waste processing facility requirements of Section 17409.5.1.

Subdivision (a)

The purpose of this section is to clarify that operations or facilities that accept a mixed waste organic collection stream are required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

#### Subdivision (a)(1)(A)

The purpose of this section is to specify the sampling frequency for performing the measurement protocol for organic material removed from the mixed waste organic collection stream for disposal as described in Section 17409.5.3(b). The requirement to collect composite samples for 10 consecutive operating days is necessary because it will level the daily variations due to the fluctuations in the moisture content in the samples and provide a more representative weight to determine the efficiency of the facility to comply with Section 17409.5.1. The sampling frequency of 10 consecutive operating days was based on two consecutive weeks per quarter, yielding 10 samples per quarter and 40 samples per year. This is consistent with the ASTM calculation method (*Standard Test Method for Determination of the Composition of Unprocessed Municipal Solid Waste; ASTM International; Designation: D-5231-92 (Reapproved 2003)*) for estimating the number of samples required to achieve a pre-determined precision of specific material type.

Using data from CalRecycle's statewide 2014 waste characterization study, the two most abundant "organics" material types found at landfills and/or curbside pick-up collection systems were "Uncoated Corrugated Cardboard" and "Food." Furthermore, the 2014 study used a confidence interval of 90 percent for all data calculations (*2014 Disposal Facility-Based Characterization of Solid Waste in California, Page 22*). Applying this information to the equation outlined in the ASTM publication, a 200-pound sample and a precision of 10 percent yields a required sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food." Since "Organic Waste Recovery Efficiency" is not specific to a material type such as "Uncoated Corrugated Cardboard" or "Food," rather just "Organic" or "Not Organic," it is rational to average the two numbers (a sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "food") and present a more inclusive required sample number. The average of those two numbers is 37. Additionally, a significant number of jurisdictions use "every other week" collection for a portion of their waste stream. Many of these jurisdictions use the same facility or facilities for waste processing. A consecutive two-week sampling standard would ensure that jurisdictions with "every other week" collection streams are reflected in the sampling. Based on the data, 10 consecutive days was used instead of 14 to help minimize concerns over frequency of sampling and cost to facilities associated with extra time, labor, space, and other logistics required for the analysis and still obtain the needed data.

#### Subdivision (a)(1)(B)

The purpose of this section is to specify the requirements for collecting more than 10 days of samples. This section is necessary to allow the operator the flexibility to collect more often than the required frequency described in Subdivision (a)(1)(A) to produce the most accurate information to determine the efficiency of the facility to comply with Section 17409.5.1.

#### Subdivision (b)(1) through (b)(5)

The purpose of this section is to establish the sampling and measurement protocol for organics recovered from the mixed waste organic collection stream. This section further



specifies that the sample size be 200 pounds. The 200-pound sample size established in the measurement protocol was based on statewide waste characterization studies performed during the past five years by California (CalRecycle), Washington, New York, Georgia, and Connecticut that used a sample weight from 200 to 300 pounds. Furthermore, ASTM International (American Society for Testing and Material) suggests a minimum sample weight of 200 pounds be used in waste characterization related studies. This section is necessary to establish a methodology to collect data that will be used to determine the efficiency of the facility to comply with Section 17409.5.1.

Subdivision (c)

The purpose of this section is to allow the EA the ability to observe the operator conduct measurements in order to evaluate the operator's performance to comply with Subdivision (b). This section will also allow the EA to identify where problems may occur in order to help the operator produce the most accurate data.

Subdivision (d)

The purpose of this section is to allow the EA flexibility to increase the frequency of measurements, revise the measurement protocol, or both if the EA determines, based on its review of the records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

Subdivision (e)

The purpose of this section is to require that the operator maintain records of measurements and training. This section is necessary to ensure the EA has access to the records to verify that the operator is in compliance with the requirements described in Subdivision (b).

Subdivision (f)

The purpose of this section is to clarify that the term "disposal" means the same as activities that constitute landfill disposal as defined in Section 18982. This section is necessary to differentiate the term from "disposal" as defined in PRC 40192, which includes all forms of disposal, not just landfill disposal. The intent is to be consistent with SB 1383 mandates to reduce organic waste disposal in California landfills.

**Section 17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream.**

The purpose of this new section is to require a measurement protocol to determine the level of efficiency of the facility to recover organics from the source separated organic waste collection stream. The data from the sampling will be recorded and reported. This section is necessary to provide information to determine the efficiency of the facility to verify compliance with the high diversion organic waste processing facility requirements of Section 17409.5.1.

Subdivision (a)

The purpose of this section is to clarify that operations or facilities that accept source separated organic collection stream material are required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

Subdivision (a)(1)(A)

The purpose of this section is to clarify the sampling frequency for performing the measurement protocol of organic material recovered from the mixed waste organic collection stream described in Section 17409.5.4(b). The requirement to collect composite samples for 10 consecutive operating days is necessary because it will level the daily variations due to the fluctuations in the moisture content in the samples and provide a more representative weight. The sampling frequency of 10 consecutive operating days was based on two consecutive weeks per quarter, yielding 10 samples per quarter and 40 samples per year. This is consistent with the ASTM calculation method (*Standard Test Method for Determination of the Composition of Unprocessed Municipal Solid Waste; ASTM International; Designation: D-5231-92 (Reapproved 2003)*) for estimating the number of samples required to achieve a pre-determined precision of specific material type. Using data from CalRecycle's statewide 2014 waste characterization study, the two most abundant "organic" material types found at landfills and/or curbside pick-up collection systems were "Uncoated Corrugated Cardboard" and "Food." Furthermore, the 2014 study used a confidence interval of 90 percent for all data calculations (*2014 Disposal Facility-Based Characterization of Solid Waste in California, Page 22*). Applying this information to the equation outlined in the ASTM publication of a 200-pound sample and a precision of 10 percent yields a required sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food." Since "Organic Waste Recovery Efficiency" is not specific to a material type such as "Uncoated Corrugated Cardboard" or "Food," rather just "Organic" or "Not Organic," it is rational to average the two numbers (a sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food") and present a more inclusive required sample number. The average of those two numbers is 37. Additionally, a significant number of jurisdictions use "every other week" collection for a portion of their waste stream. Many of these jurisdictions use the same facility or facilities for waste processing. A consecutive two-week sampling standard would ensure that jurisdictions with "every other week" collection streams are reflected in the sampling. Based on the data, 10 consecutive days was used instead of 14 to help minimize concerns over frequency of sampling and cost to facilities associated with extra time, labor, space, and other logistics required for the analysis and still obtain the needed data.

Subdivision (a)(1)(B)

The purpose of this section is to specify the requirements for collecting more than 10 days of samples. This section is necessary to allow the operator the flexibility to collect more often than the required frequency described in Subdivision (a)(1)(A) to produce the most accurate information to determine the amount of organic waste in the source separated organic waste stream that is not being recovered.

Subdivision (b)(1) through (b)(6)

The purpose of this section is to establish the sampling and measurement protocol for organic material recovered from the source separated organic waste collection stream. This section further specifies that the sample size be 200 pounds. The 200-pound sample size established in the measurement protocol was based on statewide waste characterization studies performed during the past five years by California (CalRecycle), Washington, New York, Georgia, and Connecticut that used a sample weight from 200 to 300 pounds. Furthermore, ASTM International (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds for waste characterization studies. This section is necessary to determine the cleanness of the source separated organic waste collection streams. This section is also necessary to establish a methodology to collect data that will be used in the calculation to determine the amount of organic waste in the source separated organic waste stream that is not being recovered.

#### Subdivision (c)

The purpose of this section is to allow the EA the ability to observe as the operator conducts measurements. This section is necessary as a means to evaluate the operator's performance to comply with Subdivision (b). This section will also allow the EA to identify where problems may occur in order to help produce the most accurate data.

#### Subdivision (d)

The purpose of this section is to allow the EA flexibility to increase the frequency of measurement, the measurement protocol, or both if the EA determines, based on its review of records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information to determine the efficiency of the operation or facility.

#### Subdivision (e)

The purpose of this section is to specify that material sent by a generator to a POTW not authorized to receive that material under Section 17896(a)(1)(C) or (D) will be considered landfill disposal and that weight will be added to the total weight calculated under Section 17409.5.3. This section is necessary to differentiate which type of waste sent to a POTW will be considered recovery or landfill disposal. This section is also designed to discourage facilities from burdening POTWs with loads of material they are not authorized to recover. This section will also clarify how this material will be recorded and reported.

### **Section 17409.5.5. Measuring Organic Waste in Material Removed from Source Separated Organic Waste Collection Stream for Disposal.**

The purpose of this new section is to require a measurement protocol used to determine the amount of organics in the residual removed from the source separated waste organic collection stream. The data from the sampling will be recorded and reported. This section is necessary to provide information to determine the efficiency of the facility

as a means to verify compliance with the high diversion organic waste processing facility requirements of Section 17409.5.1.

Subdivision (a)

The purpose of this section is to clarify that operations or facilities that accept source-separated organic collection stream material are required to comply with this section. This section is necessary to ensure regulated entities are aware of their compliance obligations.

Subdivision (a)(1)(A)

The purpose of this section is to specify the sampling frequency for performing the measurement protocol for organic material recovered from the mixed waste organic collection stream described in Section 17409.5.5 (b). The requirement to collect composite samples for 10 consecutive operating days is necessary because it will level the daily variations due to the fluctuations in the moisture content in the sample and provide a more representative weight. The sampling frequency of 10 consecutive operating days was based on that two consecutive weeks per quarter, yielding 10 samples per quarter and 40 samples per year. This is consistent with ASTM calculation method (*Standard Test Method for Determination of the Composition of Unprocessed Municipal Solid Waste; ASTM International; Designation: D-5231-92 (Reapproved 2003)*) for estimating the number of samples required to achieve a pre-determined precision of specific material type. Using data from CalRecycle's 2014 statewide waste characterization study, the two most abundant "organics" material types found at landfills and/or curbside pick-up collection systems were "Uncoated Corrugated Cardboard" and "Food." Furthermore, the 2014 study used a confidence interval of 90 percent for all data calculations (*2014 Disposal Facility-Based Characterization of Solid Waste in California, Page 22*). Applying this information to the equation outlined in the ASTM publication of a 200-pound sample and a precision of 10 percent yields a required sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food." Since "Organic Waste Recovery Efficiency" is not specific to a material type such as "Uncoated Corrugated Cardboard" or "Food," rather just "Organic" or "Not Organic," it is rational to average the two numbers (a sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food") and present a more inclusive required sample number. The average of those two numbers is 37. Additionally, a significant number of jurisdictions use "every other week" collection for a portion of their waste stream. Many of these jurisdictions use the same facility or facilities for waste processing. A consecutive two-week sampling standard would ensure that jurisdictions with "every other week" collection streams are reflected in the sampling. Based on the data, 10 consecutive days was used instead of 14 to help minimize concerns over frequency of sampling and cost to facilities associated with extra time, labor, space, and other logistics required for the analysis and still obtain the needed data.

Subdivision (a)(1)(B)

The purpose of this section is to specify the requirements for collecting samples for more than 10 consecutive days. This section is necessary to allow the operator the flexibility to collect more often than the frequency required in Section (a)(1)(A) in order

to produce the most accurate information to determine the amount of organic waste in source separated organic waste streams that is not being recovered.

#### Subdivisions (b)(1) through (b)(5)

The purpose of this section is to establish the sampling and measurement protocol for the organics recovered from the source separated organic waste collection stream that is sent for disposal. It further specifies that the sample size be 200 pounds. The 200-pound sample size established in the measurement protocol was based on statewide waste characterization studies performed during the past five years by California (CalRecycle), Washington, New York, Georgia, and Connecticut that used a sample weight between 200 and 300 pounds. Furthermore, ASTM international (American Society for Testing and Material) suggests a minimum sample weight of 200 pounds be used in waste characterization studies. This section is necessary to establish a methodology to collect data on the amount of organics in source separated organic streams that is not being recovered.

#### Subdivision (c)

The purpose of this section is to allow the EA to observe the operator conduct measurements as a means to evaluate the operator's performance to comply with Section (b). This section will also allow the EA to identify where problems may occur in order to help produce the most accurate data.

#### Subdivision (d)

The purpose of this section is to allow the EA flexibility to increase the frequency of measurements, revise the measurement protocol, or both if determines, based on its review of the records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information to determine the efficiency of the operation or facility.

#### Subdivision (e)

The purpose of this section is to clarify that the term "disposal" means the same as activities that constitute landfill disposal as defined in Section 18982. This section is necessary to differentiate between "disposal" as defined in PRC 40192 which includes all forms of disposal, not just andfill disposal. The intent is to be consistent with SB 1383 mandates to reduce organic waste disposal in California landfills.

### **Section 17409.5.6. Source Separated Organic Waste Handling.**

The purpose of this new section is to specify the handling procedure for source separated organic waste. This section is necessary to reduce cross contamination from mixed waste processing and to clarify where source separated organic waste can be taken.

#### Subdivision (a)

The purpose of this section is to specify that the processing of the source separated organic waste be separate from other solid waste streams. This section is necessary to prevent mixing of the waste streams to reduce contamination.

Subdivision (a)(1)

The purpose of this section is to clarify that organic material separated from the gray container collection stream can be combined with processed organic waste from the source separated organic waste once it has gone through the measurement requirements of Section 17409.5.4. This section is necessary to allow the combination of material when the threat of cross contamination is mitigated after processing.

Subdivision (a)(2)

The purpose of this section is to specify the requirements for handling of construction and demolition debris that meet the definition of Section 17381. This section is necessary to clarify that this type of material is not subject to the requirements found in Sections 17409.5.1 through 17409.5.5 and 17409.5.8. Stakeholders raised the fact that earlier sections of this regulation require jurisdictions to enforce waste related provisions of CALGreen for the management and diversion of construction and demolition debris. Those provisions require that 65 percent of all construction and demolition debris be recovered or transported to a facility that recovers at least 65 percent. This section is necessary because it would be duplicative and unnecessarily burdensome to subject that material stream to an additional measurement and recovery standard.

Subdivisions (b)(1) and (b)(2)

The purpose of this section is to clarify the requirements from storage and removal of organic waste. This section specifies that source separated organic waste must be kept separate from organic waste removed from a mixed waste organics collection service. This section is necessary to preserve the integrity of the measurements required in Sections 17409.5.1 through 17409.5.5 and 17409.5.8, which require the recovery efficiency of each stream to be measured separately. This section is also necessary to require that organic waste separated for recovery must be transported to another site or end use that will recover that material. This is necessary to ensure that the state is able to achieve the organic waste reduction targets in statute.

**Section 17409.5.7. Gray Container Waste Evaluations.**

The purpose of this section is to specify the gray container waste evaluation requirements to determine the percentage of contamination in the gray container collection waste stream that is part of a three-container system. The data from the sampling will be recorded and reported. This is necessary to determine how effectively organic waste is being recovered. The data may also be used as a method to gauge the accuracy of the jurisdiction's waste composition studies and container contamination minimization results under Chapter 12. This will help provide an overview of how well jurisdictions and facilities are meeting relevant standards.

Subdivision (a)

The purpose of this section is to clarify that beginning July 1, 2022, operations or facilities that receive gray container collection streams and more than 500 tons of solid waste from at least one jurisdiction are required to comply with this section. The threshold of 500 tons of solid waste was based on data collected from the Disposal Reporting System (DRS) Quarterly Station Notification. The DRS jurisdictions of origin records reviewed identified that 89 percent of jurisdictions send 500 tons or more per year of solid waste to a transfer/processing facility, and these jurisdictions account for 98 percent of the solid waste collected. Using the 500 tons per year threshold will help minimize concerns over frequency of sampling and cost to facilities associated with extra time, labor, space, and other logistics required for the analysis and still allow for collection of the needed data. This section is necessary to ensure regulated entities are aware of compliance obligations and associated timing and thresholds.

#### Subdivision (b)

The purpose of this section is to require that gray container waste evaluations be performed quarterly. This aligns the timing of gray container waste evaluations with the frequency of quarterly reporting periods that solid waste facilities are already subject to, as well as the sampling protocols they must perform under Sections 17409.5.1 through 17409.5.5 and 17409.5.8. This section is necessary to clarify the frequency of the evaluations the operator is required to perform.

#### Subdivision (c)(1) through (c)(4)

The purpose of this section is to establish the sampling and measurement protocol of the remnant organic material in the gray container of the three-container collection system. This section is necessary to describe how to collect data that will be used to determine how much organic waste is collected in the gray container to determine how effectively organic waste is being recovered at the point of generation. See Sections 17409.5.2 through 17409.5.5 for further explanation of the measurement protocol.

#### Subdivision (d)

The purpose of this section to allow for an alternative location to be used to conduct the gray container waste evaluation. It further specifies the requirements for the use of an alternative location, and the how the results will be reported. This section is necessary to allow the operator the flexibility to perform the evaluation off-site. This section was included in response to stakeholder comments indicating that some facilities may be limited by space, labor or other restrictions at their facility or operation that could make on-site waste evaluations impracticable.

#### Subdivision (e)

The purpose of this section is to allow the EA the ability to observe as the operator conducts measurements. This section is necessary to allow the EA to observe and evaluate the operator's performance to comply with Subdivision (c). This section will also allow the EA to identify where problems may occur in order to help the operator produce the most accurate data.

#### Subdivision (f)

The purpose of this section is to allow the EA flexibility to increase the frequency of measurements, revise the measurement protocol, or both if the EA determines, based on its review of the records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information to determine the efficiency of the operation or facility.

Subdivision (g)

The purpose of this section is to require that the operator maintain records of measurements and training. It further clarifies that records be maintained and accessible for five years. This section is necessary to ensure the EA has access to the records as a means to verify that the operator complies with the requirements described in Subdivision (c) and to align with the adopted AB 901 RDRS regulations.

**Section 17409.5.8. Incompatible Materials Limit in Recovered Organic Waste.**

The purpose of this section is to require a measurement protocol to determine the amount of incompatible material in recovered organic waste after processing it at a transfer/processing operation or facility. The data from the sampling will be recorded and reported. This section is necessary to determine the “cleanliness” of the organic waste separated from the source separated organic waste stream and mixed organic waste stream to ensure that the bulk of material sent out the back end of a facility will be largely compatible with the type of facility that accepts it for further processing.

This section further clarifies that the organic waste recovered and sent for further processing, recovery, or end use shall contain no more than 20 percent by weight of incompatible material by 2022 and no more than 10 percent by 2024, unless the receiving facility demonstrates an ability to recover organic waste containing high levels of incompatibles. The 10 percent incompatible material limit is derived from existing standards under Section 17402.5 that establish a 10 percent residual standard. That section establishes a three-part test whereby a facility is not subject to specified requirements if less than 10 percent of the material it processes is sent to disposal. This section mirrors that standard and applies the metric to the organic fraction of material that is sent to a recovery activity. If the organic material sent to a recovery facility is heavy in incompatible materials, it is unlikely to be recovered at the receiving facility, unless that facility meets a similar residual standard of 10 percent. This is necessary to ensure that organic waste is not merely transported to facilities for processing, but that it is recovered at a high degree of efficiency. In response to stakeholder feedback regarding the need for time to phase in to the new standard, CalRecycle added language to phase the requirement in two parts: an initial standard at 20 percent in 2022 (two years from now) ratcheted down to 10 percent two years later in 2024.

Subdivision (a)

The purpose of this section is to specify the acceptable levels of incompatible material that may be present in the recovered organics waste that is sent for further processing and where it may be sent. This section further clarifies the phase-in of the acceptable levels of incompatible material of 20 percent of acceptable incompatible material by



2022 and 10 percent by 2024. The phase-in will allow entities time to plan and make needed adjustments in order to comply with the 10 percent level by 2024. This section is necessary to ensure that organic waste is processed to a level at which a secondary facility can recover the material.

#### Subdivision (b)

The purpose of this section is to establish the methodology to determine incompatible material levels. This section is necessary to establish a uniform calculation to determine the amount of incompatibles contained in material sent from a transfer/processing operation or facility to another destination.

#### Subdivision (c)

The purpose of this section is to specify where materials that exceed the 20 percent incompatible materials level by 2022 and 10 percent by 2024 may be sent. Recovered organic waste that has more than the established percentage of acceptable incompatible materials can only go to recovery facilities that meet the incompatible materials residual standard of 20 percent by 2022 and 10 percent by 2024. Recovered organic waste that is sent to one or more of the activities listed in the section will not be subject to Section 17409.5.8(a). This section is necessary to ensure that organic waste that has more than the established percentage of acceptable incompatible material is only sent to a facility that demonstrates an ability to recover heavily contaminated organic waste in order to ensure that the disposal diversion standards in SB 1383 are met.

#### Subdivision (d)

The purpose of this section is to allow the EA the ability to observe as the operator conducts a measurement to comply with Subdivision (b). This section will also allow the EA to identify where problems may occur in order to help the operator produce the most accurate data.

#### Subdivision (e)

The purpose of this section is to allow the EA flexibility to increase the frequency of measurements, revise the measurement protocol, or both if they determine, based on their review of the records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information in order to determine the efficiency of the operation or facility.

#### Subdivision (f)

The purpose of this section is to clarify that the term "Disposal" means the same as activities that constitute landfill disposal as defined in Section 18982. This section is necessary to differentiate from "disposal" as defined in PRC 40192, which includes all forms of disposal, not just landfill disposal. The intent is to be consistent with SB 1383 mandates to reduce organic waste disposed in California landfills.

### **Section 17409.5.9. Alternatives to Measurement Protocols.**

#### Subdivision (a)

The purpose of this section is to allow the EA to approve, with concurrence by the department, alternative measurement protocols to meet the requirements of Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, and 17409.5.8 of this division as long as the alternative measurement is accurate. This section is necessary to provide operators the flexibility to use other methods and may include a different sampling frequency or sample size, or a different methodology that better fits their operations, as long as they are as accurate as the prescribed protocols.

#### Subdivision (b)

The purpose of this section is to specify that when tonnages are required to be reported under this Article, operators are to report that tonnage using scales. When scales are not accessible, then the operator may use a method described in Section 18815.9 to determine the tonnage if the EA approves it and provides written notification to the department. This is necessary to clarify how operators are to report the tonnage required by this Article and to ensure accurate measurements. This section is also necessary to allow operators the flexibility to use a method other than scales, but not estimates, when appropriate for their facilities or operations, to provide accurate data in cases in which scales may not be accessible. Use of other methods would be consistent with methodology recognized in existing AB 901 RDRS regulations.

#### Subdivision (c)

The purpose of this section is to allow the EA to approve, with concurrence by the department, a substitute to certain sampling and measuring protocols with a quality standard that is specific to an organic waste type that the accepting entity has imposed on the operator. Stakeholders identified for CalRecycle staff that certain organic materials, particularly paper, are subject to residual testing protocols that in many cases exceed sampling protocols established in this regulation. This section allows the EA to consider existing testing protocols as a substitute for the testing required in the regulations. This section is necessary to allow the operator the flexibility to use the receiving entity's quality standard in lieu of the sampling requirements if the quality standard meets or exceeds the levels established in this division. This is necessary to reduce duplication and ensure the regulations impose the least burdensome mechanisms necessary.

#### Subdivisions (c)(1)(A) through (c)(1)(G)

The purpose of this section is to establish the conditions upon which an EA may grant a substitute to a certain sampling requirement. This section is necessary to ensure that the substitute requirements will approximate the same purpose and standards as those described elsewhere in this Article.

#### Subdivision (d)

The purpose of this section is to specify that operators that use a substitute quality standard shall apply the weight of incompatible material in the substitute quality standard to the total weight of that organic waste type in the high diversion organic waste processing facility requirements in Section 17409.5.1. This section is necessary

to clarify how to record and report the incompatible material weight from the quality standard. This data is needed to ensure the recovery efficiency of the facility as a means to verify compliance with Section 17409.5.1 even if the facility is using alternate standards.

#### **Section 17409.5.10. Solid Waste Handling at Consolidation Sites.**

The purpose of this section is to clarify the requirements for consolidation sites that receive solid waste for the purpose of transporting to another facility, but do not conduct processing. It further clarifies that consolidation sites shall transfer the source separated organic waste loads separately from other solid waste streams. The material shall be sent to recovery facilities that meet the organic waste recovery efficiency requirements of Section 17409.5.1. This section is necessary to clarify that these activities are not subject to the transfer/processing operation and facilities measurements and recordkeeping requirements found in Sections 17409.5.1 through 17409.5.9 and 17414.2 because these sites do not conduct processing and thus there is no actual recovery activity requiring measurement at such sites. This section is not intended to create a new type of facility or operation but to clarify which existing types of transfer/processing facilities and operations are not subject to the requirements specified in this section.

#### **Section 17409.5.10.5 Solid Waste Handling at Co-Located Facilities or Operations.**

The purpose of this section is to clarify the sampling and measurement protocol for multiple activities that are located within the same permitted boundary. This section is necessary so operators with more than one activity will know when to perform the measurement protocol to determine the efficiency of the facility as a means to verify compliance with Section 17409.5.1. This section is necessary to ensure that operators with more than one operation at a single site are allowed to rely on the most efficient sampling protocol for their entire operation. The section allows operators that exceed certain measurement thresholds at various sampling points to gain relief from having to perform testing for each operation. This section is necessary to reduce the regulatory burden of testing for some operators with multiple operations when a more streamlined sampling protocol could be equally effective and appropriate.

##### **Subdivision (a)**

The purpose of this section is to clarify when the measurement protocol is required to be completed for an activity if there are multiple activities within the same permitted boundary. This section is necessary to ensure that entities are aware of their compliance obligations.

##### **Subdivisions (a)(1) and (a)(2)**

The purpose of this section is to clarify when to sample the material processed at co-located activities, specifically the material that is sent to an activity located on site for further processing. If the total facility sends organic waste with less than the percentage specified in Section 17409.5.8©(2) to disposal, then the material sent from the first

activity to the co-located activity would not be subject to the sampling protocol. If the facility sends more than the percentage specified in Section 17409.5.8(c)(2) to disposal, then the first activity must sample the material it sends to the co-located activity. This is necessary to collect data that will be used to determine the efficiency of the facility to comply with Section 17409.5.1.

#### **Section 17409.5.11. Remnant Organic Material Separated From Gray Container Processing.**

##### Subdivision (a)

The purpose of this section is to clarify the requirements for remnant organic material in the gray container collection stream of the three-container collection system. It further clarifies that remnant organic material separated from the gray container collection stream can be combined with processed organic waste from the source separated organic waste once it has gone through the measurement requirements of Section 17409.5.4. This section is necessary to clarify that remnant organic waste should be treated separately from mixed waste.

Remnant organic waste is the organic waste removed from a gray container in a jurisdiction that prohibits the inclusion of organic waste in the gray container collection stream. Operators pulling remnant organic waste out of the gray container collection stream are not subject to the high diversion organic waste processing recovery thresholds for that waste. Operators taking extra steps to recover organic waste from the gray container collection stream may not be able to remove enough organics for the material to be recoverable by itself. This section is necessary to allow the material to be mixed with organic waste from the source separated organic waste stream to ensure that operators have sufficient incentive to attempt to recover organic waste from the gray container collection stream. This is necessary to ensure the regulations do not discourage activities that can help increase the recovery of organic waste. This section is necessary to clarify that remnant organic material in the gray container collection stream is not subject to the transfer/processing operation and facilities measurement requirements found in Sections 17409.5.1 and 17409.5.8.

#### **Section 17409.5.12. Transfer/Processing EA Verification Requirements.**

The purpose of this section is to require operators to provide requested information to verify the measurements in the sections enumerated herein as well as to require that EAs conduct such verification. This section is necessary to ensure that the measurements are conducted in compliance with regulatory requirements and to provide the EA reasonable access to relevant information.

##### Subdivision (a)

The purpose of this section is to list the records the operator is required to make available to the EA upon request. This section is necessary to ensure that the EA has access to the records required under this section to verify the operator's compliance with the sampling and measurement protocol required under this division.

#### Subdivisions (b)(1) and (b)(2)

The purpose of these sections is to require the EA to verify the operator's compliance with the measurement protocol by reviewing the records and observing as the operator performs the measurements. It further clarifies that the observations be conducted at a frequency determined by the EA. This section is necessary to allow the EA an opportunity to oversee the methodology and identify where problems may occur, or if the measurements are performed in a manner that is not consistent with this division. Reviewing the records in combination with observation would better help the EA determine if the results from the measurements are accurate and representative of the waste stream.

#### Subdivision (c)

The purpose of this section is to require the EA to observe compostable material that is sent to any destination other than a permitted solid waste facility or operation to determine if the physical contaminants exceed the limits established in Section 17852(a)(24.5)(A)(1) based on visual observation.

Compostable material that exceeds the physical contaminant standard must be further processed to remove contaminants before it is sent to be used as land application to help reduce land application abuse. Since the requirements for diversion of organic material from disposal pursuant to SB 1383 are expected to drive increased amounts of organic material to recovery activities, it is anticipated that increased levels of land application of compostable material may occur along with an associated risk for contaminated material to be land-applied, which creates risks to public health, safety, and the environment. This section is necessary to mitigate that risk by requiring EAs to observe such material at solid waste facilities as a component of existing regulatory inspections of such facilities. In response to EA concerns about excessively burdensome requirements on inspection of land application sites, this requirement is designed to instead handle the contamination risk issue efficiently at the processing facilities that EAs regularly inspect.

### **Article 6.3. Recordkeeping Requirements**

#### **Section 17414.2. Recordkeeping and Reporting Requirements—Organic Waste Recovery.**

The purpose of this section is to list the reporting requirements and types of records the operator is required to maintain for mixed waste organic waste and source separated organic waste. This section also requires the operator to keep all records required by the proposed regulations in one location and that these records be kept for a period of five years. This section is necessary to provide the enforcement agency, the department, and other duly authorized regulatory agencies reasonable access to information to verify compliance with the proposed regulations. This section is adapted

from an existing transfer/processing regulation (Section 17414) concerning recordkeeping.

#### Subdivisions (a) and (c)

The purpose of these subdivisions is to list the records the operator is required to record and maintain. This section is necessary to allow the EA to easily access and review the records to verify compliance with Section (d). The purpose of this section is to require the operator to maintain records in one location and make them accessible for five years. This is necessary to align with the timelines in the adopted AB 901 regulations (RDRS).

#### Subdivision (e)

The purpose of this section is to clarify that the operator shall provide copies of records to the EA upon request or at a frequency approved by the EA. This is necessary to provide information to the EA so that compliance with the proposed regulations can be determined.

#### Subdivision (f)

The purpose of this section is to specify how the operator is to maintain the records required by this Article. This section is necessary to ensure the EA, the department, and other duly authorized agencies have access to the records as a means to verify compliance with the proposed regulations. This section will also align with the adopted AB 901 regulations (RDRS).

### **Chapter 3.1. Composting Operations Regulatory Requirements**

#### **Article 2. Regulatory Tiers for Composting Operations and Facilities**

##### **Section 17855. Excluded Activities.**

#### Subdivision (a)(5)(H)

This section was revised to specify that a licensed animal food manufacturing or rendering activity that handles solid waste as feedstock that does not bypass the manufacturing or rendering process is an excluded activity. The purpose of this section is to be consistent with the definition used in the in-vessel digestion regulations and to ensure the entirety of the solid waste feedstock is processed as part of this activity; otherwise, the material should be subject to solid waste facility permitting requirements. This section is necessary to clarify that this type of activity is not subject to the requirements of composting operations or facilities.

#### **Article 5.0. Composting Operation and Facility Siting and Design Standards**

##### **Section 17867. General Operating Standards.**

#### Subdivision (a)(16)

The purpose of this section is to establish the measurement protocol used to determine the amount of organics present in the material that will be sent to landfill disposal. The data from the sampling will be recorded and reported. This section is necessary to determine whether a compostable material handling facility or operation is meeting the organic waste percentage requirements in Section 17409.5.8.

Subdivision (a)(16)(A)

The purpose of this section is to specify the sampling frequency for performing the measurement protocol of organic waste in the material sent to landfill disposal as described in Section (a)(16)(B). The requirement to collect composite samples for 10 consecutive operating days is necessary to level the daily variation caused by fluctuations in moisture content and provide a representative weight to determine where a facility subject to the requirements of Section 17409.5.8 may send material. The sampling frequency of 10 consecutive operating days was based on two consecutive weeks per quarter, yielding 10 samples per quarter and 40 samples per year. This is consistent with the ASTM International calculation method (*Standard Test Method for Determination of the Composition of Unprocessed Municipal Solid Waste; ASTM International; Designation: D-5231-92 (Reapproved 2003)*) for estimating the number of samples required to achieve a pre-determined precision of specific material type. Using data from CalRecycle's statewide 2014 waste characterization study, the two most abundant "organics" material types found at landfills and/or curbside pick-up collection systems were "Uncoated Corrugated Cardboard" and "Food." Furthermore, the 2014 study used a confidence interval of 90 percent for all data calculations (*2014 Disposal Facility-Based Characterization of Solid Waste in California, Page 22*). Applying this information to the equation outlined in the ASTM publication of a 200-pound sample and a precision of 10 percent yields a required sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "food." Since "Organic Waste Recovery Efficiency" is not specific to a material type such as "Uncoated Corrugated Cardboard" or "Food," rather just "Organic" or "Not Organic," it is rational to average the two numbers (a sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "food") and present a more inclusive required sample number. The average of those two numbers is 37. Additionally, a significant number of jurisdictions use "every other week" collection for a portion of their waste stream. Many of these jurisdictions use the same facility or facilities for waste processing. A consecutive two-week sampling standard would ensure that jurisdictions with "every other week" collection streams are reflected in the sampling. Based on the data, 10 consecutive days was used instead of 14 to help minimize concerns over frequency of sampling and cost to facilities associated with extra time, labor, space, and other logistics required for the analysis and still obtain the needed data.

Subdivisions (a)(16)(B)(1) through (a)(16)(B)(8)

The purpose of this section is to establish the measurement protocol for determining the weight of organic waste the facility sends to disposal. It further specifies that the sample size be 200 pounds. The 200-pound sample size established in the measurement protocol was based on statewide waste characterization studies performed during the past five years by California (CalRecycle), Washington, New York, Georgia, and

Connecticut that used a sample weight from 200 to 300 pounds. Furthermore, ASTM International (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds for waste characterization studies. This section is necessary because the data recorded under this section will be used to determine the quarterly percentage of organic waste contained in residuals. This data will be used under (a)(16)(A) to determine whether a compostable material handling facility or operation is meeting the organic waste percentages in Section 17409.5.8 to be eligible to receive material under that section.

#### Subdivision (a)(16)(C)

The purpose of this section is to allow the EA the ability to observe as the operator conducts a measurement. This section is necessary to ensure EAs are able to evaluate the operator's compliance with the requirements of this section. This section will also allow the EA to identify where problems may occur in order to help the operator produce the most accurate data.

#### Subdivision (a)(16)(D)

The purpose of this section is to allow the EA flexibility to increase the frequency of measurements, revise the measurement protocol, or both if the EA determines, based on its review of the records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information to determine the efficiency of the operation or facility.

#### Subdivision (a)(16)(E)

The purpose of this section is to allow the EA to approve an alternative measurement protocol. This section is necessary to provide operators flexibility by allowing other measurement methods. Alternatives may include a different sample frequency or sample size or a different methodology. The department shall concur with EA approval if it finds that the alternative measurement protocol will ensure that the measurements will be as accurate as those in Subsection (a)(16)(A) and (B), above.

#### Subdivision (a)(16)(F)

The purpose of this section is to define which materials are incompatibles. These measurements are performed by composting facilities evaluating the organic content of the residuals that are sent to disposal. Materials included in this list, such as non-compostable paper, should not be received at compost facilities and should not be included in the composting process. Non-compostable paper is not required to be counted as organic waste, as doing so would penalize the facility for removing a non-compostable contaminant from the composting process. This section is necessary to clarify which types of organic waste are not weighed as organics as part of the measurement protocol.

#### Subdivision (a)(16)(G)

The purpose of this section is to clarify what constitutes disposal. This section is necessary to determine compliance with the requirement in Section 17409.5.1 of this division.



## **Article 8. Composting Operation and Facility Records**

### **Section 17869. General Recordkeeping and Reporting Requirements.**

The purpose of this section is to add a description of records required to be retained by operators to comply with new requirements in this Article. This section is necessary to ensure that particular records are retained by operators to verify compliance with those new requirements.

#### Subdivision (d)

The purpose of this section is to revise subdivision (d) to clarify that an operator shall maintain records that are adequate for overall planning and control purposes and that they be available for review. This section also requires that the operator keep all records current and accurate and in one location, and that records be kept for a period of five years. This section is necessary to provide an adequate range of records for the appropriate entity to evaluate and enforce compliance and align with the adopted AB 901 regulations (RDRS) for purposes of reporting.

#### Subdivision (e)

The purpose of this section is to list the records the operator is required to maintain. This section is necessary to allow the appropriate entity to easily access and review records to evaluate and enforce compliance with this Article.

#### Subdivision (j)

The purpose of this section is to list the records the operator is required to provide to demonstrate compliance with the sampling and measurement requirements described in Section 17867(a)(16). This section further requires that a review of the records and a periodic visual inspection be conducted at a frequency determined by the EA. This section is necessary to ensure that the EA has access to the records required under this section to verify operator's compliance with the measurement protocol. This section is also necessary to allow the EA the flexibility and discretion regarding when to observe the operator conduct the measurements. For example, operations and facilities with a record of strong compliance may require fewer reviews than a facility with a weaker compliance record, and this section allows the EA the discretion to allow for such variations rather than locking an EA into an observation schedule under which the burden of frequent observations may outweigh the benefit for purposes of ensuring compliance.

This section will also allow the EA an opportunity to oversee the methodology and identify where problems may occur or if it is performed in a manner that is not consistent with this division. Record reviews in combination with observation will better help the LEA determine if the results from the measurements are accurate representations of the waste stream.

#### Subdivision (k)

The purpose of this section is to require the EA to observe compostable material that is sent to any destination other than a permitted solid waste facility or operation to determine if the physical contaminants exceed the limits established in Section 17852(a)(24.5)(A)(1). Since the requirements for diversion of organic material from disposal pursuant to SB 1383 are expected to drive increased amounts of organic material to recovery activities, it is anticipated that increased levels of land application of compostable material may occur along with an associated risk for contaminated material to be land-applied, which creates risks to public health, safety, and the environment. This section is necessary to mitigate that risk by requiring EAs to observe such material at solid waste facilities as a component of existing regulatory inspections of such facilities to ensure that contaminants are sufficiently processed out of the compostable material prior to its being sent to land application. In response to EA concerns about excessively burdensome requirements on inspection of land application sites, this requirement is designed to instead handle the contamination risk issue efficiently at the processing facilities that EAs regularly inspect.

## **Chapter 3.2. In-Vessel Digestion Operations and Facilities Regulatory Requirements**

### **Article 1. In-Vessel Digestion Operations and Facilities Regulatory Requirements**

#### **Section 17896.6. Excluded Activities.**

##### Subdivision (a)(5)

This section was revised to recognize licensed animal food manufacturing activities as “Rendering Activities” under excluded activities. The purpose of this section is to define rendering activities consistent with the definition used in the compostable materials handling regulations, and in the transfer/processing regulations. This section is necessary to clarify which type of activities are not subject to the requirements of in-vessel digestion operations or facilities and to maintain consistency in the department’s regulations. It is necessary to limit the exclusion to those facilities where the entirety of the solid waste feedstock is included in the rendering or manufacturing process to make clear that any solid waste that bypasses such processes should be regulated under solid waste facility permitting requirements.

### **Article 3. Operating Standards for In-Vessel Digestion Operations and Facilities**

#### **Section 17896.44.1. Measuring Organic Waste in Material Sent to Disposal.**

##### Subdivision (a)

The purpose of this section is to establish the measurement protocol to determine the amount of organics present in material sent to disposal. The data from the sampling will be recorded and reported. This section is necessary because the data recorded under this section will be used to determine the percentage of organic waste contained in residuals. This data will be used to determine whether a compostable material handling facility or operation is meeting the standards required in Section 17409.5.8.

#### Subdivision (a)(1)

The purpose of this section is to clarify the sampling frequency is 10 consecutive operating days for performing the measurement protocol described in Section 17896.44.1(a)(2). The requirement to collect composite samples for 10 consecutive operating days is necessary to level the daily variations due to the fluctuations in the moisture content in the samples and provide a more representative weight to determine where a facility subject to the requirements of Section 17409.5.8 may send material. The sampling frequency of 10 consecutive operating days was based on two consecutive weeks per quarter, yielding 10 samples per quarter and 40 samples per year. This is consistent with ASTM calculation method (*Standard Test Method for Determination of the Composition of Unprocessed Municipal Solid Waste; ASTM International; Designation: D-5231-92 (Reapproved 2003)*) for estimating the number of samples required to achieve a pre-determined precision of specific material type. Using data from CalRecycle's statewide 2014 waste characterization study, the two most abundant "organics" material types found at landfills and/or curbside pick-up collection systems were "Uncoated Corrugated Cardboard" and "Food." Furthermore, the 2014 study used a confidence interval of 90 percent for all data calculations (*2014 Disposal Facility-Based Characterization of Solid Waste in California, Page 22*). Applying this information to the equation outlined in the ASTM publication of a 200-pound sample and a precision of 10 percent yields a required sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food." Since "Organic Waste Recovery Efficiency" is not specific to a material type such as "Uncoated Corrugated Cardboard" or "Food," rather just "Organic" or "Not Organic," it is rational to average the two numbers (a sample number of 49 for "Uncoated Corrugated Cardboard" and 24 for "Food") and present a more inclusive required sample number. The average of those two numbers is 37.

Additionally, a significant number of jurisdictions use "every other week" collection for a portion of their waste stream. Many of these jurisdictions use the same facility or facilities for waste processing. A consecutive two-week sampling standard would ensure that jurisdictions with "every other week" collection streams are reflected in the sampling. Based on the data, 10 consecutive days was used instead of 14 to help minimize concerns over frequency of sampling and cost to facilities associated with extra time, labor, space, and other logistics required for the analysis and still obtain the needed data.

#### Subdivisions (a)(2)(A) through (a)(2)(H)

The purpose of this section is to establish the measurement protocol for determining the weight of organic waste the facility sends to disposal. It further specifies that the sample size be 200 pounds. The 200-pound sample size established in the measurement protocol was based on statewide waste characterization studies performed during the past five years by California (CalRecycle), Washington, New York, Georgia, and Connecticut that used a sample weight from 200 to 300 pounds. Furthermore, ASTM International (American Society for Testing and Material) also suggests a minimum sample weight of 200 pounds for waste characterization studies. This section is

necessary because the data recorded under this section will be used to determine the monthly percentage of organic waste contained in residuals. This data will be used to determine where a facility subject to the requirements of Section 17409.5.8 may send material.

#### Subdivision (b)

The purpose of this section is to allow the EA the ability to observe as the operator conducts measurements. This section is necessary to ensure EAs are able to evaluate the operator's compliance with the requirements of this section. This section will also allow the EA to identify where problems may occur in order to help the operator produce the most accurate data.

#### Subdivision (c)

The purpose of this section is to allow the EA flexibility to increase the frequency of measurements, revise the measurement protocol, or both if the EA determines, based on its review of the records, that the measurements are not accurate. This section is necessary to allow the operator to produce the most accurate information to determine the efficiency of the operation or facility.

#### Subdivision (d)

The purpose of this section is to allow the EA flexibility to approve an alternative measurement frequency. This section is necessary to provide operators flexibility by allowing other measurement methods. Alternatives may include a different sample frequency, sample size or methodology that better fits their operations and are as accurate as the prescribed protocols. The department shall concur with EA approval if it finds that the alternative measurement protocol will ensure that the measurements will be as accurate as those described in Subsection (a)(1) and (2), above.

#### Subdivision (e)

The purpose of this section is to define which materials are incompatibles. These measurements are performed by composting facilities evaluating the organic content of the residuals that are sent to disposal. Materials included in this list, such as non-compostable paper, should not be received at compost facilities and should not be included in the composting process. Non-compostable paper does not need to be counted as "incompatible," as doing so would penalize the facility for removing a non-compostable contaminant from the composting process. This section is necessary to clarify which types of organic waste are not weighed as a part of the measurement protocol.

#### Subdivision (f)

The purpose of this section is to clarify what constitutes landfill disposal. This section is necessary to determine compliance with the requirement with Section 17409.5.1 of this division.

### **Article 4. Recordkeeping Requirements**

## **Section 17896.45. Recordkeeping and Reporting Requirements.**

The overall purpose of this section is to add a description of records required to be retained by operators that are relevant to new requirements in this Article. This section is necessary to ensure that particular records are retained by operators to verify compliance with those new requirements.

### **Subdivision (a)**

The purpose of this section is to delete “of incoming weights or volumes and outgoing and salvaging or residual weights or volumes” and replace with “listed in this section.” This section is necessary to be consistent with the addition of the records listed in subdivision (a)(1) through (a)(6).

This section also deletes “submitted to the EA or Department upon request” to reflect the fact that the records are maintained at the site and available for inspection.

### **Subdivision (a)(1) through (6)**

The purpose of this section is to list the records the operator is required to maintain. This section is necessary to give guidance to the operator as to what records to maintain to allow the appropriate entity to easily access and review the records to determine compliance with this Article.

### **Subdivision (k)**

The purpose of this section is to require the EA to verify the operator’s compliance with the measurement protocol by reviewing records and observing as the operator performs the measurements. This section further requires that a review of the records and a periodic visual inspection be conducted at a frequency determined by the EA. This section is necessary to ensure that the EA has access to the records required under this section to verify an operator’s compliance with the measurement protocol. This section is also necessary to allow the EA the flexibility and discretion regarding when to observe the operator conducting the measurements. For example, operations and facilities with a record of strong compliance may require fewer reviews than a facility with a weaker compliance record, and this section allows the EA the discretion to allow for such variations rather than locking an EA into a schedule under which the burden of frequent observations may outweigh the benefit for purposes of ensuring compliance. This section will also allow the EA to oversee the methodology and identify where problems may occur or if it is performed in a manner that is not consistent with this division. Reviewing the records in combination with observation will better help the EA determine if the results from the measurements are an accurate representation of the waste stream.

### **Subdivision (l)**

The purpose of this section is to require the EA to observe compostable material that is sent to any destination other than a permitted solid waste facility or operation to determine if the physical contaminants exceed the limits established in Section 17852(a)(24.5)(A)(1). Since the requirements for diversion of organic material from

disposal pursuant to SB 1383 are expected to drive increased amounts of organic material to recovery activities, it is anticipated that increased levels of land application of compostable material may occur, along with an associated risk for contaminated material to be land-applied which creates risks to public health, safety, and the environment. This section is necessary to mitigate that risk by requiring EAs to observe such material at solid waste facilities as a component of existing regulatory inspections of such facilities to ensure that contaminants are sufficiently processed out of the compostable material prior to being sent to land application. In response to EA concerns about excessively burdensome requirements on inspection of land application sites, this requirement is designed to instead handle the contamination risk issue efficiently at the processing facilities that EAs regularly inspect.

## **Article 6. Digestate Handling Standards**

### **Section 17896.57. Digestate Handling.**

#### Subdivision (a)(3)(A)(1)

The purpose of this section is to specify that digestate transported to another solid waste facility or operations for additional processing shall only be sent to activities listed in this subdivision. This section is necessary to ensure the regulated entities are aware of their compliance obligations.

The 10 percent limit is derived from existing standards under Section 17402.5 that establish a 10 percent residual standard. That section establishes a three-part test whereby a facility is not subject to specified requirements if less than 10 percent of the material it processes is sent to disposal. This section mirrors that standard for the organic fraction of residuals. This is necessary to ensure that organic waste is not merely transported to facilities for processing, but that it is recovered with a high degree of efficiency. In response to stakeholder feedback regarding the need for time to phase in the new standard, CalRecycle added language to phase the requirement with an initial standard of 20 percent in 2022 (two years from now) ratcheted down to 10 percent two years later in 2024. The intent of this section is to ensure that digestate is processed to a level at which a secondary facility can recover the material.

## **Chapter 5. Enforcement of Solid Waste Standards and Administration of Solid Waste Facilities Permit; Loan Guarantees**

### **Article 2.2. LEA Performance Standards, Evaluation Criteria, and Duties and Responsibilities**

#### **Section 18083. LEA Duties and Responsibilities for Inspections.**

##### Subdivision (a)(9)

The purpose of this section is to specify that the EA must inspect and verify compliance with the standards at a frequency described in Sections 17409.5.12, 17869(j) and 17896.45(k). This section is necessary to cross-reference new inspection and frequency

requirements in other sections of these regulations with the list of LEA duties and responsibilities. This is to fully clarify LEA responsibilities and strengthen CalRecycle enforcement oversight of LEAs.

## **Chapter 9. Planning Guidelines and Procedures for Preparing, Revising, and Amending Countywide or Regional Integrated Waste Management Plans**

### **Article 9.25. Recycling and Disposal Reporting System**

#### **Section 18815.4. Reporting Requirements for Haulers.**

##### Subdivision (f)

The purpose of the revisions to the reporting requirement for haulers is to ensure facilities are able to manage compliance with the regulatory requirements. This provision requires haulers to identify, at the time of delivery to the receiving facility, the type of collection stream delivered. The provision does not require haulers to report to CalRecycle; it requires them to report to the facilities to which they deliver loads. This section is necessary to ensure the facilities are on notice as to the type of waste streams entering the facility so the operator knows how to track and handle the materials, perform appropriate measurements, and report information to CalRecycle.

#### **Section 18815.5. Reporting Requirements for Transfer/Processors.**

##### Subdivision (d)

The purpose of this section is to revise the reporting requirements for transfer/processors to include the reporting of measurements recorded under the new requirements of this rulemaking. This is necessary to provide information to verify whether a facility is a “high diversion organic waste processing facility.” This information will be provided to jurisdictions so they may properly route solid waste in compliance with the collection requirements in Chapter 12, and it provides a means for CalRecycle to verify jurisdictional compliance with Chapter 12. This information is also necessary to provide CalRecycle with information to determine the efficacy of this rulemaking in achieving the public health, safety, and environmental protection goals in SB 1383.

To determine whether a transfer/processor is a high diversion facility, each transfer/processor must report specified data points for mixed organic waste collection streams and source separated organic waste streams. The reporting data points for mixed waste organic collection streams include the quarterly sum of outgoing weights of recovered organic waste sent to recovery and the quarterly sum of outgoing weights of organic waste sent to disposal. These two sums are calculated using the sampling methods prescribed in Sections 17409.5.1 through 17409.5.5 and will be used by CalRecycle to determine the facility’s quarterly recovery efficiency. The transfer/processor must also report the sum of records of outgoing and incoming weights of material. This is a cross-check to determine whether the facility meets the incompatible materials limits or is required to send the materials to a facility that does.

The data points a transfer/processor must report to the department regarding the source separated organic waste streams are the quarterly sum of outgoing weights of recovered organic waste and the quarterly sum of outgoing weights of organic waste sent for disposal. These two sums are calculated using the sampling methods prescribed in Sections 17409.5.1 through 17409.5.5. These data points will be used by CalRecycle to evaluate the efficiency of the source separated organic waste collection programs.

Subdivision (e)

The purpose of this section is to describe how the department determines whether a facility meets or exceeds the recovery efficiency necessary to be a “high diversion organic waste processing facility.”

CalRecycle, via the Recycling and Disposal Reporting System (RDRS), will calculate the quarterly recovery efficiency and the annual average mixed waste organic content recovery rate of each facility to determine whether a facility qualifies as a high diversion organic waste processing facility. The department will determine the quarterly recovery efficiency by dividing the reported value of recovered organic waste by the combined value of the recovered and residual organic waste as reported under Subdivision (d) of this section. The department will determine the annual average mixed waste organic content recovery rate using the same calculation but with the last four quarterly rates. The department will calculate a new annual average each quarter using the calculation prescribed in this section.

Quarterly Recovery Efficiency Calculation Example:

A transfer/processor, using the sampling methods provided in Section 17409.5.2, determines the facility was able to recover 50 tons of organic waste from the mixed waste collection stream on the first day of the quarter. Using the sampling methodology required in Section 17409.5.3, the transfer/processor determines that the disposed residual waste contains 25 tons of organic waste. Then, using the methodology required in Section 17409.5.1, the facility would take the values and determine the recovery rate for that day.

$$\left( \frac{50 \text{ tons recovered}}{50 \text{ tons recovered} + 25 \text{ tons disposed}} \right) \times 100 = 66.67\%$$

The facility would conduct these measurements each operating day of every month, and then would total the daily measurements to determine the monthly and quarterly tons of organic waste both recovered and disposed from the mixed waste organic collection stream. To determine monthly or quarterly recovery rates, divide the total tons recovered by the sum of tons recovered and tons disposed for the appropriate time frame.

For the purposes of this exercise, assume that the calculation for each day remains constant throughout the month. The transfer/processor in this example would therefore



be meeting the 50 percent recovery rate as required between January 1, 2022, and December 31, 2024. However, it would not be meeting the 75 percent recovery rate as required after January 1, 2025.

This section is necessary to guide CalRecycle in properly calculating recovery efficiency as well to provide jurisdictions and operators with clarity on how the recovery efficiency required of “high diversion organic waste processing facilities” is measured.

#### Subdivision (f)

The purpose of this section is to describe how CalRecycle will calculate the average source separated organic content recovery rates for a “designated source separated organic waste facility.” This section is necessary to provide information to verify whether a facility qualifies as a “designated source separated organic waste facility” as defined in Section 17892. This information will be provided to jurisdictions so they may properly route solid waste in compliance with the collection requirements in the “Performance-Based Source Separated Collection Service” requirements in Article 17 of Chapter 12 and for CalRecycle to verify jurisdictional compliance with these provisions. This information is also necessary to provide CalRecycle with information to determine the efficacy of this rulemaking in achieving the public health, safety, and environmental protection goals in SB 1383.

### **Section 18815.7. Reporting Requirements for Recycling and Composting Facilities and Operations.**

#### Subdivision (f)

The purpose of revising this section is to cross-check the percentage of organic waste in materials sent to landfill disposal. This provision requires each recycling or composting facility or operation to report the monthly percentage of organic waste contained in residuals. The data required in this section is necessary to verify whether a facility is meeting the percentage limitations for organic waste in materials sent to disposal in Sections 17409.5.8(c) and 17896.57(a)(3)(A)(1). This information will be made available so operators may properly route solid waste to qualifying facilities. This information will also be used by CalRecycle and LEAs to determine facility compliance with these routing requirements.

## **Chapter 12. Short-lived Climate Pollutants**

### **General Provisions**

#### **Section 18981.1. Scope of Chapter.**

#### Subdivision (a)

The purpose of this section is to set forth the primary requirements of this chapter. This section identifies the primary entities subject to regulatory requirements in this chapter. Throughout the informal rulemaking process, jurisdictions and other stakeholders requested inclusion of a section identifying the regulated entities and the basic

requirements of the chapter. This section is necessary to provide clarity and ease of use for the regulated community.

### **Section 18981.2. Implementation Requirements on Jurisdictions.**

This purpose of this section is to articulate the overarching role of jurisdictions in the implementation of the regulations. The necessity of this is discussed in the specific sections below.

#### **Subdivision (a)**

The purpose of this section is to establish a timeline for jurisdictions and regulated entities subject to a jurisdiction's oversight and authority to comply with the requirements of this chapter. This section requires jurisdictions to adopt ordinances or similarly enforceable mechanisms that incorporate the requirements of this chapter by 2022. This section also ensures that compliance with the regulations is initially monitored at the local level while reserving the state's oversight role for egregious situations, or situations where the local entity responsible for enforcement (in this case the jurisdiction) fails to act.

The model of delegated oversight enforcement authority is common in environmental regulations and enforcement programs. For example, Regional Water Quality Control Boards monitor compliance with regulations adopted by the State Water Resources Control Board; Tire Enforcement Agencies (typically county health departments) are delegated authority to monitor compliance with waste tire registration and hauling regulations adopted by CalRecycle; and local Air Quality Management Districts implement state and federal clean air mandates.

This section is necessary to extend implementation and oversight of the environmental regulations embodied in this chapter to the local level, where compliance can be monitored by local staff more familiar with unique local circumstances.

#### **Subdivision (b)**

The purpose of this section is to clarify that a jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. This section responds to stakeholder feedback requesting clarity on the role of jurisdictions and their ability to delegate their responsibilities to public or private entities.

This section clarifies that a jurisdiction may establish a contract with another entity to implement specific aspects of the regulations. This section enables local jurisdictions to leverage environmental enforcement staff and regulatory infrastructure that exists regionally. For example, Article 14 of this chapter requires local jurisdictions to monitor commercial edible food generators' compliance with the requirements of Article 10. In many cases, local public health departments (typically county public health staff) are already required to monitor these entities for compliance with food safety requirements established in the Health and Safety Code. This section allows cities to have county staff that inspect sites for compliance with other regulations to inspect those sites for

compliance with elements of these regulations as well. This, and other similar partnerships allowed by this section, can ultimately serve to reduce the number of resources local governments need to implement this regulation. This section is necessary to ensure that the regulations can be implemented in the most cost-effective and least burdensome way.

#### Subdivision (c)

The purpose of this section is to clarify that while a jurisdiction is allowed to delegate authority to other entities, the jurisdiction remains ultimately responsible for fulfilling the regulatory obligations under this chapter. This section is necessary to clarify that the state will pursue enforcement against local jurisdictions for noncompliance, and not against the entity or entities to which a jurisdiction has delegated authority.

To clarify, nothing in this section is intended to override the provisions of the Joint Exercise of Powers Act (Gov. Code Sections 6500 et seq.), state law governing districts (Gov. Code Sections 58000 et seq.) or be construed in any way that would alter the legal relationship (statutory, contractual or otherwise) between a city, county, or city and county and a JPA or special district. It is intended that the obligations in this chapter undertaken by a special district or a JPA will be the responsibility of the special district or JPA and those entities would be subject to any enforcement action. For areas of a jurisdiction that are subject to these regulations that are not within the authority of a special district or JPA, compliance with these regulations would remain the ultimate responsibility of the city, county, or city and county.

#### Subdivision (d)

The purpose of this section is to clarify that while jurisdictions may delegate authorities under this section, the regulation does not explicitly authorize jurisdictions to delegate the authority to impose civil penalties to non-government entities. This section provides clarity requested by stakeholders regarding the scope of this regulation. This section is necessary to clarify the scope and limits of the regulation.

#### Subdivision (e)

The purpose of this section is to ensure that if a jurisdiction delegates authority to another entity, it maintains appropriate records regarding the delegation. This section is necessary to ensure that the department can verify a jurisdiction's compliance with the regulations.

#### Subdivision (f)

The purpose of this section is to clarify that while a jurisdiction may delegate actions to a designee, a jurisdiction must take a specific action outlined in subdivision (b) in order to officially designate another entity (e.g. contract or MOU). This section is necessary to provide clarity regarding the roles of regulated entities and their direct obligations.

## **Article 1. Definitions**

### **Section 18982. Definitions.**

Subdivision (a)(1)

The purpose of this section is to define “activities that constitute landfill disposal.” This section is necessary to define a key term in the regulations and differentiate between activities that constitute landfill disposal and activities that constitute organic waste recovery. Additional explanation can be found in Section 18983.1.

Subdivision (a)(2)

The purpose of this section is to define “alternative daily cover (ADC).” This section defines ADC by referencing the definition in 27 California Code of Regulations (CCR). This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(3)

The purpose of this section is to define “alternative intermediate cover (AIC).” This section defines AIC by referencing the definition in 27 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(3.5) The purpose of this section is to define “biomass conversion.” This section defines biomass conversion by referencing Section 40106 of the Public Resource Code. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(4)

The purpose of this section is to define “biosolids.” This section defines biosolids by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(5)

The purpose of this section is to define “blue container.” This section specifies that for the purposes of this chapter, a blue container is a container with an entirely blue lid, or a container that is blue with a blue, gray, or black lid. The purpose of this section is to standardize container colors, which will help increase the recovery of organic waste. The regulations require organic waste collection services provided by jurisdictions to conform to specified color schemes by 2036. (The specific purpose and necessity of container color standardization are discussed in Sections 18984.1-18984.3 and 18984.7.) Stakeholders argued that the purpose and benefits of container color standardization could be achieved in a less burdensome way if the regulations only required the container lids to conform to the color scheme. In response to this feedback, CalRecycle refined the definition to only require the lid of containers to conform to the color scheme. This section is necessary to define a key term used in the regulations.

Subdivision (a)(5.5)

The purpose of this section is to define “brown container.” This section specifies that for the purposes of this chapter a brown container is a container with an entirely brown lid,

or a container that is brown with a brown, gray, or black lid. The purpose of this section is to standardize container colors, which will help increase the recovery of organic waste. The regulations require organic waste collection services provided by jurisdictions to conform to specified color schemes by 2036. (The specific purpose and necessity of container color standardization are discussed in Sections 18984.1-18984.3 and 18984.7.) Stakeholders argued that the purpose and benefits of container color standardization could be achieved in a less burdensome way if the regulations only required the container lids to conform to the color scheme. In response to this feedback, CalRecycle refined the definition to only require the lid of containers to conform to the color scheme. This section is necessary to define a key term used in the regulations.

#### Subdivision (a)(6)

The purpose of this section is to define “commercial business.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in section 18984.9.

#### Subdivision (a)(7)

The purpose of this section is to define “commercial edible food generator.” This term is used in the definitions of tier one and tier two commercial edible food generators and is used throughout the edible food recovery regulations of this chapter. This section is necessary to define for clarity a key term used in the regulations. This section also clarifies that for the purposes of this chapter, food recovery organizations and food recovery services are not commercial edible food generators. Additional explanation can be found in Section 18985.2.

#### Subdivision (a)(8)

The purpose of this section is to define “community composting.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18986.1 and 18986.2.

#### Subdivision (a)(9)

The purpose of this section is to define “compliance review.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18994.2, 18995.1, 18995.2, and 18996.6.

#### Subdivision (a)(10)

The purpose of this section is to define “compost.” This section defines compost by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

#### Subdivision (a)(11)

The purpose of this section is to define “compostable material.” This section defines compostable material by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(12)

The purpose of this section is to define “compostable material handling operation or facility.” This section defines compostable material handling operation or facility by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(13)

The purpose of this section is to define “consumer.” This section defines consumer as having the same meaning as in Section 113757 of the Health and Safety Code. This section is necessary to define a key term used in the regulations.

Subdivision (a)(14)

The purpose of this section is to define “container contamination” or “contaminated container.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Section 18984.5.

Subdivision (a)(14.5)

The purpose of this section is to define “designated source separated organic waste recycling facility” and clarify the standards that a designated source separated organic waste recycling facility must meet. This section specifies that in order to be a designated source separated organic waste recycling facility, a facility must comply with one of the following:

(A) The facility must be a transfer/processor that meets or exceeds an annual average source separated organic content recovery rate of 50 percent from January 1, 2022, through December 31, 2024, and 75 percent on and after January 1, 2025.

(B) The facility must be a composting or in vessel digestion facility that demonstrates that less than 20 percent of the material it sends to disposal is organic waste from January 1, 2022, through December 31, 2024, and less than 10 percent of the material it sends to disposal is organic waste on and after January 1, 2024.

The rates established in this section are necessary to ensure that the material generated in a jurisdiction providing a performance-based source separated organic waste collection service is recovered to a degree that allows the state to achieve the organic waste recycling targets established in statute.

This section additionally establishes that a facility does not qualify as a designated source separated organic waste recycling facility if it fails to meet the rates specified in this section for two consecutive quarterly reporting periods or three quarterly reporting periods within three years. The purpose of this section is to ensure that a facility has an opportunity to improve its activities and maintain its status as a designated source separated organic waste recycling facility. This ensures that a single quarter with noncompliant rates does not disqualify the facility from its status as a designated source separated organic waste recycling facility.

This section is necessary to clarify the timelines and standards that apply to designated source separated organic waste recycling facilities. This section is also necessary to provide jurisdictions the flexibility to choose to implement the performance-based source separated organic waste collection system outlined in Article 17 of this chapter as the least burdensome collection service that ensures that organic waste is collected

and recovered, while supporting the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (a)(15)

The purpose of this section is to define "designee." This section also clarifies that a designee may be a government entity, a hauler, a private entity, or a combination of those entities. This section is necessary to define a key term used in the regulations. This term is used in a number of places within the regulations for circumstances in which a regulated entity may contract with someone else to comply with these regulations. The definition provides the scope of who may be allowed to perform this function on behalf of a regulated entity.

Subdivision (a)(16)

The purpose of this section is to define "diesel gallon equivalent." This definition clarifies that diesel gallon equivalent is the unit of measurement for renewable transportation fuel, as referred to in Article 12 procurement regulations. Since the annual procurement target is in tons and procurement of renewable transportation fuel is an allowable method of compliance, it is necessary to have a conversion factor to determine the equivalence of liquid fuel volume as related to tonnage. This section is necessary to define a key term used in the regulations. Additional explanation can be found in Section 18993.1.

Subdivision (a)(16.5)

The purpose of this section is to define "digestate." This section defines digestate using the same definition that is used in Section 17896.2 of the California Code of Regulations. This definition clarifies that "digestate" is the material remaining after anaerobic digestion of organic material, as referred to in the Article 12 procurement regulations.

Subdivision (a)(17)

The purpose of this section is to define "direct service provider." This section clarifies the relationship of a direct service provider to a jurisdiction in order to meet the procurement regulations of Article 12 since jurisdictions may comply through either their own actions or those of another entity providing services directly to the jurisdiction. This definition was modified in response to comments to specify that a direct service provider may be a person, company, agency, district, or other entity. This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18993.2, 18994.2, 18995.4, and 18996.9.

Subdivision (a)(18)

The purpose of this section is to define "edible food." This term is central to this rulemaking and appears throughout the regulatory text. SB 1383 establishes one statewide edible food recovery goal, and thus it is essential to define the term. The term "edible food" is defined as food intended for human consumption. Although edible food is defined broadly, the definition includes a provision to specify that nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food

safety requirements of the California Retail Food Code. This is necessary to avoid mandating the recovery of food that may be unsafe for human consumption. Furthermore, the definition includes an additional provision to specify that edible food is not solid waste if it is recovered and not discarded. This is necessary to ensure that persons or entities transporting edible food are not considered to be hauling solid waste in conflict with local solid waste collection laws and/or franchise agreements. This section is necessary to define for clarity a key term used in the regulations. Additional explanation can be found in Article 10 commencing with Section 18991.1.

Subdivision (a)(19)

The purpose of this section is to define “enforcement action.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18995.4, 18996.1, 18996.2, 18996.3, 18996.5, 18996.6, 18996.7, 18996.8, and 18996.9.

Subdivision (a)(20)

The purpose of this section is to define “facility that recovers source separated organic waste.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Section 18994.1.

Subdivision (a)(21)

The purpose of this section is to define “food.” This section defines food as having the same meaning as in Section 113781 of the Health and Safety Code. This definition is already well-established through use in state food safety rules for retail food establishments, and the department has determined it to be appropriate for use as applied to food for human consumption in this rulemaking to avoid duplication, conflict, or confusion. This section is necessary to define a key term used in the regulations.

Subdivision (a)(22)

The purpose of this section is to define “food distributor.” Food distributors are included in the regulations as commercial edible food generator. This section is necessary for clarity to define a key term used in the regulations. Additional explanation can be found in Section 18991.3.

Subdivision (a)(23)

The purpose of this section is to define “food facility.” This section defines food facility as having the same meaning as in Section 113789 of the Health and Safety Code. This definition is already well-established through use in state food safety rules for retail food establishments, and the department has determined it to be appropriate for use as applied to food for human consumption in this rulemaking to avoid duplication, conflict, or confusion. To clarify, the term “food facility” is used in the definitions for the following “tier two commercial edible food generators” under Section 18982(a)(74): local education agencies, hotels, and health facilities. As such, it is necessary to define the term for clarity. The term is also used in Section 18991.3(c). This section is necessary to define a key term used in the regulations.



Subdivision (a)(24)

The purpose of this section is to define “food recovery.” This section is necessary to define a key term used in the regulation. Additional explanation can be found in Sections 18985.2, 18990.2, 18991.1, 18991.2, 18991.3, 18991.4, and 18991.5.

Subdivision (a)(25)

The purpose of this section is to define “food recovery organization.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18985.2, 18990.2, 18991.1, 18991.2, 18991.3, 18991.4, 18991.5, and 18992.2.

Subdivision (a)(26)

The purpose of this section is to define “food recovery service.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18995.2, 18990.2, 18991.1, 18991.3, 18991.4, 18991.5, and 18992.2.

Subdivision (a)(27)

The purpose of this section is to define “food service provider.” Food service providers are included in the definition of a “tier one commercial edible food generator” in section 18982(a)(73). As such, it is necessary to define this term for clarity. Additional explanation can be found in Section 18991.3.

Subdivision (a)(27.5)

The purpose of this section is to define “fluorinated greenhouse gas” or “fluorinated GHG.” This definition originates from CARB’s Cap-and-Trade Regulation, contained in the California Code of Regulations, Title 17, Section 95102, and it defines what greenhouse gases are considered “fluorinated” under the regulation, including express exceptions. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(27.6)

The purpose of this section is to define “global warming potential” or “GWP.” This definition originates from CARB’s Cap-and-Trade Regulation, contained in the California Code of Regulations, Title 17, Section 95102. GWP values allow for comparison of different GHGs using the same units (metric tons of carbon dioxide equivalent), normalizing them based on their effect on the Earth’s climate. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(28)

The purpose of this section is to define “gray container.” This section specifies that for the purposes of this chapter a gray container is a container where either the lid of the container is gray or black in color or the body of the container is entirely gray or black in color and the lid is gray or black in color. The purpose of this section is to standardize container colors, which will help increase the recovery of organic waste. The regulations require organic waste collection services provided by jurisdictions to conform to

specified color schemes by 2036. (The specific purpose and necessity of container color standardization is discussed in Sections 18984.1-18984.3 and 18984.7.) Stakeholders argued that the purpose and benefits of container color standardization could be achieved in a less burdensome way if the regulations only required the container lids to conform to the color scheme. Further, stakeholders argued for clarity that a gray or black container could be used for disposal, as many jurisdictions currently use gray containers, and advised that black containers often fade to gray over time. In practice these colors are similar, and the same purpose can be achieved through use of gray or black containers. For ease of reference, the singular definition of “gray container” is used to refer to black or gray containers. This section is necessary to define a key term used in the regulations.

#### Subdivisions (a)(28.5)

The purpose of this section is to define “gray container collection stream.” This section defines gray container collection stream by referencing the proposed definition in Section 17402 of CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations. Additional explanation can be found in Section 17402.

#### Subdivision (a)(29)

The purpose of this section is to define “green container.” This section specifies that for the purposes of this chapter, a green container is a container with an entirely green lid, or a container that is green with a green, gray, or black lid. The purpose of this section is to standardize container colors, which will help increase the recovery of organic waste. The regulations require organic waste collection services provided by jurisdictions to conform to specified color schemes by 2036. (The specific purpose and necessity of container color standardization is discussed in Sections 18984.1-18984.3 and 18984.7.) Stakeholders argued that the purpose and benefits of container color standardization could be achieved in a less burdensome way if the regulations only required the container lids to conform to the color scheme. In response to this feedback CalRecycle refined the definition to only require the lid of containers to conform to the color scheme. This section is necessary to define a key term used in the regulations.

#### Subdivision (a)(29.5)

The purpose of this section is to define “greenhouse gas.” This definition originates from CARB’s Cap-and-Trade Regulation, contained in the California Code of Regulations, Title 17, Section 95102, and it states what greenhouse gases are considered under the regulation. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

#### Subdivision (a)(29.6)

The purpose of this section is to define “greenhouse gas emission reduction” or “greenhouse gas reduction.” This definition originates from CARB’s Cap-and-Trade Regulation, contained in the California Code of Regulations, Title 17, Section 95102, and it clarifies how a greenhouse gas emission reduction is calculated. This section is

necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

#### Subdivision (a)(30)

The purpose of this section is to define "grocery store." A grocery store is included in the definition of a "tier one commercial edible food generator" in Section 18982(a)(73). As such, it is necessary to define this term for clarity. Additional explanation can be found in section 18991.3.

#### Subdivision (a)(30.5)

The purpose of this section is to define "hazardous wood waste." This section defines hazardous wood waste by referencing the wood that falls within the definitions of treated wood and treated wood waste as defined in Section 67386.4 of Title 22. This section is necessary to define a key term used in the regulations and is intended to describe types of wood that should not be placed in certain organic waste collection containers because these types of wood cannot be recovered in the same manner as other types of organic waste (e.g. cannot be composted). This definition and the use of this definition in these regulations is not intended to override or otherwise affect the regulation of treated wood and/or treated wood waste under Title 22 of the California Code of Regulations, including any alternative management standards under Division 4.5, Chapter 34 of Title 22. It is solely intended to describe a type of material for purposes of regulating the proper collection container into which it should be placed.

#### Subdivision (a)(31)

The purpose of this section is to define "hauler." This section defines hauler by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

#### Subdivision (a)(31.5)

The purpose of this section is to define "hauler route." This section was added in response to stakeholder feedback for additional clarity regarding a key term used in the regulations. Section 18984.5 requires jurisdictions to minimize contamination of organic waste containers by either conducting route reviews or conducting waste composition studies on each hauler route. The term "hauler route" is key to the jurisdiction's compliance with these requirements because it describes where the jurisdiction should direct its contamination minimization efforts in order to increase detection of container contamination by generators. What constitutes a "hauler route" is dependent upon the designated itinerary or geographical configuration of the jurisdiction's waste collection system. For example, a jurisdiction's collection system may consist of one continuous itinerary or series of stops that services both commercial generators and residential generators for garbage, dry recyclables, and organics, or the system could be divided into two or more itineraries or segments based on each type of generator and/or material type collected. This section is necessary to maximize detection of container contamination so the jurisdiction's education and outreach and/or enforcement efforts can be targeted to the generators serviced along the affected routes, thereby reducing contamination and increasing the recoverability of organic waste.

Subdivision (a)(32)

The purpose of this section is to define “health facility.” This section defines health facility as having the same meaning as in Section 1250 of the Health and Safety Code. Health facilities are defined in the regulations as a “tier two commercial edible food generator” in Section 18982(a)(74). As such, it is necessary to define this term for clarity.

Subdivision (a)(33)

This purpose of this section is to define “high diversion organic waste processing facility.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18984.2, 18984.3, and 18984.4.

Subdivision (a)(34)

The purpose of this section is to define “hotel.” This section defines hotel as having the same meaning as in Section 17210 of the Business and Professions Code. Hotels are included in the definition of a “tier two commercial edible food generator” in Section 18982(a)(74). This definition is already well established, and the department has determined it to be appropriate for use in this rulemaking to avoid duplication, conflict, or confusion with existing law. This section is necessary to define a key term used in the regulations for clarity.

Subdivision (a)(35)

The purpose of this section is to define “inspection.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18994.2, 18995.1, 18995.4, 18996.1, 18996.4, and 18996.6.

Subdivision (a)(36)

The purpose of this section is to define “jurisdiction.” This section is necessary to define a key term used in the regulations. This section was amended in response to stakeholder feedback to clarify that a special district that provides solid waste collection services also constitutes a jurisdiction. This addition was necessary as a special district may oversee waste collection services in an area but be exempt from the oversight authority of a city or county. As a jurisdiction is one of the primary entities subject to requirements under these regulations, it is necessary to be clear what constitutes a jurisdiction and what is not.

Subdivision (a)(37)

The purpose of this section is to define “jurisdiction of residence.” This section is necessary to define a key term used in the regulations.

Subdivision (a)(38)

The purpose of this section is to define “large event.” Large events are included in the definition of a “tier two commercial edible food generator” in Section 18982(a)(74). As such, it is necessary to define this term for clarity. Additional explanation can be found in Section 18991.3.

Subdivision (a)(39)

The purpose of this section is to define “large venue.” Large venues are included in the definition of a “tier two commercial edible food generator” in Section 18982(a)(74). As such, it is necessary to define this term for clarity. Additional explanation can be found in Section 18991.3.

Subdivision (a)(39.5)

The purpose of this section is to define “lifecycle greenhouse gas emissions” or “lifecycle GHG emissions.” This definition is modified from the “life cycle greenhouse gas emissions” definition in CARB’s Low Carbon Fuel Standard Regulation, contained in the California Code of Regulations, Title 17, Section 95481, and it clarifies what information is required for an application for a determination of technologies that constitute a reduction in landfill disposal, as well as what greenhouse gas emissions will be considered by CalRecycle in making the determination. Through subsequent 15-day changes, the word “significant” preceding “indirect emissions” was removed for clarity and the word “diversion” was replaced with “recovery” to describe certain locations to promote consistency throughout the regulation. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(40)

The purpose of this section is to define “local education agency.” Local education agencies are included in the definition of a “tier two commercial edible food generator” in Section 18982(a)(74). As such, it is necessary to define this term for clarity. To clarify further, requirements for a school district are intended to apply to the schools and other facilities within a school district. Additional explanation can be found in Sections 18986.2, 18986.3, 18996.7, 18996.8, 18996.9, and 18997.4.

Subdivision (a)(41)

The purpose of this section is to define “non-compostable paper.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18984.1 and 18984.2.

Subdivision (a)(42)

The purpose of this section is to define “non-local entity.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18986.1, 18986.3, and 18996.5.

Subdivision (a)(43)

This purpose of this section is to define “non-organic recyclables.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18984.1, 18984.2, 18985.9, 18986.1, and 18986.2.

Subdivision (a)(44)

The purpose of this section is to define “Notice and Order to Correct (NOTC).” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Section 18996.9.

Subdivision (a)(45)

The purpose of this section is to define “Notice of Violation (NOV).” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18995.4, 18996.2, 18996.3, 18996.6, 18996.7, and 18996.9.

Subdivision (a)(46)

The purpose of this section is to define “organic waste.” This term is central to this rulemaking, as SB 1383 establishes statewide landfill diversion requirements for organic waste, and thus it is essential to define the term. This term differentiates organic waste from other, non-organic waste streams. This term is used throughout the regulations, and it is necessary to differentiate waste materials that are subject to these requirements from those that are not.

Subdivision (a)(47)

The purpose of this section is to define “organic waste disposal reduction target.” This describes the overall goal from SB 1383 that the proposed regulations are implementing. This section is necessary to define a key term used in the regulations.

Subdivision (a)(48)

The purpose of this section is to define “organic waste generator.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Section 18984.9.

Subdivision (a)(49)

The purpose of this section is to define “organic waste recovery activities” or “recovery.” This section is necessary to define a key term in the regulations and differentiate between activities that constitute landfill disposal and activities that constitute organic waste recovery. Additional explanation can be found in Sections 18984.9, 18985.1, and 18990.1.

Subdivision (a)(50)

The purpose of this section is to define “organic waste recovery noncompliance inventory.” This section is necessary to define a key term in the regulations. Additional explanation can be found in Section 18997.4.3.

Subdivision (a)(51)

The purpose of this section is to define “paper products.” This section defines paper products by using the existing definition codified in the Public Contract Code 12207(a), with the exception of “building insulation and panels,” which was removed in response to stakeholder feedback as this would likely not meet the requirements for recyclability specified in Section 18993.3(b). This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(52)

The purpose of this section is to define “paper purchase.” This definition denotes the specific types of qualifying paper categories referred to in the Article 12 procurement regulations. This section is necessary to define a key term in the regulations. Additional explanation can be found in Article 12 commencing with Section 18993.1.

Subdivision(a)(52.5)

The purpose of this section is to define “performance-based source separated collection service.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Sections 18998.1, 18998.2, 18998.3, and 18998.4.

Subdivision (a)(52.6)

The purpose of this section is to define “permanent.” This section is necessary to define a key term used in the regulations. Additional explanation can be found in Section 18983.2.

Subdivision (a)(53)

The purpose of this section is to define “person.” This section defines person as having the same meaning as in Section 40170 of the Public Resources Code. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(54)

The purpose of this section is to define “printing and writing papers.” This section defines paper products by using the existing definition in the Public Contract Code 12207(b). This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(55)

The purpose of this section is to define “prohibited container contaminants.” This section is necessary to define a key term in the regulations. Additional explanation can be found in Sections 18984.5 and 18984.6.

Subdivision (a)(56)

The purpose of this section is to define “processing.” This section defines processing by referencing the definition in 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(56.5)

The purpose of this section is to define “project baseline.” This definition is modified from the “project baseline” definition in CARB’s Cap-and-Trade Regulation, contained in the California Code of Regulations, Title 7, Section 95102, and is necessary for calculating GHG emissions reductions pursuant to Section 18983.2. This section is

necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(57)

The purpose of this section is to define "property owner." This section is necessary to define a key term in the regulations. Additional explanation can be found in Section 18984.11.

Subdivision (a)(58)

The purpose of this section is to define "Publicly Owned Treatment Works" or "POTW." This section defines POTW by referencing the definition in 40 CCR, Section 403.3(g). This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(59)

The purpose of this section is to define "recovered organic waste product procurement target." This section describes the metric by which jurisdictions' compliance with the Article 12 procurement regulations will be assessed. This section is necessary to define a key term in the regulations. Additional explanation can be found in Article 12 commencing with Section 18993.1.

Subdivision (a)(60)

The purpose of this section is to define "recovered organic waste products." The intent is to be consistent with SB 1383 mandates to reduce organic waste disposal in California landfills and to ensure the department can verify diversion through the permitting and regulatory framework. This section is necessary to define a key term in the regulations. Additional explanation can be found in Article 12 commencing with Section 18993.1.

Subdivision (a)(60.5)

The purpose of this section is to define "recovery location." This section is necessary to define the term as used in Subdivision (a)(39.5), "lifecycle greenhouse gas emissions" or "lifecycle GHG emissions." This section is necessary to define a key term used in the regulations and to maintain consistency in the department's regulations.

Subdivision (a)(61)

The purpose of this section is to define "recycled content paper." This definition clarifies the percentage of recovered fiber utilized in paper products and printing and writing papers that qualify as compliant products under the requirements of the Article 12 procurement regulations. This section is necessary to define a key term in the regulations. Additional explanation can be found in Article 12 commencing with Section 18993.1.

Subdivision (a)(62)

The purpose of this section is to define "renewable gas." The intent is to be consistent with SB 1383 statute that specifies the adoption of policies that improve organics recycling and encourage innovative, cost-effective, and environmentally beneficial uses



of biomethane derived from solid waste facilities. In-vessel digestion facilities are solid waste facilities that recover organic waste. This section is necessary to define a key term in the regulations. Additional explanation can be found in Article 12 commencing with Section 18993.1.

Subdivision (a)(63)

The purpose of this section is to define “residual organic waste.” This section is necessary to define a key term in the regulations.

Subdivision (a)(64)

The purpose of this section is to define “restaurant.” Restaurants are included in the regulations as a tier two commercial edible food generator. This section is necessary to define a key term in the regulations. Additional explanation can be found in Sections 18991.3 and 18995.1.

Subdivision (a)(65)

The purpose of this section is to define “route review.” This section is necessary to define a key term in the regulations. Additional explanation can be found in Sections 18984.1, 18984.6, 18994.2, 18995.1, 18995.2, and 18996.1.

Subdivision (a)(66)

The purpose of this section is to define “self-hauler.” This section is necessary to define a key term in the regulations. Additional explanation can be found in Sections 18985.1 and 18988.1.

Subdivision (a)(67)

The purpose of this section is to define “sewage sludge.” This section is necessary to define a key term in the regulations. Additional explanation can be found in section 18987.2.

Subdivision (a)(68)

The purpose of this section is to define “share table.” This section defines share table as having the same meaning as in Section 114079 of the Health and Safety Code. This definition is already well established, and the department has determined it to be appropriate for use in this rulemaking to avoid duplication, conflict, or confusion with existing law. This section is necessary to define a key term in the regulations.

Subdivision (a)(68.5)

The purpose of this section is to define “source sector.” This section defines source sector as having the same meaning as in Section 18815.2 of Title 14 CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations.

Subdivision (a)(69)

The purpose of this section is to define “source separated organic waste.” This section is necessary to define a key term in the regulations. Additional explanation can be found in Article 3 commencing with Section 18984.1.

Subdivision (a)(70)

The purpose of this section is to define “source separated organic waste collection stream.” This section defines source separated organic waste collection stream by referencing the proposed definition in Section 17402 of CCR. This section is necessary to define a key term used in the regulations and to maintain consistency in the department’s regulations. Additional explanation can be found in Section 17402.

Subdivision (a)(70.5)

The purpose of this section is to define “special district.” This section defines special district as having the same meaning as in Section 41821.2 of the Public Resources Code. This section is necessary to define a key term used in the definition of “jurisdiction” in Subdivision (a)(36) and to maintain consistency in the department’s regulations.

Subdivision (a)(71)

The purpose of this section is to define “supermarket.” Supermarkets are included in the definition of a “tier one commercial edible food generator” in Section 18982(a)(73). As such, it is necessary to define this term for clarity. Additional explanation can be found in Section 18991.3.

Subdivision (a)(72)

The purpose of this section is to define “the 2014 organic waste disposal baseline.” This section is necessary because the term “the 2014 organic waste disposal baseline” is used as a measurement factor in the definition of “organic waste disposal reduction target” in 14 CCR, Section 18982(a)(47). The baseline is a measurement of organic waste disposed in landfills.

Subdivision (a)(73)

The purpose of this section is to define “tier one commercial edible food generator.” This section specifies the commercial edible food generators that shall comply with the requirements set forth in Sections 18991.3 and 18991.4 of this chapter commencing January 1, 2022. This section is necessary to define for clarity a key term used in the regulations and is paramount for achieving the 20 percent edible food recovery goal set in SB 1383. The types of businesses, thresholds, and metrics established for tier one commercial edible food generators were determined by analyzing food waste research including, but not limited to: CalRecycle’s 2014 waste characterization study, edible food recovery data and research, and through stakeholder engagement. The department also analyzed food waste and food recovery data from organizations with expertise in edible food recovery and food waste issues including, but not limited to: the Natural Resources Defense Council, Harvard Food Law and Policy Clinic, ReFED, the Northern California Recycling Association, and other key stakeholders. This was done to identify business types that generate the largest amounts of edible food that would

otherwise be disposed. The department then engaged with key stakeholders including, but not limited to: CalRecycle's Food Waste Prevention and Rescue Grant grantees, the California Association of Food Banks, the Natural Resources Defense Council, ReFED, Copia, the San Diego Food System Alliance, River City Food Bank, Waste Not Orange County, Alameda County Waste Management Authority, the City of Oceanside, and others. This was done to verify that the business types included as tier one commercial edible food generators do dispose significant quantities of edible food that could potentially be recovered for human consumption.

The department's findings from interviews and research have shown that many tier one commercial edible food generators already have existing food recovery programs in place under which they have arrangements with food recovery organizations or food recovery services to collect a portion of their edible food that would otherwise be disposed. The department also found that tier one commercial edible food generators typically have greater quantities of edible food available to be recovered for human consumption than the tier two commercial edible food generators. In addition, the tier one commercial edible food generators typically have food types that can be more readily recovered with California's current food recovery infrastructure and capacity.

For example, tier one commercial edible food generators typically have more produce, fresh grocery, and shelf-stable foods available for food recovery, while tier two commercial edible food generators often have more prepared foods available. As a result, it is necessary that the generators be separated into tiers to provide tier two commercial edible food generators and jurisdictions an additional two years to prepare for compliance and build new or expand existing food recovery infrastructure and capacity if additional capacity is needed.

This section is necessary to define for clarity a key term in the regulations and to help ensure that the statewide 20 percent edible food recovery goal established in SB 1383 is achieved. In addition, the phased-in generator mandate is necessary to ensure that jurisdictions and food recovery organizations and services are given an additional two years to build food recovery infrastructure and capacity over the two-year timeframe from 2022 to 2024. Utilizing a phased-in generator mandate will cultivate robust food recovery networks throughout California and foster an environment of sustainable food recovery growth. This section is necessary to ensure that edible food that would otherwise be disposed is put to its highest and best use of helping feed people.

#### Subdivision (a)(74)

The purpose of this section is to define "tier two commercial edible food generator." This section specifies the commercial edible food generators that shall comply with the requirements set forth in Sections 18991.3 and 18991.4 of this chapter commencing January 1, 2024. This section is necessary to define for clarity a key term used in the regulations and is paramount for achieving the 20 percent edible food recovery goal set in SB 1383.

The types of businesses, thresholds, and metrics established for tier two commercial edible food generators were determined by analyzing food waste research including but not limited to CalRecycle’s 2014 waste characterization study and food recovery research, and through stakeholder engagement. The department also analyzed food waste and food recovery data from organizations including, but not limited to: the Natural Resources Defense Council, Harvard Food Law and Policy Clinic, ReFED, Food Shift, and others to identify business types to include as tier two commercial edible food generators.

Tier two commercial edible food generators include entities that often dispose significant amounts of edible food, but the food in many cases can be difficult to recover due to capacity constraints and logistical barriers. The department engaged with key stakeholders (including, but not limited to: the California Association of Food Banks, Fresno Metro Ministry, Oakland Unified School District, San Diego Unified School District, the Sheraton Hotel San Diego, Natural Resources Defense Council, ReFED, Waste Not Orange County, Alameda County Waste Management Authority, the City of Oceanside, and others. This was done to verify that the business types included as tier two commercial edible food generators do generate significant quantities of edible food that would otherwise be disposed, but would benefit from having an extra two years to prepare for compliance.

Tier two commercial edible food generators also include state agencies with a cafeteria with 250 or more seats or a total cafeteria facility size equal to or greater than 5,000 square feet. For clarification, the term “cafeteria” is intended to encompass a restaurant or dining room in which customers purchase food and serve themselves or are served from a counter and pay before eating.

This section is necessary to define a key term in the regulations and to help ensure that the statewide 20 percent edible food recovery goal established by SB 1383 is achieved. In addition, the phased-in generator mandate is necessary to ensure that jurisdictions and food recovery organizations and services are given an additional two years to build food recovery infrastructure and capacity over the two-year timeframe from 2022 to 2024. Utilizing a phased-in generator mandate will cultivate robust food recovery networks throughout California and foster an environment of sustainable food recovery growth. This section is necessary to ensure that edible food that would otherwise be disposed is put to its highest and best use of helping feed people.

#### Subdivision (a)(75)

The purpose of this section is to define “uncontainerized green waste and yard waste collection service.” This definition was added in response to stakeholder feedback requesting clarity on whether these types of services would continue to be allowed under the proposed regulations. This section is necessary to clarify what these services are and the regulations they are subject to, and to provide certainty that they are not prohibited by these regulations. For additional detail, see Article 3 commencing with Section 18984.1

#### Subdivision (a)(76)

The purpose of this section is to define “wholesale food vendor.” Wholesale food vendors are included in the definition of a “tier one commercial edible food generator” in Section 18982(a)(73). As such, it is necessary to define this term for clarity. Additional explanation can be found in Article 10 commencing with Section 18991.3.

### **Article 2. Landfill Disposal and Reductions in Landfill Disposal**

The purpose of this Article is to specify the facilities, operations, end uses, processes, and activities that will be considered landfill disposal. The Article additionally specifies facilities, operations, end uses, processes, and activities that will be considered reductions in landfill disposal for the purposes of this regulation.

Reductions in organic waste disposal are critical to the state’s efforts to reduce greenhouse gas emissions. This section describes the foundational climate change statutes and statutorily required climate change policy documents that govern the design and implementation of this regulation. The state’s effort to address climate change is articulated in the following statutes: Assembly Bill (AB) 32 (Núñez, Chapter 488, Statutes of 2006), Senate Bill (SB) 32 (Pavley, Chapter 249, Statutes of 2016), and SB 1383 (Lara, Chapter 395, Statutes of 2016). These statutes codified specific greenhouse gas reduction targets and required the adoption and implementation of strategies that define the specific actions needed to achieve those targets. The Climate Change Scoping Plan (Scoping Plan) (developed pursuant to AB 32 and updated at least every five years) and the Short-lived Climate Pollutant Reduction Strategy (SLCP Strategy) (developed pursuant to SB 1383) further define actions the state must take to achieve the codified emission reduction targets. These statutes and the associated policy documents collectively embody the state’s primary climate change objectives. The specifics of each statute and policy are described below. This regulation is designed to implement aspects of these statutes and policies that comprise the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. In the sections that follow, these policies are collectively referenced as “the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.”

California committed to take action to address the threat of climate change through the adoption of the California Global Warming Solutions Act of 2006 (AB 32). AB 32 requires California to reduce greenhouse gas emissions to 1990 levels by 2020, identifies the California Air Resources Board (CARB) as the agency charged with monitoring and regulating sources of the GHG emissions that cause climate change, and charges CARB with developing a Scoping Plan that outlines the state’s strategy to achieve the 2020 emissions target. This plan must be updated at least every five years. The most recent update to the Climate Change Scoping Plan<sup>1</sup> (2017 Scoping Plan Update) was adopted by the Board in December 2017.

---

<sup>1</sup> California Air Resources Board, California’s 2017 *Climate Change Scoping Plan*, [https://www.arb.ca.gov/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf).

The Legislature reaffirmed California's commitment to address climate change by adopting SB 32, which further directs CARB to ensure that the state's greenhouse gas emissions are reduced to at least 40 percent below the 1990 level by 2030. This commitment was furthered by the adoption of SB 1383, which added Sections 39730.5-39730.8 to Division 26 of the Health and Safety Code. Section 39730.5 required CARB to approve and implement the SLCP Strategy, which includes strategies to reduce emissions of greenhouse gases such as methane 40 percent below 2013 levels by the year 2030.

"HSC 39730.5(a) No later than January 1, 2018, the state board shall approve and begin implementing the comprehensive short-lived climate pollutant strategy developed pursuant to Section 39730 to achieve a reduction in the statewide emissions of methane by 40 percent, hydrofluorocarbon gases by 40 percent, and anthropogenic black carbon by 50 percent below 2013 levels by 2030 ..."

Section 39730.6 of the Health and Safety Code established landfill disposal reduction targets as a part of the SLCP Strategy. This requires the landfill reduction targets to be consistent with emission reduction goals in the SLCP Strategy approved by CARB pursuant to Section 39730.5:

"HSC 39730.6(a) Consistent with Section 39730.5, methane emissions reduction goals shall include the following targets to reduce the landfill disposal of organics:

- (1) A 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020.
- (2) A 75-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025 ..."

SB 1383 also codified Sections 42652-42654 in Division 30 of the Public Resources Code (PRC), which require CalRecycle, in consultation with CARB, to adopt regulations to achieve the 2020 and 2025 organic waste reduction levels specified in the Health and Safety Code.

"PRC 42652.5(a) The department [CalRecycle], in consultation with the State Air Resources Board, shall adopt regulations to achieve the organic waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code ..."

The Integrated Waste Management Act as codified by AB 939 (Sher, Chapter 1095, Statutes of 1989) defines activities that constitute diversion of landfill disposal and activities that constitute disposal for the purposes of diversion mandates that apply to cities and counties. However, Section 42654.5 specifically requires the regulations to implement and achieve the reductions established in Section 39730.6 of the HSC. The HSC does not define "landfill disposal of organics" or "disposal of organic waste." Further, it does not define activities that constitute a reduction in the "landfill disposal of

organics” or a reduction in “disposal of organic waste.” This requires that the regulations clarify the purpose of the statute by defining activities that constitute landfill disposal of organics, and activities that constitute a reduction in landfill disposal of organics, consistent with Section 39730.6 of the HSC and the SLCP Strategy approved by CARB pursuant to Section 39730.5 of the HSC.

In compliance with Section 39730.5 of the HSC, ARB approved the SLCP Strategy in March 2017. In order to achieve the 40 percent reduction in statewide emissions by 2030 (measured from 2013 emission levels) as specified in Section 39730.5 of the HSC, the SLCP Strategy calls for emission reductions of at least 4 million metric tons of carbon dioxide equivalents (MMTCO<sub>2e</sub>) annually from landfills by 2030. See Figure 1:

**Table 2: Summary of Proposed New SLCP Measures and Estimated Emission Reductions (MMTCO<sub>2e</sub>)<sup>1</sup>**

Measure Name	2030 Annual Emission Reductions	2030 Annual Emissions
<b><u>BLACK CARBON (ANTHROPOGENIC)</u></b>		
2030 BAU <sup>2</sup>		<b>26</b>
Residential Fireplace and Woodstove Conversion	3	
State Implementation Plan Measures and Clean Energy Goals <sup>3</sup>	4	
2030 BAU with new measures		<b>19</b>
<b><u>METHANE</u></b>		
2030 BAU <sup>2</sup>		<b>117</b>
Dairy and Other Livestock (Manure and Enteric Fermentation)	26	
Landfill	4	
Wastewater, industrial and Other Miscellaneous Sources	7	
Oil and Gas Sector	8	
2030 BAU with new measures		<b>71<sup>4</sup></b>
<b><u>HYDROFLUOROCARBONS</u></b>		
2030 BAU <sup>2</sup>		<b>65</b>
Financial Incentive for Low-GWP Refrigeration Early Adoption	2	
HFC Supply Phasedown (to be achieved through the global HFC phasedown) <sup>5</sup>	19	
Prohibition on sales of very-high GWP refrigerants	5	
Prohibition on new equipment with high-GWP Refrigerants	15	
2030 BAU with new measures		<b>24</b>

<sup>1</sup> Using 20-year GWPs from the 4<sup>th</sup> Assessment report of the IPCC for methane and HFCs, and 5<sup>th</sup> Assessment report for black carbon (the first report to define a GWP for black carbon)

<sup>2</sup> Business As Usual (BAU) forecasted inventory includes reductions from implementation of current regulations

<sup>3</sup> Future emission reduction measures that will be developed to help the State meet its air quality and climate change goals are also expected to help the State meet the black carbon target by 2030

<sup>4</sup> The specific annual reduction values shown above do not sum exactly to the total shown due to rounding error.

<sup>5</sup> A global HFC production and consumption phasedown was agreed to on October 15, 2016, in Kigali, Rwanda. ARB is currently evaluating the impact upon HFC emission reductions in California and plans to utilize the results from the assessment to inform future updates to BAU projections for HFC emissions.

**Figure 1 (Table 2 from SLCP Strategy)<sup>2</sup>**

Additionally, in codifying the chapter of the PRC requiring CalRecycle to adopt regulations to achieve the SB 1383 reductions, the Legislature provided further guidance for implementation and design of the regulations in Section 42652 of the PRC. In this section, the Legislature added findings and declarations that included the following:

“PRC 42652. The Legislature finds and declares all of the following:  
(a) The organic disposal reduction targets are essential to achieving the statewide recycling goal identified in Section 41780.01 [The State’s 75 Percent Source Reduction, Recycling and Composting Policy Goal] ...”

This language demonstrates legislative intent that CalRecycle consider activities that help the state achieve the 75 percent statewide solid waste recycling goal to be “recovery activities” for the purposes of SB 1383, provided that the activities also reduce landfill disposal and contribute to achieving the minimum level of required waste sector greenhouse gas emission reductions of 4 MMTCO<sub>2</sub>e annually by 2030. Similar to the disposal reduction levels codified in SB 1383, the recycling goal codified in PRC 41780.01 is a statewide target, not a target for individual cities and counties to meet:

“PRC 41780.01.  
(a) The Legislature hereby declares that it is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020, and annually thereafter.  
(b) Notwithstanding subdivision (a), the department shall not establish or enforce a diversion rate on a city or county that is greater than the 50 percent diversion rate established pursuant to Section 41780.”

In specifically referencing the organic waste disposal reduction levels in HSC 39730.6 and the state policy goal in PRC 41780.01, and not referencing the suite of activities identified as diversion under the AB 939 50 percent diversion mandate for jurisdictions, the Legislature solidified two aspects of legislative intent governing the implementation of SB 1383. First, the reference indicates that, when considering which activities count as disposal reductions or recovery activities, emphasis should be placed on activities that are determined to reduce landfill disposal under PRC 41780.01, whereas activities that count as diversion for cities and counties under AB 939 should not be considered recovery activities under SB 1383 unless the activities actually reduce landfill disposal and reduce greenhouse gas emissions. Second, the implementation and design of these regulations should serve as a statewide average target and not as a minimum requirement for each jurisdiction.

Consistent with the legislative direction codified in Sections 42652 and 42652.5 of the PRC, CalRecycle consulted with CARB, the agency responsible for developing and

---

<sup>2</sup>California Air Resources Board: *Short-Lived Climate Pollutant Reduction Strategy*, Page 12, Table 2. March 14, 2017. [https://www.arb.ca.gov/cc/shortlived/meetings/03142017/final\\_slcp\\_report.pdf](https://www.arb.ca.gov/cc/shortlived/meetings/03142017/final_slcp_report.pdf).



adopting the Scoping Plan and approving the SLCP Strategy, to determine activities that constitute landfill disposal of organic waste and activities that constitute a reduction in landfill disposal of organic waste for the purposes of Sections 39730.5 and 39730.6 of the HSC.

CalRecycle and CARB determined that any activity that results in the physical placement of organic waste in a landfill must constitute landfill disposal for the purposes of the statute and regulations. Further, to maintain consistency with the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, activities that constitute a reduction in landfill disposal (or "recovery") must reduce greenhouse gas emissions. Therefore, for an activity to constitute a reduction in landfill disposal, it must reduce the physical presence of organic waste in landfills and reduce greenhouse gas emissions.

To determine activities that meet these two tests, the statutory guidance in Section 42652 of the PRC and Sections 39730.5-39730.6 of the HSC were considered. Per the Findings and Declarations in PRC 42652, activities under 41870.01 that reduce landfill disposal and are known to reduce landfill greenhouse gas emissions are considered to be activities that constitute a reduction of landfill disposal for the purposes of these regulations.

Note: Specific conditions that ensure greenhouse gas emissions reductions are necessary for some of these activities and are discussed in Section 18983.1. Additionally, activities specifically identified in the SLCP Strategy as methods of reducing organic waste disposal were determined to count as activities that constitute a reduction in landfill disposal. Finally, for activities that are not identified in statute or in the SLCP Strategy, CalRecycle and CARB considered the underlying emissions reduction assumptions that support the SLCP Strategy.

The SLCP Strategy calculated the 4 MMTCO<sub>2e</sub> emissions reduction from landfills by identifying and calculating the emissions reductions of composting and anaerobically digesting organic waste rather than sending it to landfills. Therefore, in order to be consistent with the emissions reduction target, activities not already identified as achieving reductions in landfill disposal in the SLCP Strategy or through statutory reference in SB 1383 must result in greenhouse gas emission reductions similar to those achieved by composting when compared to landfilling the same organic waste. Activities known to achieve greater greenhouse gas emission reductions than composting or anaerobic digestion are noted in subdivision (b) of Section 18983.1 as an activity that reduces landfill disposal. Activities not explicitly listed in this section may still be determined to constitute a reduction in landfill disposal if they comply with the requirements in Section 18983.2 by demonstrating that they achieve permanent greenhouse gas emissions reductions equivalent to those achieved by composting the same organic waste.

This regulation is designed to implement aspects of these statutes and policies that comprise the state's efforts to keep organic waste out of landfills and reduce

greenhouse gas emissions. The regulation sets forth the activities that constitute landfill disposal of organic waste, and activities that constitute a reduction in landfill disposal of organics in a manner that is consistent with the state's effort to keep organic waste out of landfills and reduce greenhouse gas emissions. The specific activities that constitute landfill disposal of organic waste and the activities that constitute a reduction in landfill disposal of organic waste are enumerated and explained in their respective sections below.

This Article is necessary to ensure that the activities identified as landfill disposal and the activities identified as reductions in landfill disposal are consistent with the statutes that comprise the state's effort to keep organic waste out of landfills and reduce greenhouse gas emissions.

### **Section 18983.1 Landfill Disposal and Recovery.**

#### Subdivision (a)

The purpose of this section is to specify which facilities, operations, end uses, processes, and activities constitute landfill disposal of organic waste (hereafter collectively referred to as "landfill disposal activity" or "landfill disposal activities") for the purposes of this regulation. Throughout the regulations, regulated entities are subject to compliance requirements that depend on the disposition of organic waste resulting from their respective authority (e.g. the generation of the waste as a generator, or the management and recovery of the waste as a jurisdiction, hauler, or facility). Various entities are required to play a role in ensuring the recovery of organic waste; it is therefore necessary to identify activities that constitute recovery, as well as activities that constitute landfill disposal. This section is necessary to differentiate activities that count as landfill disposal of organic waste from those that count as a reduction in landfill disposal and recovery of organic waste.

#### Subdivision (a)(1)

The purpose of this section is to specify that depositing organic waste into a landfill is considered a landfill disposal activity for the purposes of this regulation. The final deposition of waste in a landfill is expressly included as disposal in statute. It is included here for purposes of clarity since leaving it off this list might result in confusion.

Further, organic waste deposited into a landfill will break down anaerobically and generate methane, a greenhouse gas and short-lived climate pollutant. This regulation is required to implement the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. Landfill disposal results in the physical placement of organic waste in a landfill, which generates greenhouse gas emissions; therefore, it must be considered disposal.

Throughout the informal workshop process, stakeholders requested clarification regarding whether technologies that actively reduce or eliminate greenhouse gas emissions could be considered "recovery activities" even if the handled organic waste is ultimately buried in a landfill. These practices fail to reduce the amount of organic waste

that is physically placed in landfills. Rendering material inert from a greenhouse gas emissions standpoint or volumetrically reducing the material is not the sole purpose of the statute and does not align with the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

The statute requires the state to reduce the presence of organic waste in landfills. Regardless of the sophistication of a pre-landfill treatment practice, if material is ultimately deposited in a landfill, the deposition cannot rationally be considered anything other than landfill disposal for the purposes this regulation and the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

This section is necessary to make clear that this activity does not constitute a reduction in landfill disposal.

#### Subdivision (a)(2)

The purpose of this section is to specify that organic waste used as alternative daily cover (ADC) or alternative intermediate cover (AIC) at a landfill will be considered a landfill disposal activity for the purposes of this regulation. Under a different regulatory scheme (AB 939), ADC and AIC were considered to be diversion from landfill disposal (PRC 41781.3). This section is necessary to make clear that, for the purposes of this regulation, these activities are not considered reductions in landfill disposal.

Federal solid waste regulations require owners or operators at municipal solid waste landfills to cover disposed solid waste with 6 inches of earthen material at the end of the operating day to control odors, vectors, fires, litter, and scavenging. The federal regulations also allow states to approve alternative materials if landfill operators demonstrate that the alternative material achieves the same objectives. Organic waste such as green waste is commonly used as "alternative" cover materials.

Materials used as ADC or AIC are ultimately incorporated into the landfill and break down in the same manner as materials directly deposited in the landfill. Activities that result in the final deposition of waste in a landfill cannot rationally be considered anything other than landfill disposal, regardless of whether the material was beneficially reused prior to its placement in a landfill.

This section additionally clarifies that the use of non-organic material as landfill cover, either as ADC or AIC, does not constitute disposal of organic waste. This clarification is necessary because stakeholders expressed confusion regarding how materials that are partially organic in nature would be considered in the regulation.

Specifically, stakeholders expressed confusion regarding material known as "material recovery facility fines," or MRF fines. MRF fines are made of the residual material collected at transfer/processing operations after recovery activities have taken place. The material is often partially organic in nature and can contain bits of paper and other organic materials. Transfer/processors that send material to activities defined as disposal must sample the material periodically to determine the organic fraction of

material they are sending to disposal. The samples must be representative of the entire stream they send to disposal. As ADC and AIC are defined as disposal, transfer/processors must include these streams in their overall representative sample of the material they send to disposal. For additional detail on disposal stream sampling requirements, see Sections 17409.5.1, 17409.5.3, and 17409.5.5.

The total amount of organic content measured in a transfer/processor's collective disposal stream from the samples is used to determine the transfer/processor's overall recovery efficiency. This section is necessary to clarify that the non-organic fraction of material sent to disposal. Whether it is standard landfill disposal as defined in (a)(1) or landfill disposal through ADC or AIC as defined in (a)(2) does not factor into the facility's recovery efficiency. In practice, if a facility samples MRF fines and the material is heavy in organic content, it will increase the calculated amount of organic content the facility is sending to disposal, which will impact the facility's overall recovery efficiency. Conversely, if MRF fines are light in organic material, then the material will factor in less prominently in the facility's overall organic waste recovery efficiency.

#### Subdivision (a)(3)

The purpose of this section is to specify that any deposition of organic waste not specifically identified in Subdivision (b) as an activity that constitutes a reduction of landfill disposal shall constitute landfill disposal. This section is necessary to clarify that depositions of organic waste other than those identified in the regulations constitute landfill disposal.

#### Subdivision (b)

The purpose of this section is to specify facilities, operations, end uses, processes, and activities that will be considered reductions in landfill disposal (hereafter referred to as "recovery activity" or "recovery activities") because they contribute to the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. This section also clarifies that organic waste sent to an identified recovery activity is only considered to have reduced organic waste disposal if the material is not subsequently sent to landfill disposal. Stakeholders requested clarity regarding whether material transported to a recovery facility can be considered recovered once the material "arrives" at a facility that recovers organic waste. This section clarifies that simply transporting organic waste to, or passing organic waste through, a facility that recovers organic waste does not necessarily reduce the landfill disposal of organic waste.

The SLCP Strategy specifically identified certain activities as pathways to reduce organic waste disposal:

"Organic waste constitutes a significant portion of California's waste stream, and as with dairy manure, a holistic approach is needed to effectively divert and manage it. This means keeping organics out of landfills, either through source reduction or recycling, but also improving the infrastructure for diverting and/or recycling organics, including minimizing and recovering edible food wastes; and fostering composting,

anaerobic digestion and other processes for energy recovery.<sup>3</sup> [Emphasis added]

These activities identified in the SLCP Strategy are all methods for “keeping organics out of landfills” and constitute management practices that reduce greenhouse gas emissions. These activities are enumerated in this section as recovery activities and are further elaborated on in their respective sections.

The state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions require a 75 percent reduction in the amount of organic waste that is disposed of in landfills by 2025, and a 40 percent reduction in all greenhouse gas emissions by 2030. CalRecycle worked in consultation with CARB to identify the suite of organic waste management activities that contribute to the state’s efforts.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(1)

The purpose of this section is to specify that recycling constitutes a reduction of landfill disposal and is therefore considered a recovery activity for the purpose of this regulation. Recycling organic waste through the methods identified in the referenced sections prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(2)

The purpose of this section is to specify that composting constitutes a reduction of landfill disposal and is therefore considered a recovery activity for the purpose of this regulation. Composting organic waste through the methods identified in the referenced sections prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(3)

The purpose of this section is to specify that anaerobic digestion constitutes a reduction of landfill disposal and is therefore considered a recovery activity for the purpose of this

---

<sup>3</sup> California Air Resources Board: *Short-Lived Climate Pollutant Reduction Strategy*, Page 72. March 14, 2017.

regulation. Anaerobically digesting organic waste through the methods identified in the referenced sections prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities that regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(4)

The purpose of this section is to specify that biomass conversion constitutes a reduction of landfill disposal and is therefore considered a recovery activity for the purpose of this regulation. This section also clarifies that biomass conversion only constitutes recovery if it meets the feedstock categories for biomass conversion identified in Section 40106 of the PRC, which specifically limits biomass feedstock to woody materials and non-recyclable pulp. The acceptance of non-authorized materials by biomass conversion facilities is not allowed and is referenced here to prevent confusion.

For the purposes of PRC 41870.01, biomass conversion of organic waste as identified in Section 40106 of the PRC is considered "de-facto diversion" which prevents the landfill disposal of this material. Biomass conversion facilities also reduce emissions and can play a role in achieving California's goals for reducing greenhouse gas emissions and reducing the volume of material deposited in landfills.<sup>4</sup> This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(5)

The purpose of this section is to specify that organic waste used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill is considered a recovery activity for the purpose of this regulation, provided that certain conditions mitigating greenhouse gas emissions relative to the material's final deposition are met. This section also outlines specific conditions for these applications. Since these activities, under the circumstances prescribed in this section, can reduce greenhouse gas emissions, this supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

Unlike organic waste used as cover material (e.g. ADC or AIC), organic waste used for erosion control, revegetation, slope stabilization, or landscaping at a landfill is not necessarily incorporated into the landfill and therefore does not necessarily result in the

---

<sup>4</sup> California Air Resources Board: [Biomass Conversion](https://www.arb.ca.gov/cc/waste/biomassconversion.pdf), September 17, 2013, <https://www.arb.ca.gov/cc/waste/biomassconversion.pdf>

final deposition of the material in a landfill. Subdivisions (b)(5)(A)-(D) establishes the conditions under which these applications constitute a reduction in landfill disposal.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(5)(A)

The purpose of this section is to clarify that organic waste used for erosion control, revegetation, slope stabilization, or landscaping at a landfill must be processed at a solid waste facility. This requirement ensures that these materials are appropriately processed at a regulated facility to remove prohibited waste materials prior to application. Existing solid waste regulations limit the types of organic waste materials that may be legally applied for this purpose and establish maximum contaminant levels. Further commingling non-organic waste with organic waste could create anaerobic conditions, which would lead to the generation of methane emissions. This section is necessary to maintain consistency with existing regulations and prevent applications that could create greenhouse gas emissions.

#### Subdivision (b)(5)(B)

The purpose of this section is to clarify that in order for the use of organic waste to constitute a recovery activity, it must conform with existing solid waste regulatory requirements specified by Section 21600 of Title 27 CCR. This section is necessary to clarify that this regulation only defines when the activity counts as recovery and does not allow unlawful uses of organic waste at a landfill that conflict with existing public health and safety requirements.

#### Subdivision (b)(5)(C)

The purpose of this section is to clarify that organic waste used as a soil amendment at a landfill may only be considered a reduction in landfill disposal if the application of the material never exceeds a depth of 12 inches. This section is necessary to limit the depth of material so that it does not break down anaerobically and generate methane. Existing research demonstrates that organic waste suitable for use as a soil amendment reduces net emissions if the depth does not exceed 12 inches.<sup>5</sup> Applications that exceed 12 inches can lead to anaerobic conditions, which lead to the generation of greenhouse gases. This section is necessary to ensure applications only constitute recovery of organic waste when it is used in a manner that supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (b)(6)

The purpose of this section is to clarify that land application, as defined in Section 17852(a)(24.5) of Title 14 CCR, of organic waste constitutes a reduction in landfill disposal provided that it complies with minimum standards included in this section to ensure the material is used in a manner that supports the state's efforts to keep organic

---

<sup>5</sup> Burger, Zhu and Green: *Research to Evaluate Environmental Impacts of Direct Land Application of Uncomposted Green and Woody Wastes on Air and Water Quality*. Contractors Report Produced for CalRecycle March 30, 2015

waste out of landfills and reduce greenhouse gas emissions. The necessity of this is discussed in the specific sections below.

#### Subdivision (b)(6)(A)

The purpose of this section is to specify that land application of green material or green waste only constitutes a reduction in landfill disposal if the material is processed prior to application and is limited to the definition of green waste established in existing regulations relative to land application. This requirement ensures these materials are appropriately processed at a regulated facility to remove prohibited waste materials and contaminants prior to application. Existing solid waste regulations limit the types of organic waste materials that may be legally applied and establish maximum contaminant levels and application depths (12 inches).

Requiring processing at a solid waste facility to ensure materials do not exceed maximum contaminant levels and establishing application depth requirements ensures that organic waste does not break down anaerobically and generate greenhouse gas emissions when it is applied. Existing research demonstrates that organic waste suitable for use as a soil amendment reduces net emissions if the application depth does not exceed 12 inches.<sup>6</sup> Applications that exceed 12 inches can lead to anaerobic conditions, which leads to the generation of greenhouse gases. Further, if the material is not processed to remove non-organic wastes prior to application, the material could break down anaerobically, which would lead to the generation of emissions. This section is necessary to ensure that land application only constitutes recovery of organic waste if it is performed in a manner that supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. Further, this section is necessary to clarify that, while this regulation defines land application as recovery, it does not allow unlawful land application of organic waste in conflict with existing public health and safety regulations and requirements.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(6)(B)

The purpose of this section is to clarify that land application of biosolids constitutes a reduction in landfill disposal provided that the application complies with minimum standards. This section is necessary to respond to stakeholder requests for clarity regarding whether this activity constitutes a reduction in landfill disposal.

This section specifies that to be considered a reduction in landfill disposal for the purposes of this regulation, land application of biosolids must comply with existing regulatory requirements and have undergone composting or anaerobic digestion. This section is necessary to clarify that while this regulation defines land application as

---

<sup>6</sup> Burger, Zhu and Green: *Research to Evaluate Environmental Impacts of Direct Land Application of Uncomposted Green and Woody Wastes on Air and Water Quality*. Contractors Report Produced for CalRecycle March 30, 2015



recovery, this regulation does not allow land application of biosolids be done in a manner that conflicts with existing public health and safety regulations and requirements. Land application of composted or anaerobically digested biosolids results in a net reduction in greenhouse gas emissions when applied to land.<sup>7</sup> Land application of composted or digested biosolids prevents the landfill disposal of this material and reduces greenhouse gas emissions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(6)(C)

The purpose of this section is to clarify that land application of digestate constitutes a reduction in landfill disposal provided that the application complies with minimum standards. This section is necessary to respond to stakeholder requests for clarity regarding whether this activity constitutes a reduction in landfill disposal.

This section specifies that, to be considered a reduction in landfill disposal for the purposes of this regulation, land application of digestate must comply with existing regulatory requirements and have undergone anaerobic digestion. This section is necessary to clarify that while this regulation defines land application as recovery, this regulation does not allow land application of digestate to be done in a manner that conflicts with existing public health and safety regulations and requirements. Digestate that has undergone anaerobic digestion has already had the greenhouse gas emissions from the original organic waste captured in the digestion process. Therefore, compliant land application of anaerobically digested digestate does not create greenhouse gas emissions, and it keeps organic waste out of landfills. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(7)

The purpose of this section is to clarify that lawful use of organic waste as animal feed constitutes a reduction in landfill disposal. Diverting organic waste from landfills to feed animals keeps organic waste out of landfills, thereby reducing greenhouse gas emissions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

---

<sup>7</sup> e.g., Thorman, Rachel & Williams, J.R. & Chambers, B.J. *Biosolids Recycling to Agricultural Land: Greenhouse Gas Emissions*. 14th European Biosolids and Organic Resources Conference and Exhibition. 2009.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (b)(8)

The purpose of this section is to clarify that operations or facilities not explicitly listed in this section that reduce greenhouse gas emissions may still be determined to constitute a reduction in landfill disposal if they comply with the requirements in Section 18983.2. This section is necessary to allow flexibility for new technologies and processes that reduce disposal of organic waste.

This section is necessary to specify that activities not already outlined in this section may go through a process for determination of whether they achieve a reduction in landfill disposal.

#### Subdivision (c)

The purpose of this section is to specify that the use of the term landfill within this section is not limited to permitted landfills, but also includes landfills that require permits but may not have them, the out-of-state export of waste, and other activities outlined in Section 40192(c) of the PRC. Organic waste managed in an unpermitted landfill or exported out-of-state results in the deposition of organic waste in landfills. This waste falls out of CalRecycle's oversight, and thus the greenhouse gas emissions or reduction potential cannot be verified.

This section is necessary to make clear that this activity does not constitute a reduction in landfill disposal.

#### Subdivision (d)

The purpose of this section is to specify that edible food recovered for human consumption is an activity that reduces landfill disposal. Diverting organic waste from landfills to feed people reduces that amount of material that is physically placed in landfills and results in significant greenhouse gas reductions. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, and is therefore considered a recovery activity for the purposes of this regulation.

This section is necessary to specify those types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

### **Section 18983.2 Determination of Technologies that Constitute a Reduction in Landfill Disposal.**

The purpose of this section is to specify which facilities, operations, end uses, processes, technologies, and activities (proposed recovery activities) could constitute a reduction in landfill disposal of organic waste for the purposes of this regulation. This section is necessary to allow flexibility for recovery processes that reduce disposal of organic waste and achieve greenhouse gas emission reductions in comparison to landfilling the same organic waste, but that are not listed in Section 18983.1. The intent

of this section is to provide a process for an applicant to provide necessary information about the proposed recovery activity, and a procedure that CARB and CalRecycle will use to determine whether that proposed recovery activity constitutes a reduction in landfill disposal of organic waste under this regulation. The necessity of this is discussed in the specific sections below.

Subdivision (a)

The purpose of this section and subdivisions (a)(1)(A)-(I) is to clearly outline the necessary information to be submitted to the department, which, in consultation with CARB, will make a determination for the applicant on whether the proposed recovery activity constitutes a reduction in landfill disposal. The necessity of this is discussed in the specific sections below.

Subdivision (a)(1)(A)

The purpose of this section is to require applicants to provide contact information. This section is necessary to ensure CARB and CalRecycle have appropriate contact information for the applicant.

Subdivision (a)(1)(B)

The purpose of this section is to require the applicant to provide detailed information about the proposed recovery activity such that CARB and CalRecycle have the appropriate background information on the activity. This section is necessary because this information is required for staff assessing the proposed recovery activity to understand the processes occurring and the potential emissions or emissions reductions that could result from the proposed recovery activity.

Subdivision (a)(1)(C)

The purpose of this section is to require the applicant to submit information about the potential amount and type of organic waste that will be processed using the proposed recovery activity. This section is necessary because this information is needed to allow CARB and CalRecycle to most accurately estimate the potential greenhouse gas emission reductions resulting from the proposed recovery activity. The requirement to have a waste characterization study-level analysis done for mixed organic waste materials was removed during the first 15-day change because staff determined that this detailed information was not justified for calculated GHG emissions and emissions reductions. Instead, the applicant is to differentiate the material using the eleven identified categories modified from CalRecycle's "Standard List of Material Categories and Types."<sup>8</sup> Staff chose these categories because organic materials in each of these categories either currently have or may in the future have distinct GHG emission factors.

Subdivision (a)(1)(D)

The purpose of this section is to require the applicant to submit information about materials produced or left over after the organic waste is processed through the proposed recovery activity. This section is necessary because this information is

---

required to allow CARB and CalRecycle to most accurately estimate potential greenhouse gas emission reductions as compared to landfilling the organic waste, including emissions that may occur after material is disposed or used. Staff removed the word “residual” to clarify that this subdivision refers to any materials produced or remaining at the end of the process or technology. The word “landfill” was added to clarify materials that do not have an end use will be disposed at a landfill.

#### Subdivision (a)(1)(E)

The purpose of this section is to require the applicant to submit information on any calculation, assumption, or emission factor used to determine the permanent greenhouse gas emissions reduction estimate of the proposed recovery activity, as well as to calculate greenhouse gas emissions associated with the proposed recovery activity and the produced or remaining materials, if any. This section is necessary because the required information enables CalRecycle to validate the methods used to calculate emissions and emissions reductions, as well as to reproduce the emissions and emissions reductions calculations themselves. This section was modified through 15-day changes to clarify the department’s lead role and to reorganize for clarity.

#### Subdivision (a)(1)(F)

The purpose of this section is to require the applicant to submit information documenting that each emission factor submitted pursuant to Subdivision (a)(1)(E) was peer reviewed or otherwise scientifically vetted. This section is necessary to ensure that emission factors utilized to calculate greenhouse gas emissions reductions conform to rigorous scientific standards. Through 15-day changes, staff added a clarification to specify that emission factors that are used pursuant to Section 18983.2(a)(1)(E) are for greenhouse gases. “Greenhouse gas emission reduction factor” was added to clarify that this type of factor may be used in calculations.

#### Subdivision (a)(1)(G)

The purpose of this section is to require the applicant to submit an explanation of how the proposed recovery activity results in a permanent reduction in greenhouse gas emissions. This section is necessary because this submission is required for CARB and CalRecycle to understand, replicate, and validate how the applicant has applied any calculation, assumption, or emission factor pursuant to Subdivision (a)(1)(E).

#### Subdivision (a)(1)(H)

The purpose of this section is to require the applicant to attest to the truthfulness, accuracy, and completeness of the materials submitted pursuant to subdivision (a). This section is necessary because this attestation will help ensure that applicants understand that they must submit valid materials and that they are responsible for vetting the validity of the information submitted.

#### Subdivision (a)(1)(I)

The purpose of this section is to allow the CalRecycle director to request additional information to enable CalRecycle and CARB to validate any information submitted pursuant to subdivision (a). This section is necessary because additional information

may be required to fully validate the information submitted on the proposed recovery activity.

#### Subdivision (a)(2)

The purpose of this section is to leverage CARB staff expertise in greenhouse gas emissions quantification to assist CalRecycle in determining whether the proposed recovery activity results in permanent reductions in greenhouse gas emissions when compared to landfilling the same organic waste. This section is necessary because this enables CalRecycle to determine whether the proposed recovery activity counts as a reduction in landfill disposal. Through 15-day changes, staff changed “determine” to “estimate” since GHG calculations are estimates. Lifecycle analysis was added to clarify submitted calculations must account for all GHG emissions from recovery to end use. Application response deadlines were added to establish a consistent and timely process for application submittal and review.

#### Subdivision (a)(3)

The purpose of this section is to state that the proposed recovery activities must reduce emissions by a minimum of 0.30 MTCO<sub>2e</sub> per short ton organic waste processed to qualify as a recovery activity under this regulation. This greenhouse gas emissions reduction benchmark by which new technologies or processes will be measured is equivalent to those achieved by composting rather than landfilling the same organic waste. Composting was selected as the benchmark because the lifecycle greenhouse gas emissions reductions achieved from composting are similar to those achieved from utilizing existing organic waste recovery activities listed in Section 18983.1, with the exception of source reduction and recycling technologies that achieve greater reductions. Recycling and source reduction recovery activities are considered closed-loop processes where the commodity “replaces itself” in the supply chain, as such, these are the only technologies that discount upstream greenhouse gas emissions from the resource extraction of the virgin materials used to make the commodity. Through 15-day changes, staff added “permanent” to clarify the GHG lifecycle emissions reductions achieved must be permanent to achieve the goals of this regulation. “Lifecycle” was added in two places to clarify submitted calculations must account for all GHG emissions from recovery to end use. The word “mixed” was removed because recovery may include organic materials of other types that are not mixed.

The quantification methodology used to determine this benchmark follows that used by CARB’s Draft Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities<sup>9</sup> (CERF). The model used to quantify fugitive emissions from landfills in the CERF is based on the Intergovernmental Panel on Climate Change’s (IPCC) first-order decay model.<sup>10</sup> For this

---

<sup>9</sup> California Air Resources Board: *Final Draft Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities*. May 2017. <https://www.arb.ca.gov/cc/waste/cerffinal.pdf>.

<sup>10</sup> IPCC 2006, 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Prepared by the National Greenhouse Gas Inventories Programme, Eggleston H.S., Buendia L., Miwa K., Ngara T. and Tanabe K.

regulation, staff used a decay rate to represent dry conditions found in Southern California's landfills.<sup>11</sup> The following modifications were made to the CERF to maintain consistency among the lifecycle assessments performed for the existing organic recovery activities listed in Section 18983.1, and to appropriately apply the CERF within the context of the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions:

- Characteristics of mixed organic waste were from CalRecycle's 2014 waste characterization study.<sup>12</sup>
- The compost application rates from the California Department of Food and Agriculture's Healthy Soils Incentive Program were used to determine the avoided emissions from displacing the production of synthetic fertilizer. The fertilizer benefit from compost application is for the avoided greenhouse gas emissions from the production of mineral nitrogen, phosphorous, and potassium fertilizer. During the development of the Healthy Soils Initiative quantification method, California-specific data showed that only a portion of the nitrogen from compost was bioavailable to the plants.<sup>13</sup> Using California-specific rates of nitrogen bioavailability and assuming that phosphorus and potassium also follow the same 10-year bioavailability rates, the benefits of avoided fertilizer production referenced in the Healthy Soils Incentive Program compared to the CERF decreased from 0.15 to 0.0361 MTCO<sub>2e</sub>/ton of feedstock.
- No off-site impacts of utilizing the compost were considered. While compost application includes real and tangible environmental benefits, such as improved soil health and soil carbon storage, improved soil permeability, and improved soil water holding capacity and erosion control, these benefits are not incorporated into the emission reduction factor calculated for this regulation because these emissions reductions are not permanent, meaning that they do not last for the lifetime of carbon dioxide in the atmosphere (approximately 100 years).

Using the benchmark of 0.30 MTCO<sub>2e</sub> per short ton of organic waste is consistent with the estimated emissions reductions used in CARB's SLCP Strategy, which calls for

---

(eds). Published: IGES, Japan. [https://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/5\\_Volume5/V5\\_3\\_Ch3\\_SWDS.pdf](https://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/5_Volume5/V5_3_Ch3_SWDS.pdf). This is a publicly available model and the same model used in ARB's greenhouse gas emission inventory for the waste sector, as well as for CARB's [Landfill Gas Tool](#).

<sup>11</sup> Dry conditions represent the floor in terms of avoided emissions from not landfilling organic waste. Using a decay rate constant for average moisture conditions would increase the avoided emissions from not landfilling the waste.

<sup>12</sup> CalRecycle: Disposal-Facility-Based Characterization of Solid Waste in California (DRRR-2015-1546). 2014. <https://www2.calrecycle.ca.gov/Publications/Details/1546>. Use of the 2014 waste characterization study is consistent with the 2020 and 2025 statewide reduction targets for organic waste disposal from 2014 levels that was established in SB 1383 (Section 39730.6 of the Health and Safety Code).

<sup>13</sup> Gravuer, Kelly: Compost Application Rates for California Croplands and Rangelands for a CDFA Healthy Soils Incentives Program. July 22, 2016. [https://www.cdfa.ca.gov/oefi/efasap/docs/CompostApplicationRate\\_WhitePaper.pdf](https://www.cdfa.ca.gov/oefi/efasap/docs/CompostApplicationRate_WhitePaper.pdf).

greenhouse gas emission reductions of at least 4 MTCO<sub>2</sub>e in 2030.<sup>14</sup> The greenhouse gas emission factor for mixed municipal solid waste of 0.223 MTCO<sub>2</sub>e was utilized to estimate the approximate emission reductions from meeting organic waste reduction targets set forth in SB 1383. The 0.30 MTCO<sub>2</sub>e benchmark is set slightly higher than that used to develop the targets since the readily compostable organic fraction of mixed municipal solid waste comprises approximately 40 percent of the waste stream and has a higher methane emission potential than the other municipal solid waste anaerobically decomposing within a landfill. Ultimately this benchmark is a conservative approach because it only considers the avoided emissions from not landfilling the organic waste within the driest part of the state, where the majority of the waste is generated.

This section is necessary to ensure that activities deemed to constitute a reduction in landfill disposal through this process support the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (b)

The purpose of this section is to provide transparency regarding which recovery activities have been deemed by CalRecycle and CARB to constitute a reduction of landfill disposal of organic waste. This section is necessary to specify the types of activities regulated entities can utilize to comply with the requirements to achieve a reduction in landfill disposal.

#### Subdivision (c)

The purpose of this section is to allow an applicant to request that CalRecycle consider additional information not otherwise required in Article 2 that shows the applicant's proposed recovery activity should be considered identical or equivalent to a proposed recovery activity already deemed by CalRecycle, through the process outlined in 18983.2(a), to result in a reduction in landfill disposal. This section is necessary to clarify that applicants may submit additional information to CalRecycle for consideration.

### **Article 3. Organic Waste Collection Services**

The purpose of this Article is to establish the standards for organic waste collection services required under this chapter. The foundational requirement of the SB 1383 rulemaking is the mandate that each jurisdiction, or a designee (typically a hauler) acting on behalf of a jurisdiction, provide organic waste collection services to all generators (residential and commercial). The structure of the statute requires that the state dispose no more than 5.7 million tons of organic waste annually on and after January 1, 2025 (a 75 percent reduction from the 2014 organic waste disposal level of 23 million tons). CalRecycle projects that population growth will result in the generation of approximately 32 million tons of organic waste in 2025, requiring the recovery of more than 27 million tons of organic waste annually for the state to meet the statutory targets to reduce organic waste disposal and greenhouse gas emissions.

---

<sup>14</sup> CARB's Short Lived Climate Pollutant Strategy. Table 2 on page 12. The document can be downloaded from, [https://ww2.arb.ca.gov/sites/default/files/2018-12/final\\_slcp\\_report%20Final%202017.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-12/final_slcp_report%20Final%202017.pdf)

The regulations require jurisdictions to provide organic waste collection services to their generators that are responsible for 90 percent of organic waste that is currently disposed. Approximately 50 percent of disposed organic waste is attributable to residential properties, 40 percent is attributable to commercial businesses, and the balance is self-hauled to landfills (approximately 60 percent of all waste is generated by the commercial sector, but residential waste is more heavily organic). Requiring jurisdictions to provide universal residential and commercial organic waste collection and recycling services was proposed at the outset of the informal rulemaking process in February 2017. The state cannot achieve the required reductions in SB 1383 if jurisdictions do not require organic waste collection from the entities responsible for 90 percent of organic waste disposal. Through 13 public workshops, no reasonable, or statutorily permissible alternative to this foundational requirement was proposed. Requirements for local jurisdictions to collect and recover organic waste from their residential and commercial generators are critical for the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

The legislative intent of SB 1383 precludes CalRecycle from requiring an individual city or county to achieve a performance standard of 75 percent recovery of its generated organic waste. This prevents CalRecycle from using unique jurisdictions' recovery rates as the performance standard that jurisdictions must meet and then holding them to that standard. The law requires that CalRecycle treat the organic waste disposal reduction targets as statewide targets and not individual targets for each city and county. Therefore, absent the authority to set jurisdiction-specific recycling targets or ban landfill disposal of organic waste, in order for CalRecycle to achieve the statewide targets, CalRecycle must require that regulated entities implement programs that are more prescriptive than those required under the previous statutory scheme.

This prescriptive approach necessitated by the statute is reflected in the design of the regulations and is most apparent in the collection requirements described in this Article. This is a paradigm shift for jurisdictions, which is why CalRecycle conducted two years of informal workshops to vet the specifics of the regulatory requirements included in this Article and throughout the other provisions of these regulations.

This Article requires jurisdictions to provide organic waste collection services to their residential and commercial generators and specifies that organic waste collection services provided must either: (A) separate organic waste from other materials into a separate container at the point of collection for recycling (source-separated curbside collection), or (B) collect organic waste with garbage and other wastes and separate the material for recovery at a receiving facility (mixed waste processing).

The draft regulations originally prohibited jurisdictions from implementing new mixed waste processing systems after 2022 and required all new services to implement source-separated curbside collection as a means of ensuring that collected organic waste would be clean and recoverable. In response to stakeholder feedback, CalRecycle eliminated the prohibition on new mixed waste processing systems provided that the receiving facilities (not jurisdictions) demonstrate they are capable of recovering



75 percent of the organic content received from the mixed waste stream on an annual basis. This performance standard addresses stakeholder concerns about limiting flexibility, without compromising the goal for the regulations to achieve the statutory requirements.

The primary collection requirements in the first sections of this Article are supported by a series of secondary requirements, including education requirements, contamination monitoring requirements, container requirements, and recordkeeping requirements. Given the necessity of a prescriptive regulatory approach, these supporting sections are essential in creating a level playing field across regulated entities. These secondary requirements ensure regulated entities are held to the same minimum standards and provide the recordkeeping necessary for CalRecycle to ensure compliance.

This Article is necessary to ensure that organic waste is collected and recovered in a manner that supports the state's efforts to meet the statutory targets to reduce organic waste disposal and greenhouse gas emissions

### **Section 18984. Combined Organic Waste Collection Services.**

The purpose of this section is to explain that a jurisdiction may employ any combination of acceptable collection services provided in this Article. This section is necessary to clarify that, although the three collection systems contained in this Article have certain defined requirements, each jurisdiction has flexibility in implementing a collection that is program appropriate for that jurisdiction.

#### **Section 18984.1. Three-Container Organic Waste Collection Services.**

The purpose of this section is to specify that a jurisdiction can comply with its obligation to provide an organic waste collection service by providing a "three-container" service to its residential and commercial generators. Under this section, a three-container service requires generators to source-separate organic waste from other materials into a separate container for recycling at the point of collection (source-separated curbside collection).

With very few exceptions, certain materials can only be processed and recovered when they are kept separate from other materials. Materials such as metals, paper, and plastics are remanufactured through distinct processes (e.g., metal is smelted, paper is pulped and washed). Largely because of this, while a material may be valuable as a homogenous commodity, it can become difficult or impossible to recycle when it is contaminated with other materials (e.g., many materials lose their value when they are commingled with other materials). This principle holds true and is perhaps more of a factor in the recovery of organic waste than with other recoverable materials.

On the other hand, some types of organic waste can be commingled with other organic wastes (e.g., food waste and green waste) during the collection or processing of that material and can still be recovered/remanufactured into new materials using the same

processes/activity (e.g., composting, digestion etc.). In addition, due to certain technologies, other types of recoverable materials can be effectively reseggregated after they have been mixed with other recoverable materials (e.g. metals and certain plastics).

However, in most cases, when organic waste is mixed with non-organic recyclable waste, the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). That is because most organic wastes are wet and putrescible and once commingled with other wastes cannot be effectively separated from other wastes and therefore cannot be recovered. This is due to two factors: First, the nature of organic waste (wet and putrescible) makes it difficult to separate it from other materials; second, the recovery activities allowed for organic waste under Article 2 and the products created through those activities are subject to strict quality standards such as minimum pathogen reduction levels and maximum contaminant levels to ensure the protection of public health and safety. There is a lack of data demonstrating the existence of a commercially viable process that can effectively separate organic waste from other materials and process it in a manner that meets acceptable final product standards.

This section is necessary because source-separated collection, as provided for in this section, is a proven method for effectively collecting and recovering organic waste because it keeps the material separated from non-organic recyclable waste and clean, so the maximum amount of organic waste can be collected and recovered.

#### Subdivision (a)

The purpose of this section is to specify the minimum standards that apply to a three-container collection service that a jurisdiction provides to its generators. This section specifies that, to comply with the requirements of a three-container service, a jurisdiction must provide each generator with a green container, a blue container, and a gray container. This section further specifies the materials that a jurisdiction can allow generators to collect in each type of container, and the destination to which the contents of the container must be transported. The specifications included in this and subsequent sections will standardize the container colors and the minimum levels of acceptable material types to be collected in each color for collection containers provided across the state, regardless of jurisdiction, and ensure that organic wastes are transported to appropriate facilities for recovery.

Throughout the informal rulemaking process, several jurisdictions, as well as members of the public, identified frustration and concerns with the fact that an individual can live in a jurisdiction where a green container is used for the collection and recycling of organic waste, and work in a jurisdiction where a green container is used for the collection and disposal of mixed wastes. Further, jurisdictional boundaries can result in the use of one set of containers with a color scheme and material collection limitations that are distinct from the set of containers used in the neighboring jurisdiction. The

confusion created by these distinctions is similar to the confusion that would arise if the colors of traffic signals across the state varied across jurisdictional boundaries.

The uniformity of collection containers required by this and subsequent sections is necessary to respond to stakeholder feedback and enhance consumer education about organic waste recycling throughout California, reduce contamination, and maintain the highest degree of recoverability for source separated organic waste. This requirement was recommended by various stakeholders to create consistency and reduce generators' confusion about which container to use for organic waste, which will result in less contamination and maximize organic waste recovery.

The necessity for the specific container colors chosen, and material limitations associated with those containers, are discussed in the sections that follow.

#### Subdivision (a)(1)

The purpose of this section is to specify that only organic waste should be collected in the green container and to specify the types of facilities to which the materials must be transported for processing.

This section, in conjunction with Sections 18984.2 and 18984.7, ensures that every Californian can be confident that any green container used for curbside collection in California is only intended for the collection and recovery of organic waste, and should not be used for the collection of any non-organic waste.

In California, many curbside organic waste collection programs established across the state already use green containers for the collection of at least some categories of organic waste, and consumers often associate "green" containers with compostable materials. At the public workshops CalRecycle held throughout the informal and formal process, stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme but did not object to the specific colors proposed for organics (green) or propose alternative container colors. To accommodate financial concerns, CalRecycle added language in Section 18984.7 allowing jurisdictions additional time and flexibility to phase in containers (discussed more in that section).

This section ensures that organic waste collected in a green container is transported to a facility that recovers source separated organic waste. This section is necessary to ensure that source-separated organic waste is not mixed with non-organic waste after collection or transported directly to disposal facilities. This ensures that clean material is not disposed and the maximum amount of organic waste is kept clean so it can be recovered. This section is also necessary to clarify that, if allowed by the jurisdiction, compostable plastics may only be placed in the green container if the materials meet appropriate ASTM standards and if the receiving facility annually notifies the jurisdiction that the receiving facility accepts the materials for purposes of recycling. It is not clear whether compostable plastics can be readily used in composting operations given the timeframes needed for the materials to decompose, which is why this section requires

annual notification from the facility indicating whether they can continue to accept compostable plastics. This section ensures that if technology changes in the future to allow compostable plastics to be recycled and composted more readily, then these materials may be placed in the green containers. This section is necessary to ensure that the state is able to meet organic waste recovery targets established in statute and assure consumers that the material they are conscientiously separating for recovery is actually recovered.

#### Subdivision (a)(2)

The purpose of this section is to specify which materials should be collected in the blue container and the types of facilities to which the materials must be transported for processing.

In proposing requirements to separate organic waste for recovery, many stakeholders indicated that certain types of organic waste (specifically paper, cardboard, wood and textiles) are already collected in blue recycling containers provided to generators and can be recovered in a more cost-effective way when they are not mixed with other organic wastes. This subcategory of organic waste is distinct in that it is not typically putrescible like food waste or green waste, and when kept dry can effectively be separated from other dry “non-organic recyclables” (defined in Section 18982(43)) such as bottles and cans for recovery. While this subcategory of organic waste is technically compostable and digestible, there are other methods of recovery specifically identified in Article 2 that can be applied to these materials when they are kept separate from other organic wastes and putrescible garbage.

The use of blue containers for dry recyclables as allowed in this section is well established and common across the state. At the public workshops CalRecycle held throughout the informal process, stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme but did not object to the specific colors proposed for recyclables (blue) or propose alternative container colors. To accommodate financial concerns, CalRecycle added language in Section 18984.7 allowing jurisdictions additional time and flexibility to phase in new containers.

This section also ensures that recyclables collected in a blue container, including organic waste, are only transported to a facility that actually recovers the organic waste and non-organic recyclables designated for collection in that container. Allowing a jurisdiction to designate specific materials for collection in a blue container when that specific material is not one that is actually recovered by the receiving facility unnecessarily introduces contamination into the blue container collection stream. As a result, this potentially reduces the amount of organic waste that can be recovered. This also threatens to undermine consumer confidence in the integrity or purpose of separating any material for recycling.

This section is necessary to require generators to separate organic waste from other wastes and allow certain types of organic waste to be collected in a blue container for

recovery, which is a proven method of maximizing the amount of organic waste that can be recovered.

#### Subdivision (a)(3)

The purpose of this section is to specify that the gray container can only be used for the collection of non-organic waste.

The use of gray containers for collection and disposal as allowed in this section is well established and common across the state. Initially CalRecycle sought to require that all containers used for disposal collection would be black. At the public workshops CalRecycle held throughout the informal process, stakeholders raised concerns that many jurisdictions use gray containers instead of black containers, and that black containers can be difficult to see at night. As a result, CalRecycle revised the definition of gray container to allow the color of the disposal container to be gray or black (see Section 18982(a)(28)). Additionally, at the public workshops stakeholders raised concerns about potential financial and logistical challenges associated with implementing a newly established statewide container color scheme. As discussed below, to accommodate financial concerns, CalRecycle added language in Section 18984.7 allowing additional time and flexibility to phase in containers.

This section is necessary to ensure that non-organic wastes are collected in a separate container (or containers) and that non-organic wastes are not mixed with organic wastes that are collected in the blue or green container (with the exception of a defined set of “non-organic recyclables” specifically allowed in Subdivision (a)(2)). This section is also necessary to prohibit the placement of organic waste in the gray container to ensure that organic waste is collected for recovery (in the green or blue container) and not collected for disposal, as that would compromise the state’s efforts to keep organic green waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (a)(4)

The purpose of this section is to clarify that a jurisdiction may comply with the container requirements of this section by providing a container or containers that are split or divided into segregated sections in lieu of providing an entirely separate container. This section clarifies that this is allowable, as long as the lids of the separate sections of a split container comply with the container color requirements and material limitations specified in this section (e.g., a single container that is divided with a hard barrier and has a green lid on half the container for collection of materials listed in (a)(1) and a blue lid on the other half of the container for collection of materials listed in (a)(2)).

At the public workshops CalRecycle held throughout the informal and formal process, stakeholders noted that many jurisdictions segregate materials by splitting containers with a hard barrier that keeps material clean and separate from other materials. In practice, this segregation accomplishes the same purpose of Subdivisions (a)(1)-(a)(3) as using a separate collection container. Including this section reduces the burden of implementation, particularly for jurisdictions that already implement this type of container scheme, and provides jurisdictions additional flexibility in implementing their

collection programs. Further, this can help where jurisdictions have space challenges associated with collection locations that cannot accommodate three separate full-sized containers. This section is necessary to provide jurisdictions with flexibility in implementing three-container waste collection container requirements.

#### Subdivision (a)(5)

The purpose of this section is to specify restricted materials. This section specifies that carpets, non-compostable paper, and hazardous wood waste should not be collected in the green container. Stakeholders requested this clarification as these materials are either not compostable, not typically collected in curbside recycling programs, or both.

This section is necessary because, although these specifically identified organic wastes are technically recoverable, they generally cannot be recovered by the same process as other organic wastes identified in the green container (e.g., carpets, non-compostable paper, and hazardous wood waste cannot be composted). Additionally, these materials often cannot legally or safely be recovered with other organic waste (e.g., hazardous wood waste should not be handled or received at a compost facility). These organic wastes act as contaminants and potentially compromise the recoverability of the other organics collected in the green container.

This section also specifies that hazardous wood waste shall not be collected in the blue or gray container. This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. The Department of Toxic Substances Control, which has regulatory oversight of hazardous waste, has a guidance document on its webpage on the proper handling, storage, and disposal of treated wood waste generated by businesses and residents: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf>

#### Subdivision (a)(6)

The purpose of this is to specify that a jurisdiction may require additional segregation of source-separated organic waste by providing additional containers or additional sections of split containers in addition to the green and blue containers. This responds to feedback from several jurisdictions and haulers that indicated they supplement their three-container services by further segregating organic waste with additional containers or additional split containers.

At the public workshops CalRecycle held throughout the rulemaking process, stakeholders indicated that several jurisdictions collect green waste and food waste in separate containers that are limited to those specific subcategories of organic waste. This allows the jurisdiction to send the green waste to composting or other recovery activities outlined in Article 2 and the food waste to anaerobic digestion. This additional segregation can reduce contamination and maximize recovery options. There are more than 100 compost facilities that can process green waste, but only 30-40 that can process green waste and food waste. Additionally, wastewater treatment plants can recover food waste through anaerobic digestion but are not suited to accept or handle green waste. Keeping these organic wastes separate improves the likelihood that

recovery options will be available for all organics collected by the jurisdiction. Regarding split carts, this section clarifies that the colors of the different compartments need to be differentiated to avoid cross-contamination; if a jurisdiction provides multiple source-separated containers instead of split containers, the colors similarly need to be differentiated. For the blue container, this section allows jurisdictions to either use a darker shade of blue for the container or section of the container designated for the collection of specific types of organic waste, and a lighter shade of blue, or any color not already designated for other materials specified in this section, for the collection of non-organic recyclables. If a jurisdiction uses additional containers, or sections of split containers that are not specified in the section, then the containers may be in any color provided that the colors do not conflict with the container color requirements of this section. This section is necessary to clarify that a jurisdiction may segregate its organic wastes further than required by this Article, to provide jurisdictions with additional flexibility, and to maximize recovery of organic waste.

#### Subdivision (b)

The purpose of this section is to specify that a jurisdiction that provides a three-container collection that complies with the requirements of subdivision (a) may allow carpets and textiles to be collected in the gray container without triggering the requirement to transport the gray container to a high diversion organic waste processing facility. This section also clarifies that, if any type of organic wastes other than carpets and textiles are allowed to be collected in the gray container, the provisions of subdivision (c) of this would apply, requiring the gray container to be transported to a high diversion organic waste processing facility.

At the public workshops held throughout the informal rulemaking process several jurisdictions indicated that even though they prohibit their generators from placing organic waste in the gray container, as prescribed in subdivision (a), they supplement the organic waste recovery achieved through source-separation by implementing technologies and systems that process any incidental or remnant organic waste that may end up in the gray disposal container. This section is necessary to distinguish this type of supplemental recovery action from services that do not require source-separation of organic waste for recovery. Under Sections 18984.1(c), 18984.2, and 18984.3, jurisdictions are allowed to require their generators to use a service that does not provide generators the opportunity to separate their organic waste for recovery at the curb. To ensure that the state can achieve the statutory organic waste reduction targets, those collection services are required to transport the containers that include organic waste to high diversion organic waste processing facilities that meet minimum organic content recovery rates (content recovery rates are specified in Section 18984.3).

This section clarifies that the facility recovery standards do not apply to collection services that meet the standards established in subdivision (a). Stakeholders requested clarity that the requirement to transport containers to a facility that meets the minimum recovery standards is only triggered for services in jurisdictions that intentionally allow for organic waste to be contaminated with non-organic waste. (This is allowed under the

collection services described in Sections 18984.1(c), 18984.2, and 18984.3). This section is necessary because applying that standard to gray containers that are a part of three-container collection services would discourage cities and counties from attempting to remove and recover organic waste from the gray container, ultimately reducing the amount of organic waste that is recovered.

Further, this section clarifies that a jurisdiction's three-container collection service may allow carpets and textiles to be collected in the gray container for disposal without triggering the organic waste facility recovery standards that apply to jurisdictions that provide collection services that do not require source-separation of organic waste. While these specific materials often include organic components, they are not wholly organic and are not typically recoverable when mixed with other organics. This results in these organic wastes acting as contaminants and potentially compromising the recoverability of the other organics collected in the green container. Finally, carpets and textiles do not comprise a significant portion of the state's organic waste stream. Requiring jurisdictions to transport gray containers to a high diversion organic waste processing facility if they allow carpets and textiles to be collected in the gray container could lead to jurisdictions requiring that these materials be collected in the green or blue container (as applicable), which could contaminate and reduce the recovery of the other organics collected in those containers. This section is necessary as requiring these specifically identified organic wastes to be collected in the green container could contaminate and reduce the recoverability of the other organic waste in the green container, which would compromise the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (c)

Stakeholders requested the flexibility to allow organic waste to be collected in the gray container. The purpose of this section is to specify that a jurisdiction providing a three-container collection service may allow organic waste to be collected in the gray container if specified conditions are met. This section is necessary to ensure flexibility to jurisdictions without compromising the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (c)(1)

The purpose of this section is to specify that if a jurisdiction provides a collection service that allows organic waste to be collected in the gray container (other than textiles and carpets as specifically identified in subdivision (b)), then the contents of the gray containers that are a part of that service must be transported to a high diversion organic waste processing facility, as described in Section 18984.2.

As noted above, mixing organic waste with non-organic waste fails to keep the material separate, clean, and recoverable. When organic waste is mixed with non-organic waste, the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). To mitigate the increased likelihood of disposal



that occurs when materials are mixed, this section requires the contents of these containers to be transported to high diversion organic waste processing facilities. This section is necessary to ensure that if a jurisdiction does not require full separation of organic waste as specified in subdivision (a), a minimum amount of organic waste is still recovered in support of the state's efforts to keep organic waste out of landfills, and reduce greenhouse gas emissions.

#### Subdivision (c)(2)

The purpose of this section is to clarify that a service that uses gray containers for collection of organic waste as allowed in this section must be labeled properly.

This section is necessary to specify that when a jurisdiction allows organic waste in the gray container of a three-container organic waste collection service, the container must be clearly labeled to specify what materials are allowed to be placed in the gray container and explain to generators which types of organic waste may be included in the gray container.

#### Subdivision (c)(3)

The purpose of this section is to clarify that if a jurisdiction provides a service that uses gray containers for collection of organic waste as allowed in this section, the green and blue containers must still meet the requirements of subdivision (a) (e.g., waste material limitations).

This section also clarifies that, when a jurisdiction allows organic waste in the gray container of a three-container organic waste collection system, the jurisdiction is still required to provide the other two containers in a manner that complies with the regulations (e.g., non-organic waste cannot be collected in the green container). This section is necessary to ensure that a three-container organic waste collection service does not become a de-facto two-container, or unsegregated single container collection service since those services are subject to a different set of requirements.

#### Subdivision (d)

The purpose of this section and Sections 18984.1, 18984.2, and 18984.3(e) is to provide clarity about when a jurisdiction may allow plastic bags to be placed in the green containers. At the public workshops that CalRecycle held throughout the informal and formal process, stakeholders noted that many jurisdictions segregate materials in containers by using plastic bags to keep certain materials clean and separate from other materials. The issue of whether to allow plastic bags hinges primarily on whether the receiving facility will accept them without compromising the ability to recover the bagged content. Many facilities are not accepting plastic bags because of operational problems and product quality issues. This subdivision is necessary to ensure that jurisdictions annually receive notification from facilities that the facilities can process and remove plastic bags when they recover source separated organic waste. In order to document a jurisdiction's decisions about the use of bags, Section 18984.4(a) specifies that jurisdictions are required to maintain records about the facilities to which they send

material in plastic bags. Including this subdivision is necessary to reduce the burden of implementation, particularly for jurisdictions that already use bags.

#### Subdivision (e)

The purpose of this section and Sections 18984.2, 18984.3, and 18984.5(b)(1)(B) is to clarify that loose on-street (i.e., uncontainerized) green waste collection is allowed as long as it does not include food waste, which must be containerized, and that the receiving facility will accept the green waste and still be in compliance with operational and product quality standards. This is necessary because some jurisdictions use this method throughout the year to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; therefore, it would be costly to provide extra containers for this material when it can be allowed to accumulate on streets where it can be efficiently collected.

#### Subdivision (e)(1)

The purpose of this section is to clarify that if un-containerized green waste and yard waste collection service is provided intermittently or on a seasonal basis, the jurisdiction is required to still provide a green container for organic waste collection. This is necessary to ensure that organic waste is collected throughout the year. This section is necessary to establish conditions that ensure that the flexibility provided for jurisdictions at the request of stakeholders does not compromise the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (e)(2)

The purpose of this section is to clarify that if un-containerized green waste and yard waste collection service is provided throughout the year, then the jurisdiction is required to provide a green container for organic waste collection for materials that would not be collected loose on the street, such as food waste and food-soiled paper. This is necessary to ensure that all of the organic waste is collected throughout the year. This section is necessary to establish conditions that ensure that the flexibility provided at the request of stakeholders does not compromise the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (f)

The purpose of this section is to clarify that when complying with the preceding subdivision (a) of this section, the contents of containers may be initially transported to a consolidation site as defined in Section 17402 that complies with the requirements of Section 17409.5.10.

This section further clarifies that while the contents of each container must eventually be transported to a destination appropriate for that container (e.g., the facility recovers source-separated organic waste or is a high diversion organic waste processing facility depending on the type of container), they may be first transported to a consolidation site without violating the requirements of this chapter. As specified in Section 17409.5.10, these facilities are not performing any material processing on-site and simply serve as a

material consolidation point. This section is necessary because it provides efficiency when multiple loads are combined before being transported to the appropriate facility for proper handling of the materials collected.

## **Section 18984.2. Two-Container Organic Waste Collection Services.**

### Subdivision (a)

The purpose of this section is to specify that a jurisdiction can comply with its obligation to provide an organic waste collection service by providing a “two-container” service to its residential and commercial generators. Under this section, a two-container service requires generators to partially source-separate organic waste from other materials into a separate container for recycling at the point of collection.

As is the case with a three-container collection service, with very few exceptions, certain materials can only be processed and recovered when they are kept separate from other materials. Materials such as metals, paper, and plastics are remanufactured through distinct processes (e.g., metal is smelted, paper is pulped and washed). Largely because of this, while material may be valuable as a homogenous commodity, it can become difficult or impossible to recycle when it is contaminated with other materials (e.g., many materials lose their value when they are commingled with other materials). This principle holds true and is perhaps more of a factor in the recovery of organic waste than with other recoverable materials. Requiring source separation of organic waste helps ensure that organics are kept clean, separate, and recoverable.

However, throughout the informal regulatory engagement process, stakeholders raised concerns about potential costs associated with providing commercial and residential generators with a third container to allow for source separation of organic waste. Stakeholders also noted that several cities and counties currently implement what are commonly referred to as “wet/dry” collection systems that consist of a blue container for “dry recyclables” and a green container for “wet material” (primarily organic waste). Stakeholders argued that allowing the use of a two-container collection system is a viable and cost-effective alternative that can still allow the state to meet the statutory organic waste recovery targets. To respond to stakeholder requests for additional flexibility, CalRecycle crafted this section and Section 18984.3. These provisions allow alternatives to providing a three-container source-separated organic waste collection service. Under these provisions jurisdictions are allowed to provide a service that does not require generators to separate their organic waste for recovery at the curb. In order to ensure that the state can achieve the statutory organic waste reduction targets, jurisdictions that make use of these two-container collection services are required to transport the containers that include organic waste to high diversion organic waste processing facilities that meet the minimum organic content recovery rates as specified in Section 18984.3.

As stated above, when organic waste is mixed with non-organic waste, the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken

glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This loss in value and recoverability can be mitigated for materials that can be effectively re-segregated through manual or mechanical sorting.

Certain technologies have proven that specific materials can be effectively re-segregated after they have been mixed with other materials (e.g., metals and certain plastics). However, most organic wastes are wet and putrescible and, once commingled with other wastes, cannot be effectively separated from other wastes and therefore cannot be recovered. This is due to two factors: First, the nature of organic waste (wet and putrescible) makes it difficult to separate from other materials; second, the recovery activities allowed for organic waste under Article 2 and the products created through those activities are subject to strict quality standards such as minimum pathogen reduction levels and maximum contaminant levels to ensure the protection of public health and safety. There is a lack of data demonstrating the existence of a commercially viable process that can effectively separate organic waste and process it in a manner that meets acceptable final product standards.

While there is a lack of data demonstrating that organics can be effectively separated from other materials and still be recovered at a rate necessary to meet the statutory targets, a significant portion of stakeholders argued that such technologies are in development and should not be stymied by this regulation. To respond to stakeholders, this section provides the flexibility and provides minimum standards for a two-container organic waste collection service. These standards are explained in the sections that follow.

This section is necessary to provide jurisdictions with flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered in a manner that supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (a)(1)

The purpose of this section is to specify that only organic waste should be collected in the green container and the types of facilities that the materials must be transported to for processing.

This section, in conjunction with Sections 18984.1 and 18984.7, is necessary to ensure that every Californian can be confident that any green container used for curbside collection in California is only intended for the collection of organic waste.

In California, many curbside organic waste collection programs established across the state already use green containers for the collection of at least some categories of organic waste, and consumers often associate green containers with compostable materials. At the public workshops CalRecycle held throughout the informal process, stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme but did

not object to the specific colors proposed for organics (green) or propose alternative container colors. To accommodate financial concerns, CalRecycle added language in in Section 18984.7 allowing additional time and flexibility to phase in containers.

This section is also necessary to ensure that organic waste collected in a green container is transported to a facility that recovers source-separated organic waste. This section is necessary to ensure that source-separated organic waste is not mixed with non-organic waste after collection or transported directly to disposal facilities. This ensures that clean material is not disposed, and that the maximum amount of organic waste remains uncontaminated so it can be recovered. This section is necessary to ensure that the state is able to meet organic waste recovery targets established in statute and provide consumers with confidence that material they are conscientiously separating is actually recovered.

Additionally, the purpose of this section is to specify that the gray container shall be transported to a high diversion organic waste processing facility that meets or exceeds the organic waste content recovery requirements specified in Section 18984.3.

In a two-container system, there will still be refuse generated by residents and businesses that does not fit into the categories described in subdivision (a)(1) (organic waste) or (a)(2) (specified organic waste and non-organic recyclables). In the absence of a gray container for the collection of refuse, the refuse that is not recovered by a facility that receives material from that collection service inevitably must be deposited in at least one of the containers that is provided, This ultimately results in the contamination of organic waste in the gray container.

Organic waste collection services that intentionally mix organic waste with non-organic waste compromise the recoverability of both materials. In these systems the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This section is necessary to mitigate the risk these collection services pose to the state's targets by ensuring that a minimum level of the organic content is recovered.

This section is also necessary to clarify that compostable plastics may only be placed in the green container if allowed by the jurisdiction, if the materials meet appropriate ASTM standards, and if the receiving facility annually notifies the jurisdiction that the receiving facility accepts the materials for recycling. It is not clear that compostable plastics can be readily used in composting operations given the time frames needed for the materials to decompose, which is why this section requires annual notification from the facility indicating whether they can continue to accept compostable plastics. This subdivision ensures that if technology changes in the future to allow compostable plastics to be recycled and composted more readily, then these materials may be placed in the blue or green containers.

This section is necessary to provide jurisdictions the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered, which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (a)(2)

The purpose of this section is to specify which materials should be collected in the blue container and the types of facilities to which the materials must be transported for processing.

In proposing requirements to separate organic waste for recovery, many stakeholders indicated that certain types of organic waste (specifically paper, cardboard, wood, and textiles) are already included in blue recycling containers provided to generators and can be recovered in a more cost-effective way when they are not mixed with other organic wastes. This subcategory of organic waste is distinct in that it is not typically putrescible like food waste or green waste, and when kept dry can effectively be separated from other dry "non-organic recyclables" (defined in Section 18982) such as bottles and cans for recovery. While this subcategory of organic waste is technically compostable and digestible, there are other methods of recovery specifically identified in Article 2 that can be applied to these materials when they are kept separate from other organic wastes and putrescible garbage.

The use of blue containers for dry recyclables as allowed in this section is well established and common across the state. At the public workshops CalRecycle held throughout the informal process, stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established statewide container color scheme but did not object to the specific colors proposed for recyclables (blue). To accommodate financial concerns, CalRecycle added language in Section 18984.7 allowing additional time and flexibility to phase in containers.

This section also ensures that recyclables collected in a blue container, including organic waste, are only transported to a facility that actually recovers the organic waste and non-organic recyclables designated for collection in that container. Allowing a jurisdiction to designate specific materials for collection in a blue container when that specific material is not one that is actually recovered by the receiving facility unnecessarily introduces contamination into the blue container collection stream and reduces the amount of organic waste that can be collected and recovered. This potentially reduces the amount of organic waste that can be recovered as a result. This also threatens to undermine consumer confidence in the integrity or purpose of separating any material for recycling.

Additionally, the purpose of this subdivision is to specify that the gray container shall be transported to a high diversion organic waste processing facility that meets or exceeds the organic waste content recovery requirements specified in Section 18984.3.

Organic waste collection services that intentionally mix organic waste with non-organic waste compromise the recoverability of both materials. In these systems, the recovery

options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This section is necessary to mitigate the risk these collection services pose to the state's targets by ensuring that a minimum level of the organic content is recovered.

This section is necessary to provide stakeholders the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered, which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (b)

The purpose of this section is to specify that a jurisdiction shall, consistent with Section 18984.8 of this Article, clearly identify the types of wastes accepted in each container, and which container shall be used for the collection of any unidentified materials. This section is necessary to specify that when a jurisdiction allows organic waste in the green or blue container of a two-container organic waste collection service, the bin must be clearly labeled with the applicable allowable waste types for each container. This subdivision is also necessary to ensure that the container that will be used for unidentified waste types is properly labeled.

#### Subdivision (c)

The purpose of this section is to specify the materials that are restricted from collection in the green container and the blue or gray container. This section specifies that carpets, non-compostable paper, and hazardous wood waste should not be collected in the green container and hazardous wood waste should not be collected in the blue or gray container. Stakeholders requested this clarification because these materials are either not compostable, not typically collected in curbside recycling programs, or both.

This section is necessary as these specifically identified organic wastes, although in theory technically recoverable, generally in practice cannot be recovered when combined with other organic wastes identified in the green container (e.g., carpets, non-compostable paper, and hazardous wood waste cannot be composted). Additionally, some of these materials often cannot legally or safely be recovered with other organic waste (e.g., hazardous wood waste should not be handled or received at a composting facility). This results in these organic wastes acting as contaminants and potentially compromising the recoverability of the other organics collected in the green container.

This section also specifies that hazardous wood waste shall not be collected in the blue or gray container. This type of waste must be handled separately and cannot be placed in any of the gray, green, or blue containers. The Department of Toxic Substances Control has a guidance document on its webpage on the proper handling, storage, and disposal of treated wood waste generated by businesses and residents:  
<https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/Treated-Wood-Waste-Generators-Fact-Sheet.pdf>

#### Subdivision (d)

The purpose of this section is to specify that a jurisdiction may require additional segregation of source-separated organic waste by providing additional containers or additional sections of split containers in addition to the green and blue container. This section responds to feedback from several jurisdictions and haulers that indicated that they supplement their container services by further segregating organic waste with additional containers or additional split containers.

At the public workshops that CalRecycle held throughout the rulemaking process, stakeholders indicated that several jurisdictions collect green waste and food waste in separate containers that are limited to those specific subcategories of organic waste. This section allows the jurisdiction to send the green waste to composting or other recovery activities outlined in Article 2 and the food waste to anaerobic digestion. This additional segregation can reduce contamination and maximize recovery options. Currently there are more than 100 compost facilities that can process green waste, but only 25 that can process both green waste and food waste. Additionally, wastewater treatment plants can recover food waste through anaerobic digestion but are not suited to accept or handle green waste. Keeping this organic waste separate improves the likelihood that recovery options will be available for all organics collected by the jurisdiction.

Regarding split carts, this section requires that the colors of the different compartments be differentiated to avoid cross-contamination; if a jurisdiction provides multiple source-separated containers instead of split containers, the colors similarly need to be differentiated.

Stakeholders also requested that CalRecycle clarify that in a two-container system, the container used for the collection of non-organic waste should be gray to avoid confusion about what is recyclable, as this could exacerbate contamination when generators move to jurisdictions that have a three-container collection system. This section is necessary to provide jurisdictions additional flexibility and maximize recovery of organic waste.

#### Subdivision (d)(1)

The purpose of this section is to clarify that for the blue container, jurisdictions are allowed to either use a darker shade of blue for the portion of the container designated for the collection of organic waste, and a lighter shade of blue, or any color not already designated for other materials specified in this section, for the collection of non-organic recyclables. If a jurisdiction uses additional containers, or sections of split containers that are not specified in the section, then the containers may be in any color, provided that the colors do not conflict with the container color requirements of this section. This section is necessary to provide jurisdictions additional flexibility and maximize recovery of organic waste.

#### Subdivision (e)

The purpose of this section and Sections 18984.1, 18984.2, and 18984.3(e) is to provide clarity about when a jurisdiction may allow plastic bags to be placed in the



green containers. At the public workshops that CalRecycle held throughout the informal and formal process, stakeholders noted that many jurisdictions segregate materials in containers by using plastic bags to keep certain material clean and separate from other materials. The issue of whether to allow plastic bags hinges primarily on whether the receiving facility will accept them. Many facilities are not accepting plastic bags because of operational problems and product quality issues. This section is necessary to ensure that jurisdictions annually receive notification from facilities that the facilities can process and remove plastic bags when they recover source separated organic waste. In order to document jurisdiction decisions about the use of bags, Section 18984.4(a)(4) requires jurisdictions to maintain records verifying that the facilities to which they send bags are equipped to recover them. Including this section reduces the burden of implementation, particularly for jurisdictions that already implement this type of separation method and provides jurisdictions additional flexibility in implementing their collection program. Furthermore, nothing in the regulations precludes a jurisdiction from allowing the use of plastic in the blue and gray containers.

#### Subdivision (f)

The purpose of this section and Sections 18984.1, 18984.3, and 18984.5(b)(1)(B) is to clarify that loose-on street (i.e., un-containerized) green waste collection is allowed as long as it does not include food waste, which must be containerized, and that the receiving facility will accept the green waste and still be in compliance with operational and product quality standards. This is necessary because some jurisdictions use this method throughout the year to collect green waste and others use it as a supplement in the fall due to spikes in green waste generation; therefore, it would be costly to provide extra containers for this material when it can be allowed to accumulate on streets where it can be efficiently collected.

#### Subdivision (f)(1)

The purpose of this section is to clarify that if uncontainerized green waste and yard waste collection service is provided intermittently or on a seasonal basis, the jurisdiction is required to still provide a green container for organic waste collection. This is necessary to ensure that organic waste is collected throughout the year. This section is necessary to establish conditions that ensure that the flexibility provided for jurisdictions at the request of stakeholders does not compromise the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (f)(2)

The purpose of this section is to clarify that if un-containerized green waste and yard waste collection service is provided throughout the year, then the jurisdiction is required to provide a green container for organic waste collection for materials that would not be collected loose on the street, such as food waste and food-soiled paper. This is necessary to ensure that all of the organic waste is collected throughout the year. This section is necessary to establish conditions that ensure that the flexibility provided at the request of stakeholders does not compromise the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (g)

The purpose of this section is to clarify that when complying with subdivision (a) of this section, the contents of containers may be initially transported to a consolidation site, as defined in Section 17402, that complies with the requirements of Section 17409.5.10.

This section clarifies that while the contents of each container must eventually be transported to a destination appropriate for that container (e.g., a facility that recovers source separated organic waste or is a high diversion organic waste processing facility depending on the type of container), they may be first transported to a consolidation site without violating the requirements of this chapter. As specified in Section 17409.5.10, these facilities do not perform any material processing on-site and simply serve as a material consolidation point. This section is necessary to ensure that material can first be transported to a location where materials from multiple hauling vehicles can be combined, and then transported to the proper facility for proper handling of the materials collected.

### **Section 18984.3. Unsegregated Single-Container Collection Services.**

#### Subdivision (a)

The purpose of this section is to specify the conditions required for a jurisdiction that chooses to comply with its obligation to provide an organic waste collection service by providing an “unsegregated single-container” service to its residential and commercial generators.

As stated above, source separating organic waste keeps the material clean and separate from other materials which maintains the recoverability of the organic waste and the other materials that are not mixed with organic waste. With very few exceptions, certain materials can only be processed and recovered when they are kept separate from other materials. Materials such as metals, paper, and plastics are remanufactured through distinct processes (e.g., metal is smelted, paper is pulped and washed). Largely because of this, while material may be valuable as a homogenous commodity, it can become difficult or impossible to recycle when it is contaminated with other materials (e.g., many materials lose their value when they are commingled with other materials). This principle holds true and is perhaps more of a factor in the recovery of organic waste. Required source separation of organic waste helps ensure that organics are kept clean, separate, and recoverable.

However, throughout the informal regulatory engagement process, stakeholders raised concerns about potential costs associated with providing commercial and residential generators with a separate container to source separate organic waste. Stakeholders also noted that several cities and counties implement single container collection services and process all the collected material for recovery. Stakeholders argued that allowing the use of a single-container collection system is a viable and cost-effective alternative that can help the state meet statutory organic waste recovery targets.

To respond to stakeholder requests for additional flexibility, CalRecycle crafted this section and Section 18984.2. These provisions allow alternatives to providing a three-container source-separated organic waste collection service. Under this section, jurisdictions are allowed to require their generators to use a service that does not provide them with the opportunity to separate their organic waste for recovery at the curb. To ensure that the state can achieve the statutory organic waste reduction targets, these collection services are required to transport the containers that include organic waste to high diversion organic waste processing facilities that meet minimum organic content recovery rates (content recovery rates are specified in Subdivision (b) of this section).

As stated above, when organic waste is mixed with non-organic waste, the recoverability of both materials is compromised, recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This loss in value and recoverability can be mitigated for materials that can be effectively re-segregated through manual or mechanical sorting.

Certain technologies have proven that specific materials can be effectively re-segregated after they have been mixed with other materials (e.g., metals and certain plastics). However most organic wastes are wet and putrescible and once commingled with other wastes cannot be effectively separated from other wastes and therefore cannot be recovered. This is due to two factors: First, the nature of organic waste (wet and putrescible) makes it difficult to separate from other materials; second, the recovery activities allowed for organic waste under Article 2 and the products created through those activities are subject to strict quality standards such as minimum pathogen reduction levels and maximum contaminant levels to ensure the protection of public health and safety. There is a lack of data demonstrating that a commercially viable process that can effectively separate organic waste and process it in a manner that meets acceptable final product standards exists.

While there is a lack of data demonstrating that organics can be effectively separated from other materials and still be recovered at a rate necessary to meet the statutory targets, a significant portion of stakeholders argued that such technologies are in development and should not be stymied by this regulation. To respond to stakeholders, this section provides the flexibility requested and lays out minimum standards for an unsegregated single-container organic waste collection service. These standards are explained in the following sections.

This section is necessary to provide stakeholders the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered, which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Subdivision (b)

The purpose of this section is to clarify the standards that a receiving facility must meet to be considered a high diversion organic waste processing facility to which a jurisdiction providing an unsegregated single-container collection service is allowed to transport gray container waste. This section specifies, as defined in Section 18982(a)(33), a high diversion organic waste processing facility is a facility that processes organic waste received from the “Mixed Organic Waste Collection Stream” (as defined in Section 17402(a)(11.5)) and complies with the reporting requirements of Section 18815.5(d) by meeting or exceeding an annual average mixed waste organic content recovery rate of 50 percent between January 1, 2022, and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to Section 18815.5(e). The standards that apply to a high diversion organic waste processing facility as defined in that section and in this section also apply to other collection services that are required to transport material to high diversion organic waste processing facilities for the reasons specified in those sections.

These minimum recovery rates are necessary because when the opportunity to recover material through source separation is lost, the state must ensure that minimum recovery levels are met at processing facilities. While this section provides additional flexibility to jurisdictions, CalRecycle must consider its obligation to ensure that the regulations are designed to achieve the statutory targets. If 100 percent of jurisdictions employed this collection option in 2022 the state could not meet the mandatory recovery target of 50 percent unless at least 50 percent of the organic waste collected from these services is recovered. Similarly, if 100 percent of jurisdictions employed this collection option in 2025, the state could not meet the mandatory recovery target of 75 percent unless 75 percent of the organic waste collected from these services is recovered. Therefore, in order to meet the recovery targets specified in statute and the state’s ultimate climate goals, CalRecycle has determined that the recovery standards included in this section are the necessary minimum standards.

As generation of organic waste increases with population growth, these minimum recovery rates may need to be revisited. As stated previously, the organic waste reduction targets are linked to a 2014 baseline of 23 million tons. This requires the state to dispose no more than 5.7 million tons by 2025. If, as CalRecycle projects, generation increases to 32 million tons of organic waste by 2025, recovering 75 percent of 32 million tons will only reduce disposal to slightly more than 8 million tons, resulting in the state missing its organic waste recovery targets. The need for this rate increase could be mitigated if higher recovery rates are achieved through source separation or if efforts to increase source reduction through food recovery and other methods are successful. However, the recovery rates established in this regulation should be considered an absolute minimum.

This section additionally establishes that a facility does not qualify as a high diversion organic waste processing facility if it fails to meet the annual recovery rates specified in Section 18982(a)(33) for two consecutive quarterly reporting periods or three quarterly reporting periods within three years. The purpose of this section is to ensure that a facility has an opportunity to improve its organic content recovery rate and maintain its

status as a high diversion organic waste recovery facility. This ensures that a single quarter with lower-than-average recovery rates does not disqualify the facility from its status as a high diversion organic waste processing facility.

This section is necessary to clarify the timelines and standards that apply to high diversion organic waste processing facilities and to provide jurisdictions the flexibility to implement the least burdensome collection service that ensures organic waste is collected and recovered, which supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (c)

The purpose of this section is to specify that a jurisdiction is in violation of this section if it provides a gray container collection service that sends the organic waste collected to a facility that fails to qualify as a high diversion organic waste processing facility.

This section also clarifies that if a jurisdiction is found in violation of this section and is thus subject to the enforcement process in Section 18996.2, the enforcement process may include a corrective action plan as specified in that section. This section is necessary to respond to stakeholder feedback requesting that CalRecycle clarify that if a jurisdiction fails to meet the requirements of this section it may qualify for additional time to come into compliance if it meets the requirements of Section 18996.2 (e.g., the jurisdiction has made substantial effort, or there are factors outside the jurisdictions control as defined in Section 18996.2). This is necessary because if a jurisdiction invests in a facility that fails to achieve the necessary organic content recovery rates by the timelines outlined above, the jurisdiction may need time to identify a new facility to receive its waste, implement a three-container collection system that can meet the requirements of the chapter, or invest in facility improvements that result in the facility achieving the minimum recovery rates of a high diversion organic waste processing facility.

This section is also necessary to ensure that a jurisdiction is not sending unsegregated organic waste to a facility that recovers less than the levels required of a high diversion organic waste processing facility, as that would compromise the state's ability to meet the recovery targets established in the statute these regulations are designed to achieve.

#### Subdivision (d)

The purpose of this section is to clarify that, when complying with subdivision (a) of this section, the contents of containers may be initially transported to a consolidation site as defined in Section 17402 that complies with the requirements of Section 17409.5.10.

This section clarifies that while the contents of each container must eventually be transported to a destination appropriate for that container (e.g., the facility recovers source separated organic waste or is a high diversion organic waste processing facility, depending on the type of container), they may be first transported to a consolidation site without violating the requirements of this chapter. As specified in Section 17409.5.10,

these facilities do not perform any material processing on site and simply serve as a material consolidation point. This section is necessary to ensure that material can first be transported to a location where materials from multiple hauling vehicles can be combined, and then transported to the proper facility for proper handling of the materials collected.

#### Subdivision (e)

The purpose of this section is to specify that a jurisdiction may allow organic waste specified for collection in the gray container to be placed in bags for collection. This section was added in response to stakeholder requests for clarity. This section is necessary because using bags for organic waste that is mixed with other waste may help increase the recovery rates of organic waste received at the processing facility, as it partially segregates the material from other wastes.

#### Subdivision (f)

The purpose of this subdivision is to clarify that a jurisdiction may provide an un-containerized green waste and yard waste collection service to its generators if it complies with specified requirements. This is necessary to ensure that, when uncontainerized collection is provided intermittently, organic waste is also collected during the remaining portion of the year, allowing for year-round service. This section is necessary to establish conditions that ensure that the flexibility provided at the request of stakeholders does not compromise the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (f)(1)

The purpose of this section is to clarify that a jurisdiction must provide generators using an un-containerized waste collection service for green waste and yard waste a collection service for the collection of other organic waste materials in compliance with this section. This is necessary to ensure that all of the organic waste is collected throughout the year. This section is necessary to establish conditions that ensure that the flexibility provided at the request of stakeholders does not compromise the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

### **Section 18984.4. Recordkeeping Requirements for Compliance with Organic Waste Collection Services.**

#### Subdivision (a)

The purpose of this section is to specify the documents that a jurisdiction is required to include in the Implementation Record required by Section 18995.2. This section specifies the documents and records related to organic waste collection services that must be maintained by the jurisdiction. In response to stakeholder feedback, CalRecycle consolidated many reporting requirements into recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. This section is necessary to ensure that CalRecycle has access to records required to verify that a jurisdiction is in compliance with the requirements of

this Article.

Subdivision (a)(1)

The purpose of this section is to specify that a jurisdiction shall retain a description of the collection method(s) it will use to comply with Article 3. This section is necessary so CalRecycle can identify which provisions of the regulation the jurisdiction is required to implement. This section is necessary to ensure that CalRecycle has access to records required to verify that a jurisdiction is in compliance with the requirements of this Article.

Subdivision (a)(2)

The purpose of this section is to specify that a jurisdiction shall retain information about the geographic area for each collection method implemented by the jurisdiction. This section is necessary to ensure that CalRecycle can verify which provisions of the regulation apply to each geographical location of the generators served by the collection method implemented by the jurisdiction. This section is necessary to ensure that CalRecycle has access to the records necessary to verify that a jurisdiction is in compliance with the requirements of this Article.

Subdivision (a)(3)

The purpose of this section is to specify the records that a jurisdiction must maintain for each facility if the jurisdiction is using a collection method requiring the contents of the collection containers to be transported to a high diversion organic waste processing facility. Specifically, this section requires that the jurisdiction maintain records identifying the high diversion organic waste processing facilities receiving waste collected in the jurisdiction, a list of the haulers approved to transport materials to those facilities, and the service areas for these collection services. These records are necessary to ensure that CalRecycle can verify the jurisdiction is in compliance with this Article.

Subdivision (a)(4)

The purpose of this section is to ensure that a jurisdiction that allows compostable plastics to be placed in the green container pursuant to Sections 18984.1 and 18984.2 retains a copy of the written notification received from each facility serving the jurisdiction confirming that the facility recovers that material. These records are necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements of this Article.

Subdivision (a)(5)

The purpose of this section is to ensure that a jurisdiction that allows organic waste to be collected in plastic bags pursuant to Section 18984.1 or 18984.2, retains a copy of written notification received from each facility serving the jurisdiction confirming that the facility can process and remove plastic bags when it recovers source separated organic waste. These records are necessary to demonstrate that a jurisdiction's collection service is in compliance with this Article.

**Section 18984.5. Container Contamination Minimization.**

#### Subdivision (a)

The purpose of this section is to clarify that a generator shall not place prohibited container contaminants in a collection container and to require jurisdictions that provide a three-container or two-container collection service to monitor collection containers for contaminants in a manner that complies with the provisions of either subdivision (b) or subdivision (c) of this section. As stated above, when organic waste is mixed with non-organic waste, the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed with food waste can render each material exceedingly more expensive and technically challenging to recover). This section is necessary to reduce contamination of organic waste collected in fully or partially source separated organic waste containers so the material can be recovered.

#### Subdivision (a)(1)

The purpose of this section is to require that a jurisdiction that implements a performance-based source separated collection service pursuant to 18998.1 monitor containers through the method specified in the provisions of Subdivision (c). This subdivision is necessary to ensure conformance and alignment with the requirements of Section 18998.1 which requires jurisdictions implementing performance-based source separated collection services to conduct waste composition studies. See Section 18998.1 for additional detail.

#### Subdivision (b)

The purpose of this section is to specify that a jurisdiction may comply with Section 18984.5 by conducting periodic route reviews for prohibited container contaminants on randomly selected containers along a hauler route in a manner that results in all collection routes being reviewed annually. The purpose of this section is also to clarify that containers may be randomly selected along a hauler route, and that this subdivision should not be construed to require that every container on a hauler route be sampled annually. While each hauler route must be visited annually, this could include a routine inspection program that inspects individual commercial accounts over one cubic yard of weekly garbage service about every two to three years. This section does not require visual inspections of a minimum number of randomly selected containers. CalRecycle originally proposed requiring inspections of no less than five containers per day per collection route. CalRecycle revised route review frequency from quarterly to annually in response to stakeholder feedback indicating that this flexibility could yield similar results while placing less of a burden on jurisdictions. This section is necessary to ensure that a minimal level of annual contamination inspections is conducted with sufficient frequency to reduce contamination.

#### Subdivision (b)(1)

The purpose of this section is to specify that, upon finding prohibited container contaminants in a container, the jurisdiction is required to notify the generator of the violation. This section specifies that the notice must include, at a minimum, information about the generator's obligation to properly source separate organic waste. This section also specifies that the notice may be placed on the generator's container, gate or door



at the time of the violation, and/or be mailed, e-mailed, or electronically messaged to the generator. Since jurisdictions may collect un-containerized green waste or there might not be a container available for placement of the notice, this section allows the notice and educational materials to be placed on the generator's door or gate.

Educating generators is necessary to ensure that organic waste is properly separated and collected in a manner that preserves the recoverability of the material. If the material is contaminated, some or all of it may not be recovered, which will hinder the state's ability to achieve its organic waste reduction targets. This section is necessary to ensure that generators are aware of their obligation to properly separate waste for recovery under Section 18984.9.

#### Subdivision (b)(2)

The purpose of this section is to allow a jurisdiction to dispose collected materials in containers that were intended for the collection of source-separated organic waste if those container contents are heavily contaminated. Containers are frequently collected on routes on which the contents of multiple green containers are combined in a single collection vehicle. If a hauler checks a green container and sees that the contents of the container are heavily contaminated with non-organic waste, collecting that container and mixing the contents of that container with the other organic waste in the collection vehicle may compromise the recoverability of all of the organic waste in that vehicle. This section allows the hauler to dispose the contents of the contaminated container rather than contaminate the other organic waste in the collection vehicle. This section is intended to be treated as a contingency and is not designed allow a jurisdiction to dispose the contents of a significant number of containers, which would be a violation of Sections 18984.1(a)(1)-(2) and 18984.2(a)(1).

This section is necessary to clarify that a jurisdiction may complete this requirement through a designee, such as a hauler. If a jurisdiction grants this authority to a hauler, there is no inconsistency with the powers of local governments regarding solid waste franchises because the hauler is acting under the jurisdiction's authority. This section is needed to clarify that nothing in the regulations would prohibit a jurisdiction from including in its contract a provision requiring a hauler to separate garbage from the source separated recyclables commingled in a bin, as opposed to disposing of the collected contents of the bin. This section is necessary to ensure that contaminants can be segregated from organic waste and to ultimately increase the amount of organic waste that is recovered.

#### Subdivision (b)(3)

The purpose of this section is to clarify that, notwithstanding Section 18995.1(a)(5), this chapter does not require a jurisdiction to impose administrative civil penalties on generators in violation of the prohibited container contaminants requirement in Subdivision (a), above. This is necessary to provide jurisdictions with enforcement flexibility from potentially burdensome enforcement responsibilities given the large number of potential generators within their boundaries. Jurisdictions may still opt to seek penalties at their own discretion.

#### Subdivision (c)

The purpose of this section is to provide jurisdictions a facility-based container contamination compliance method. This section is necessary to provide jurisdictions flexibility to monitor container contamination in the least burdensome means possible.

#### Subdivision (c)(1)(A) and (c)(1)(B)

The purpose of this section is to differentiate the number of waste evaluations that jurisdictions must perform each year based on the type of collection service they provide. Three- and two-container collection services must conduct monitoring twice per year for all containers. Jurisdictions implementing a performance-based collection system pursuant to Section 18998.1 must perform studies on the gray containers every quarter but are only required to perform studies on the green and gray containers twice per year. Existing facility-based monitoring programs mirror the twice-per-year frequency for their comparable contamination studies. Performance-based programs conduct gray-container studies quarterly because they are required to determine their gray container contamination levels on a rolling annual average each quarter. This section is necessary to establish minimum study frequencies for jurisdictions opting to perform this type of contamination monitoring.

#### Subdivisions (c)(1)(C) through (c)(1)(F)

The purpose of this section is to establish the minimum methodology that must be met for performing waste evaluations regarding the number of samples, the location from which samples are collected, and the size of samples. This section adopts methodology currently in practice in the City of Los Angeles regarding the number of samples that must be collected from routes based on the size of the route. This section additionally adopts a sample size of 200 pounds, which is consistent with standard sample sizes for waste characterization studies and is in alignment with proposed sample sizes used to support determination of recovery efficiency as proposed in Section 17409.5.1 This section is necessary to establish clear and consistent sampling protocols. This section additionally requires that waste evaluations be performed at permitted solid waste facilities. This section is necessary to ensure that waste evaluations are accurately representative of the waste stream.

#### Subdivision (c)(2)

The purpose of this section is to establish requirements for jurisdictions to notify generators of contamination when samples reveal that prohibited container contaminants in the gray container (organic waste) exceed 25 percent.

Jurisdictions that implement a three-container organic waste collection service are required to prohibit the placement of organic waste in the gray container, unless the jurisdiction specifically transports the gray container to a high diversion organic waste processing facility that recovers 75 percent of the organic content in the gray container. The 25 percent threshold on gray container organic waste is intended to reflect the statutory direction to reduce organic waste disposal to less than 25 percent statewide. If gray container organic waste levels exceed 25 percent, it is imperative that jurisdictions educate generators regarding their obligation to comply with collection requirements.

Educating generators is necessary to ensure that organic waste is properly separated and collected in a manner that preserves the recoverability of the material. If the material is contaminated, some or all of it may not be recovered, which will hinder the state's ability to achieve the organic waste reduction targets. This section is necessary to ensure that generators are aware of their obligation to properly separate waste for recovery under Section 18984.9.

Subdivision (d)

The purpose of this section is to specify that a jurisdiction that implements a performance-based collection service must notify the department within 30 days of finding prohibited container contaminants in the gray container collection stream that exceed 25 percent of the measured sample by weight in each of two consecutive waste evaluations performed on gray containers pursuant to the requirements of Subdivision (c). This section is necessary to ensure that CalRecycle can monitor compliance with Section 18998.1.

Subdivision (e)

The purpose of this section is to require that a jurisdiction that implements a performance-based collection service must allow a representative of CalRecycle to oversee a quarterly sampling upon request. This section is necessary to ensure that CalRecycle can monitor compliance with Section 18998.1.

Subdivision (f)

The purpose of this section is to clarify that certain organic wastes do not need to be weighed as organic waste when determining if the presence of organic waste in the gray container exceeds 25 percent. This section is necessary to reflect that certain organic wastes are not subject to the specific collection and recovery requirements of this Article or Article 17, and therefore a jurisdiction should not be penalized for the presence of that material in its gray containers.

Subdivision (g)

The purpose of this section is to specify that nothing in this section limits a jurisdiction from adopting contamination standards, fees, sampling methodologies, or noticing protocols that are more stringent or rigorous than the requirements of this section. This section is necessary to clarify that if a jurisdiction has, or would like to, set more aggressive requirements for contamination review, nothing in this section prohibits it from doing so.

**Section 18984.6. Recordkeeping Requirements for Container Contamination Minimization.**

Subdivision (a)

The purpose of this section is to specify that a jurisdiction shall include certain documents in the Implementation Record required by section 18995.2 of this chapter. This section specifies that documents and records related to container contamination

minimization efforts must be kept by the jurisdiction. In response to stakeholder feedback, CalRecycle consolidated many reporting requirements into recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. This section is necessary to ensure that CalRecycle can access records to verify that a jurisdiction is in compliance with the requirements of this Article.

Subdivision (a)(1)

The purpose of this section is to specify that a jurisdiction must keep an account of how it determines what constitutes contamination in a recycling collection container and to what level. This section specifies that a jurisdiction shall retain a description of the jurisdiction's process for determining the level of container contamination. This section is necessary to ensure that CalRecycle has access to the records necessary to evaluate the effectiveness of the jurisdiction's contamination minimization process and verify that a jurisdiction is in compliance with the requirements of this Article.

Subdivision (a)(2)

The purpose of this section is to specify that a jurisdiction must keep relevant records documenting its implementation of, and the results of, its route reviews as required by this Article. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is monitoring generators in compliance with the requirements of this Article.

Subdivision (a)(3)

The purpose of this section is to require jurisdictions to keep a record of relevant records demonstrating that, if they conduct waste evaluations to comply with Section 18984.5, they conducted targeted route reviews as required by that section. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with Section 18984.5.

Subdivision (a)(4)

The purpose of this section is to ensure that the basic recordkeeping requirements of this section are met. This section specifies that a jurisdiction shall retain documentation of all notices issued to generators with prohibited container contaminants. This recordkeeping requirement is foundational to ensure the implementation of a compliance or enforcement program. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is taking action against contamination by generators and in compliance with the requirements of this Article.

Subdivision (a)(5)

The purpose of this section is to ensure that a jurisdiction is keeping records of the number of containers from which the contents were disposed due to observation of prohibited container contaminants. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is monitoring disposal of the

contents of contaminated containers and in compliance with the requirements of this Article.

### **Section 18984.7. Container Color Requirements.**

#### Subdivision (a)

The purpose of this section is to specify the colors of containers (e.g., containers for residential and commercial, including dumpsters, carts, debris bins, roll-offs) that a jurisdiction must provide to its generators based upon the type of organic waste collection service implemented. The container color and material specifications included in Sections 18984.1-18984.3 and this section standardize container colors and minimum levels of acceptable materials for collection containers provided across the state, regardless of jurisdiction, and ensure that organic wastes are transported to appropriate facilities for recovery.

Throughout the informal rulemaking process, several jurisdictions and members of the public expressed frustration and concern that an individual can live in a jurisdiction where a green container is used for the collection and recycling of organic waste, and work in a jurisdiction where a green container is used for the collection and disposal of mixed wastes. Further jurisdictional boundaries can result in the use of one set of containers with a color scheme and material collection limitations that are distinct from the set of containers used in the neighboring jurisdiction. The confusion created by these distinctions is similar to the confusion that would arise if the colors of traffic signals across the state varied by jurisdictional boundaries.

The requirements of this section are necessary to provide uniformity of collection container colors, create consistency, and reduce generator confusion about the appropriate container in which to place each type of material. The consistency required by this and subsequent sections enhances consumer education about organic waste recycling and helps maintain the highest degree of recoverability for source separated organic waste. This will result in less contamination and a higher rate of organic waste recovery.

#### Subdivision (b)

The purpose of this section is to reduce the potential for stranded assets (containers that do not conform to the color scheme required in this chapter) by allowing jurisdictions several years to paint containers or retire and replace containers through natural attrition. This section also clarifies that if a container has minor repairs and remains functional, it does not need to be replaced prior to 2036. The definitions in Article 1 for each container provide that the required color can be on the lid; it is not necessary that the entire body of the container comply with the color requirements. This subdivision allows jurisdictions to continue to use containers that do not conform to the color requirements of this chapter through 2036. At the public workshops CalRecycle held throughout the informal process, stakeholders raised concerns about potential financial and logistical challenges associated with meeting a newly established

statewide container color scheme but did not object to the specific colors proposed for containers or propose alternative container colors.

To accommodate the financial concerns, CalRecycle contacted waste companies to inquire about the typical useful life of collection containers. Waste companies contacted indicated that they typically plan for containers to last 7-10 years. Based on this information, CalRecycle provided until 2036 (14 years after the effective date of these regulations) for container replacement. To the extent that collection containers that are in use today do not meet the color requirements of this section, jurisdictions would not have to replace those containers for nearly 16 years (2020-2036). Additionally, a jurisdiction is allowed to replace containers sooner, if it chooses to do so.

This section ensures that new containers purchased by jurisdictions conform to the color requirements of this Article while allowing a reasonable time frame for jurisdictions to replace containers over the next decade through attrition or when they select a new waste hauler. This section is necessary to ensure that the educational benefits of container color standardization are realized within a reasonable time frame while reducing the cost of compliance for regulated entities.

### **Section 18984.8. Container Labeling Requirements.**

#### **Subdivision (a)**

The purpose of this section is to ensure that, as new containers are provided to generators, the containers include labels that inform the generator of the appropriate materials to be placed in each container. This requirement was recommended by various stakeholders as a cost-effective approach that would result in less contamination and maximize organic waste recovery. This subdivision specifies that commencing January 1, 2022, a jurisdiction shall place a label on each new container or lid provided to generators consistent with the applicable container collection requirements to specify which materials are allowed to be placed in each container. This section specifies that the label must be placed on a new container, but the jurisdiction is not required to ensure that new labels are maintained on each container on the route. This section is necessary to educate generators so that contamination of organic waste is minimized and to ensure that collected organic waste is clean and recoverable.

#### **Subdivision (b)**

The purpose of this section is to specify how a jurisdiction may comply with the labeling requirements. This section specifies that a jurisdiction may comply by either (1) placing a label (e.g., sticker or hot-print) on the body or lid of the container with language, graphic images, or both, that indicate the primary acceptable materials and primary prohibited materials for that container, or (2) imprinting text or graphic images on the body or lid of the container that indicate the primary acceptable materials and primary prohibited materials for that container. This section is needed to clarify that all containers (e.g., dumpsters, carts, debris bins, roll-offs) in both the residential and commercial sectors must have labels placed on new containers that comply with the requirements of this section. The labeling requirements were refined through the public

rulemaking process to accommodate the various types of labels jurisdictions currently use on their containers. Stakeholders indicated that these types of labels are effective and durable. This section is necessary to ensure that containers are properly labeled, which is necessary to educate generators and ensure that collected organic waste is clean and recoverable.

Subdivision (c)

The purpose of this section is to reiterate that container labels must clearly indicate the primary items that are prohibited container contaminants for each container. This section is necessary to help ensure that generators are educated about how to properly sort materials, which is necessary to minimize contamination and ensure that collected organic waste is clean and recoverable.

Subdivision (d)

The purpose of this section is to clarify that the department will provide model labels that meet the requirements of this section for use by jurisdictions. This section was added in response to stakeholder requests for assistance from the department in complying with this section. This section is necessary to allow to a jurisdiction to comply with this section by using model labels developed by the department.

**Section 18984.9 Organic Waste Generator Requirements.**

Subdivision (a)

The purpose of this section is to ensure that organic waste generators properly sort organic waste for collection as required by the applicable collection service provided by their jurisdiction, or self-haul organic waste in a manner that complies with Article 7.

Approximately 50 percent of disposed organic waste is attributable to residential properties, 40 percent is attributable to commercial businesses, and the balance is self-hauled to landfills. This section provides requirements for generators that correspond with the jurisdiction's requirement to provide organic waste collection services. The state cannot achieve the required reductions if generators do not recover their organic waste by either complying with the requirements of the jurisdiction's collection service or self-hauling. This section is necessary to ensure that organic waste generators comply with the requirements of this chapter and their jurisdiction's service provider so contamination is minimized and recovery of organic waste is increased.

Subdivision (b)

The purpose of this section is to place additional requirements on organic waste generators that are commercial businesses. This section is necessary because the organic waste from commercial businesses includes waste from its customers. As 40 percent of organic waste is generated at commercial businesses, this section is necessary to increase recovery of organic waste.

Subdivision (b)(1)

The purpose of this section is to specify that commercial businesses are required to

provide containers for the collection of organic waste and non-organic recyclables in all areas of the business where they provide disposal containers for customers, except for restrooms. This section also specifies that the business must either (A) provide collection containers that conform to the container colors of the organic waste recovery service provided by their jurisdiction, or (B) provide containers with labels that comply with the requirements of Section 18984.8. This section is also necessary to align with the requirements that apply to non-local entities and local education agencies, as discussed in Section 18986.1 and Section 18986.2.

This section requires commercial businesses to locate organic waste and recycling containers near disposal containers accessible to customers at that business. It also requires that containers provided by the commercial business conform to the containers used throughout the jurisdiction's organic waste recovery service to reduce customer confusion and limit contamination of collection containers. This section provides a business with flexibility to either have a container where the body or lid conforms to the container color requirements of the collection service provided by their jurisdiction, or to place container labels on new containers that meet the requirements of Section 18984.8. This section is necessary to allow customers of a commercial business that is an organic waste generator the opportunity to recycle their organic waste, thereby helping to limit disposal and increase recovery of organic waste.

This section ensures that organic waste recovery options are available in most places where commercial waste is generated. This subdivision is necessary to ensure that generators have convenient access to organic waste recovery options wherever they discard material, including in public locations. This section is also necessary to educate consumers by underscoring the importance of recovering organic waste both inside and outside the home and help meet the organic waste recovery targets established by the statute.

#### Subdivision (b)(2)

The purpose of this section is to reduce contamination of organic waste by the employees of a business. As stated above, when organic waste is mixed with non-organic waste, the recoverability of both materials is compromised, recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). This section is necessary to educate employees of a business to fully or partially source separate organic waste so contamination is reduced and recovery of organic material is increased.

#### Subdivision (b)(3)

The purpose of this section is to increase employee awareness of the requirements to place organic material in the appropriate containers to reduce contamination and increase recovery of organic waste. As stated above, when organic waste is mixed with non-organic waste the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more



expensive and technically challenging to recover). This section is necessary to educate employees of a business to fully or partially source-separate organic waste so that contamination is reduced, and recovery of organic material is increased

#### Subdivision (c)

The purpose of this section is to respond to stakeholder inquiries requesting that CalRecycle clarify that these regulations do not prohibit on-site management or use of a community-scale composting activity. These management options are viable methods of recovering organic waste and should not be discouraged. However, pursuant to this Article, generators are required to recover all of their organic waste, not a select sub-portion that lends itself to boutique management options. Managing some organic waste on-site does not relieve generators from the requirement to arrange for the recovery of the balance of their organic waste, either through subscribing to a collection service or self-hauling. This section is necessary because these management options are viable methods of recovering organic waste and should not be discouraged because they can help the state achieve its organic waste reduction targets.

#### Subdivision (d)

The purpose of this section is to reduce the potential for stranded assets for containers provided by collection service providers that do not conform to the color scheme required in this Article, by allowing businesses several years to retire and replace containers through natural attrition. This allows businesses to continue to use containers that do not conform to the color requirements of this Article, including containers purchased prior to January 1, 2022, and clarifies that a commercial business is not required to replace functional containers prior to the end of the useful life of the containers or prior to January 1, 2036, whichever comes first. This subdivision also clarifies that, if a container has minor repairs but is still functional, it does not need to be replaced prior to 2036. This section is necessary to ensure that the educational benefits of container color standardization are realized within a reasonable time frame while reducing the cost of compliance for regulated entities.

#### Subdivision (e)

The purpose of this section is to clarify that in situations in which the business is not generating any of the materials that would be collected in any one type of container (either green or blue or both), then the business does not have to provide that particular container in areas where disposal containers are provided for customers.

This section is necessary to clarify that a jurisdiction is not prohibited from placing containers in restrooms. Section 18990.1(a) allows a jurisdiction to implement more stringent requirements than required by this Article. Therefore, if a jurisdiction's collection programs support composting certain types of materials discarded in restrooms, the jurisdiction is free to add these materials to its program.

### **Section 18984.10. Commercial Business Owner Responsibilities.**

#### Subdivision (a)

The purpose of this section is to require that, consistent with this Article and local requirements, commercial businesses provide or arrange for organic waste collection services for employees, contractors, tenants, and customers, including supplying and allowing access to an adequate number, size, and location of containers with sufficient labels and container colors. Approximately 50 percent of disposed organic waste is attributable to residential properties, 40 percent is attributable to commercial businesses, and the balance is self-hauled to landfills. This section is designed to correspond with the requirement that a jurisdiction provide organic waste collection services to its generators.

This section is necessary to clarify that businesses are required to supply and provide access to containers with labels and colors that are consistent with those of the containers provided by their collection service provider to ensure that organic waste generators that are customers, employees, or tenants have access to the applicable collection service while on the business's premises.

This section is necessary because the state cannot achieve the required reductions if business generators do not arrange to have their organic waste collected and recovered, or self-haul their organic waste to a facility for recovery.

#### Subdivision (b)

The purpose of this section is to require commercial businesses to annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of organic waste. This is necessary to help ensure that organic waste generators are aware of their responsibilities under this Article. This section is necessary to ensure that organic waste is properly separated and collected in a manner that preserves the recoverability of the material. If the material is contaminated, some or all of it may not be recovered, which will hinder the state's ability to achieve its organic waste reduction targets.

#### Subdivision (b)(1)

The purpose of this section is to require commercial businesses to provide information to new tenants before or within 14 days of occupation of the premises. This is necessary to help ensure that tenants that are organic waste generators are aware of their responsibilities under this Article to properly separate and collect organic waste in a manner that preserves the recoverability of the material.

#### Subdivision (c)

The purpose of this section is to require commercial businesses to provide or arrange for access to their properties during all inspections conducted pursuant to Article 14 of this chapter. This section is necessary to provide jurisdictions with the authority to conduct the inspections required by Article 14 of this chapter and to ensure that inspectors are not inhibited from accessing the applicable area of the property.

#### Subdivision (c)(1)

The purpose of this section is to clarify that this subdivision does not permit an employee or agent of CalRecycle or a jurisdiction to enter the interior of a private residential property. This section is necessary to ensure that the privacy rights of residents in the interior of their home are protected.

### **Section 18984.11. Waivers Granted by a Jurisdiction.**

#### Subdivision (a)

The purpose of this section is to provide jurisdictions the authority to grant waivers to select generators from the collection requirements of this Article under specified circumstances. Throughout the rulemaking process, stakeholders indicated that it is not cost-effective to attempt to collect organic waste from certain generators. CalRecycle agrees that some flexibility is necessary, but in order to ensure that the organic waste reduction targets are still achieved, has included conditions on the types of waivers that jurisdictions can grant. These conditions ensure that use of organic waste collection waivers does not impede the state's ability to achieve the organic waste reduction targets. This section is necessary to provide jurisdictions with the flexibility to focus their organic waste collection efforts in the most cost-effective manner.

#### Subdivision (a)(1)

The purpose of this section is to authorize jurisdictions to exempt commercial businesses that generate de-minimis amounts of organic waste from some or all of the organic waste collection requirements of this Article. Under this subdivision, de-minimis amounts of organic waste are less than 20 gallons per week per applicable container for businesses that produce 2 cubic yards or more of solid waste per week, and less than 10 gallons per week for businesses that produce less than 2 cubic yards of solid waste per week.

The de-minimis thresholds were established based on input from stakeholders, including jurisdictions that implement organic waste collection services that are similar to those required by the regulations. According to jurisdictions that already require their generators to subscribe to organic waste collection services, the de-minimis amounts of 10 and 20 gallons per week per applicable container, including blue, green, or split containers, respectively equate to roughly 10 percent of waste generation for those generators. According to jurisdictions implementing these waivers, there are very few businesses that qualify for this waiver and collecting organic waste from these generators would not be cost-effective.

To ensure that these waivers do not compromise the state's ability to achieve the organic waste reduction targets, this section requires jurisdictions to verify the amount of organic waste a commercial business generates prior to authorizing a waiver, and to verify the amounts every five years consistent with Section 18995.1. Further, this section requires jurisdictions to discontinue a waiver if at any time the jurisdiction discovers that the organic waste generated by the business exceeds the amount allowed in this section. These verification and time frame requirements are necessary to prevent a significant percentage of organic material from being exempted when

businesses previously subject to the waiver begin to generate more than the de-minimis threshold of organic waste.

This section is necessary to allow an appropriate level of flexibility for jurisdictions to exempt commercial businesses that do not generate more than de-minimis amounts of organic waste from compliance with the requirements of this section. This section is necessary to allow jurisdictions to focus their limited resources on more effective recovery efforts that may ultimately increase the amount of organic waste recovered.

#### Subdivision (a)(2)

The purpose of this section is to authorize jurisdictions to waive a commercial business or property owner with legitimate space constraints from some or all of the requirements of this Article, particularly the obligation to provide an organic waste collection container. This provision mirrors waiver conditions authorized for jurisdictions that currently require their generators to subscribe to organic waste collection services that are similar to the collection requirements of this Article. According to these jurisdictions, there are very few businesses that can demonstrate the existence of space constraints that cannot be addressed, and therefore few of these waivers would be issued.

This waiver is only applicable in limited scenarios and should decrease in use over the years, and nothing precludes a jurisdiction from requiring a generator to develop a solution to overcome the space constraint during the waiver period. There are few instances in which a business's existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers were downsized (e.g. two 90-gallon bins could be replaced with three 60-gallon bins and occupy the same space). Further, this Article specifically authorizes jurisdictions to provide split containers to their generators in order to segregate organic waste. This flexibility allows jurisdictions, businesses, or commercial property owners to modify containers rather than provide an extra container. Finally, the California State Building Code, referenced in Article 8 of this chapter, requires new construction to include space for organic waste collection containers.

This section is necessary to allow commercial businesses and property owners with legitimate and cost-prohibitive space constraints to obtain waivers from the requirements of this Article.

#### Subdivision (a)(3)

The purpose of this section is to allow jurisdictions to implement the most cost-effective collection services possible. If a jurisdiction can effectively collect gray and blue container waste on a bi-weekly basis under a collection frequency waiver, it can significantly reduce the cost of collection and reduce vehicle emissions.

This section allows a jurisdiction to authorize a generator to subscribe to bi-weekly collection of its blue, gray, or both containers if the generator is using a service that requires the placement of all organic waste in the green container (with the exception of organic waste specifically allowed for collection in the blue container in a three-

container collection service). A jurisdiction may allow some or all of the owners or tenants of any residence, premise, business establishment, or industry located within the jurisdiction or on specified routes to be subject to this waiver. This section requires that prior to authorizing this collection frequency waiver, the jurisdiction or its authorized hauler must demonstrate to the solid waste local enforcement agency that this collection frequency will not cause the receiving solid waste facilities and/or operations to be in violation of applicable state minimum standards described in Title 27, Chapter 3, Subchapter 4, Subdivision 1, or Title 14 Sections 17200 et seq.

This section is necessary to provide local jurisdictions flexibility for compliance with the requirements of this chapter, which could increase the efficiency of their recovery of organic waste without compromising public health and safety.

#### Subdivision (b)

The purpose of this section is to clarify that nothing in this chapter allows a jurisdiction to exempt businesses from the separate and distinct organic waste recycling requirements of the Mandatory Organics Recycling Program (PRC Section 42649.81 et seq), which require businesses to subscribe to organic waste recycling services based on the amount of waste generated by the business. This section is necessary to clarify that the authority for waivers included in this section does not allow jurisdictions to waive businesses from their obligations under PRC Section 42649.8 et seq, except to the extent that, after January 1, 2022, the more stringent requirements of subdivisions (a)(1) and (2) of this section will apply to de minimis and physical space waivers.

#### Subdivision (c)

The purpose of this section is to clarify that the authority to issue a waiver authorized by this section cannot be delegated to a private entity. For example, this section allows a jurisdiction to provide authority to a county health inspector or Joint Powers Authority (JPA) staff to issue a waiver to a generator, but it does not allow a hauler to issue a waiver. This was added in response to stakeholder feedback that raised the issue of allowing private entities, such as haulers, to issue waivers, which could create a potential conflict. This section is necessary to clarify that the authority for waivers included in this section does not allow jurisdictions to allow a private entity to waive businesses from the Mandatory Organic Recycling Waste requirements.

### **Section 18984.12. Waivers and Exemptions Granted by the Department.**

#### Subdivision (a)

The purpose of this section is to allow low-population areas of the state to apply to the department for a waiver from some or all of the organic waste collection requirements in this Article. The necessity of this is discussed in the specific sections below.

#### Subdivision (a)(1)

The purpose of this section is to outline the two conditions under which an application for a low-population waiver may be granted. These conditions are that the jurisdiction disposed of less than 5,000 tons of solid waste in 2014 as reported in the Disposal

Reporting System, and that the jurisdiction has a total population of fewer than 7,500 people. Representatives for jurisdictions that meet these requirements provided feedback that it would be exceedingly expensive for them to comply with the collection service requirements and that they represent a relatively small portion of the organic waste stream. In addition, these jurisdiction representatives noted that unlike most cities and counties in the state, many of them do not currently provide solid waste collection services to their generators.

Based on CalRecycle's analysis of jurisdiction disposal, this provision would potentially cover approximately 20 jurisdictions that cumulatively account for less than 1 percent of total statewide organic waste disposal. Therefore, allowing waivers for this amount of material avoids placing disproportionate economic costs on a small portion of the state's population without significantly impacting the state's ability to achieve the statutory organic recovery target. These jurisdictions would still contribute to the state's organic waste recovery targets through compliance with other sections of the regulation, including procurement and edible food recovery. This section is necessary because it is the least onerous alternative to avoid placing a disproportionate economic cost for compliance on a small section of the organic waste stream without significantly impacting the state's ability meet the statutory organic waste recovery goals.

#### Subdivision (a)(2)

The purpose of this section is to allow a jurisdiction that provides collection services to census tracts with a population density of less than 75 people per square mile that are located in unincorporated county areas to qualify for a waiver from some or all of the requirements of this Article. Based on CalRecycle's analysis of jurisdiction disposal, this waiver would potentially cover census tracts that cumulatively account for 2.1 percent of total statewide organic waste disposal. Accordingly, allowing waivers for this amount of material will not significantly impact the state's ability meet the statutory organic waste recovery goals. This section is necessary to ensure that counties can conserve resources by focusing on collecting organic waste from high-density areas where the most organic waste can be collected for recovery.

#### Subdivision (b)

The purpose of this section is to establish the duration of a waiver issued pursuant to subdivision (a), the procedure for applying for the waiver, the time period within which the department will act upon the waiver request, and the procedure for renewal of the waiver. This section is necessary to ensure that waivers under subdivision (a) can be periodically re-evaluated to include consideration of demographic changes over the years, such as an increase in population, and other changes that may affect the balance between reducing the disproportionate effect of compliance on jurisdictions with small populations and the state's ability to meet the statutory organic waste recovery goals.

#### Subdivision (b)(1)

The purpose of this section is to establish that waivers issued pursuant to subdivision (a) are valid for five years and to outline what must be included by a jurisdiction in its waiver request. Pursuant to this section, the jurisdiction is required to provide the

number of generators that will be included in the waiver, the requested length of the waiver, and, if the request for a waiver is submitted by a jurisdiction seeking to waive unincorporated census tracts, identify the jurisdiction of each census tract that will be included in the waiver. This section is necessary to ensure that waivers are limited to populations for which the cost of compliance with the requirements of this Article would be substantially disproportionate in relation to the amount of organic waste recovered. Limiting the waivers to populations that meet the requirements of this subdivision will not significantly impact the state's ability to meet its statutory organic waste recovery goals.

#### Subdivision (b)(2)

The purpose of this section is to specify that CalRecycle shall review, evaluate, and approve or deny a waiver request within 90 days. This section is necessary because it provides the time line within which CalRecycle must evaluate and approve or deny a low-population waiver request to an applying jurisdiction and ensures that waiver requests will be considered and resolved within a reasonable time period.

#### Subdivision (b)(3)

The purpose of this section is to allow a jurisdiction to apply for renewal of a waiver issued pursuant to Subdivision (a) at any time up to 180 days prior to the expiration of an existing waiver. This section is necessary because it provides a jurisdiction that has received a waiver continued relief from the disproportionate cost of complying with this Article if it can demonstrate that it continues to meet the requirements for qualification.

#### Subdivision (c)

The purpose of this section is to allow rural jurisdictions to apply for a waiver from the organic waste requirements of this Article, to outline the requirements for applying for the waiver, and to establish the duration of the waiver. This section is necessary because Under AB 1826 (PRC 42649.82), rural jurisdictions are exempt from early implementation of mandatory commercial organic waste reduction requirements and have been provided additional time to phase in organic waste recycling requirements. Consequently, these jurisdictions were not required to undergo the same organic waste recycling program expansion as jurisdictions that were subject to AB 1826 and therefore may need additional time to comply with the requirements of this Article. Based on CalRecycle analysis of jurisdiction disposal, rural jurisdictions qualifying for this waiver cumulatively account for 1.4 percent of total statewide organic waste disposal. Allowing waivers for this amount of material will not significantly impact the state's ability to achieve statutory organic waste recovery targets.

#### Subdivision (c)(1)

The purpose of this section is to establish that CalRecycle shall grant an exemption to organic waste collection requirements if the jurisdiction qualifies as a rural jurisdiction under PRC Section 42649.8(a) and adopts a resolution finding that describes the purpose and need for the exemption. The section is necessary because, under PRC Section 42649.8(a), rural jurisdictions were exempted from establishing mandatory organic waste recycling programs. This section is also necessary to provide consistency

with PRC Section 42649.8(a) et seq, which states that an exemption should be granted if a rural jurisdiction can establish a need for additional time comply with this Article.

#### Subdivision (c)(2)

The purpose of this section is to establish that the duration of the exemptions granted pursuant to this subdivision will be either December 31, 2026, or five years after the department makes the determination in 2020 that the statewide disposal has not been reduced to 50 percent of the level of the 2014 calendar year, whichever is later. This section is necessary to take into account the requirement under AB 1826 that exemption from the requirements of AB 1826 granted to rural jurisdictions will terminate if the department determines in 2020 that the statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal of the 2014 calendar year (PRC Section 42649.82(a)(2)(D)).

#### Subdivision (d)

The purpose of this section is to allow a jurisdiction to apply to CalRecycle for waivers based on its elevation. This subdivision is necessary to respond to stakeholder feedback concerning specific waste collection challenges and to provide flexibility for collection and generator requirements to jurisdictions located above 4,500 feet of elevation.

#### Subdivision (d)(1)

The purpose of this section is to allow a jurisdiction to apply to CalRecycle for a waiver for the jurisdiction, and some or all of its generators, only from the requirement to separate and recover food waste and food-soiled paper if the entire jurisdiction is located at or above an elevation of 4,500 feet. This section is necessary because jurisdictions at these elevations face unique waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitats. Food waste collection can attract vectors, including bears, to populated areas, creating collection and public safety issues. This waiver is limited to food waste because the department believes other organic waste can be collected in smaller bins or outside the bear boxes.

#### Subdivision (d)(2)

The purpose of this section is to establish that a jurisdiction may apply to CalRecycle for a waiver for the jurisdiction, and some or all of its generators, only from the requirement to separate and recover food waste and food-soiled paper in census tracts located in unincorporated portions of a county that are located at or above 4,500 feet. This section is necessary because jurisdictions at these elevations face unique waste collection challenges as high-elevation, forested areas that include bear and other wild animal habitats. Food waste collection can attract vectors, including bears, to populated areas creating collection and public safety issues. This waiver is limited to food waste because the department believes other organic waste can be collected in smaller bins or outside the bear boxes.

#### Subdivision (d)(3)

The purpose of this section is to establish that the area of a jurisdiction that is waived pursuant to this section is not required to provide generators with containers as required



by Section 18984.7. This section is necessary to clarify that jurisdictions, individual generators, or census tracts that have received an elevation waiver from CalRecycle are not automatically given collection containers for a collection system if they are not required to participate due to obtaining an elevation waiver.

#### Subdivision (d)(4)

The purpose of this section is to specify that residential and commercial generators located within an area that is waived pursuant to this section may deposit food waste and food-soiled paper in a disposal container. Generators in high-elevation jurisdictions will be able to continue to use customer- or hauler-provided containers that fit into their locked bear boxes. Although CalRecycle recognizes the threat that vectors, like bears, pose from the collection of food waste, the department believes that other organic waste can be collected in smaller bins or outside the bear boxes. This section is necessary to clarify that food waste and food-soiled paper waste can be placed in a disposal container without violating other sections of this Article.

#### Subdivision (d)(5)

The purpose of this section is to specify that a jurisdiction shall submit a request for a waiver with the number of generators that will be included in the waiver and that, if the request for a waiver is submitted by a jurisdiction seeking to waive unincorporated census tracts, the jurisdiction shall identify each census tract that will be waived. This section is necessary to clarify the information that must be included in a request for an elevation waiver by a jurisdiction and to allow the department to determine the impact on organic waste disposal of the requested waiver.

#### Subdivision (d)(6)

The purpose of this section is to provide that CalRecycle shall review and evaluate and approve or deny an elevation waiver request within 90 days if the request satisfies the requirements of the waiver. This subdivision is necessary because it outlines the time line within which CalRecycle must evaluate and grant or deny an elevation waiver to an applying jurisdiction and ensures that the waiver requests will be considered and resolved within a reasonable time period after the request is received.

#### Subdivision (d)(7)

The purpose of this section is to clarify that nothing in this subdivision waives a jurisdiction from its obligation to provide a collection service that collects and recycles the other types of organic wastes specified through this Article in Sections 18984.1, 18984.2, or 18984.3 in a manner that meets the requirements of those sections. Additionally, jurisdictions that qualify for this elevation waiver will still be subject to other requirements of this chapter, including procurement, edible food recovery, and other types of organic waste collection. This section is necessary because it clarifies the other provisions of this Article that must still be adhered to by jurisdictions that have obtained an elevation waiver.

#### Subdivision (e)

This subdivision specifies that nothing in this section of the regulation exempts a jurisdiction from complying with the other requirements to promote and provide information to generators about waste prevention, community composting, managing organic waste on-site, and other means of recovering organic waste, or any other requirements of this chapter. The purpose of this section is to clarify that jurisdictions granted waivers under this section must still fulfill other regulatory requirements to reduce overall solid waste disposal, through methods of education and source reduction practices. This section is necessary to clarify that the exemptions authorized under this section only apply to the collection requirements of this Article and do not exempt jurisdictions from their obligation to comply with other Articles of this chapter.

### **Section 18984.13. Emergency Circumstances, Abatement, Quarantined Materials, and Federally Regulated Waste.**

#### Subdivision (a)

The purpose of this section is to establish the conditions under which emergency waivers allowing temporary disposal of organic waste may be authorized. This section is necessary to provide for disposition of organic waste in the event of unforeseen events over which the jurisdictions have no control.

#### Subdivision (a)(1)

The purpose of this section is to identify that unforeseen regulatory operational restrictions or equipment or operational failures are circumstances under which an emergency waiver that allows for disposal of organic waste may be granted by a jurisdiction for up to 90 days from the date of the restriction or operational failure. This section is necessary to ensure that, under such circumstances, jurisdictions and facility operators are allowed to temporarily dispose organic material without compliance action and to provide sufficient time to correct unforeseen barriers such as equipment or operational failure.

#### Subdivision (a)(2)

The purpose of this section is to ensure that CalRecycle is notified of the location of the recycling or recovery facility experiencing an unforeseen operational failure in a timely fashion. This section is necessary to allow the department to determine the impact operational failures may have on the state's ability to achieve the organic waste reduction targets. This section is also necessary to ensure that CalRecycle has a record indicating which jurisdictions are authorized to temporarily dispose some or all of their organic waste without facing compliance action from CalRecycle.

#### Subdivision (b)

The purpose of this section is to establish the conditions under which disaster and emergency circumstance waivers to temporarily dispose organic waste may be granted by a jurisdiction. Specific conditions, detailed in this section, can require significant amounts of solid waste to be removed expeditiously to protect public health and safety and the environment from the impacts of unmanaged solid waste. This section is

necessary to ensure that the organic waste collection requirements of this chapter do not impede these efforts and potentially imperil the public and the environment.

#### Subdivision (b)(1)

The purpose of this section is to define the circumstances under which a disaster debris waiver that allows for disposal of organic waste may be granted by a jurisdiction. In the case of disasters such as wildfires, a significant amount of debris must be removed in a short period. This is often necessary to prevent erosion and sediment buildup in waterways, to mitigate the risk of mudslides, to protect the general public from exposure to solid waste, and for other public health and environmental reasons. This section ensures that when such circumstances exist, a jurisdiction is not obligated to collect and recycle the organic portion of that waste beyond the diversion requirements required under existing regulations that apply to disaster scenarios. This section is necessary to ensure that this waste can be managed efficiently following natural disasters.

#### Subdivision (b)(2)

The purpose of this section is to specify that if a waiver or waivers have been granted pursuant to section (1) of this subdivision, the department shall waive some or all of the organic waste collection requirements of this Article in the affected areas for the duration of the waiver. This section is necessary to ensure that when a disaster or emergency waiver is granted by CalRecycle, the department has the option to allow for the jurisdiction to discontinue collection without compliance action while the waiver is in effect.

#### Subdivision (b)(3)

The purpose of this section is to define the circumstances under which a jurisdiction that has sediment debris is allowed to dispose the organic waste in the sediment. This flexibility was requested by stakeholders who indicated that debris removal for flood control infrastructure such as those identified in this section can be time-sensitive, and that the debris removed is often subject to discharge requirements that restrict the average organic content of the debris. This circumstance is for routine, non-emergency cleanouts of flood control infrastructure. This section is necessary to ensure that the requirements of this chapter are not an impediment to potentially time-sensitive removal of material that is predominantly non-organic.

#### Subdivision (c)

The purpose of this section is to provide that a jurisdiction is not required to separate or recover organic waste that is removed from homeless encampments and illegal disposal sites as part of an abatement activity to protect public health and safety. It is also to provide that if the total amount of solid waste removed for landfill disposal pursuant to this subdivision is expected to exceed 100 tons annually, the jurisdiction shall record the amount of material removed. This section is necessary because material collected from homeless encampments and general cleanups may be hazardous in nature and the organic material may not be able to be processed.

#### Subdivision (d)

The purpose of this section is to provide that a jurisdiction may dispose specific types of organic waste that are subject to quarantine when meeting the stipulations noted in the three following subdivisions. This subdivision is necessary to outline the three requirements that must be met to allow a section to dispose quarantined organic waste without penalty from the department.

#### Subdivision (d)(1)

The purpose of this section is to provide that if quarantined organic waste is disposed, then it must be generated from within the boundaries of an established quarantine area defined by the California Department of Food and Agriculture (CDFA). This section is necessary to establish the exact area from which the organic waste must originate to qualify for a waiver to dispose quarantined organic waste.

#### Subdivision (d)(2)

The purpose of this section is to specify that the CDFA or a county agricultural commissioner must determine that the organic waste must be disposed at a solid waste landfill and the organic waste cannot be safely recovered through any of the recovery activities identified in Article 2 of this chapter. This section is necessary because an agricultural commissioner may allow materials originating within a quarantine zone to be moved out of the zone as long as this is done in accordance with the terms of a compliance order issued by an agricultural commissioner or the CDFA. Typically, this material would go to a composting facility. However, in circumstances under which the material can only be disposed in a landfill, clarification is needed that a jurisdiction may dispose this material.

#### Subdivision (d)(3)

The purpose of this section is to specify that the jurisdiction retains a copy of the CDFA-approved compliance agreement for each shipment stating that the material must be transported to a solid waste landfill operating under the terms of its own compliance agreement for the pest or disease of concern. This section is necessary to prevent material from being transferred outside a quarantine zone and contaminating other organic waste. However, the compliance order system is a chain-of-custody system; every entity that handles the materials must have its own order, starting with the hauler, including any and all transfer facilities and trucks, and ending at the disposal or composting site, even if it is 100 miles away. Once the material is composted, the threat is removed and there are no further restrictions, and thus the materials can move as long as the terms of the agreement are followed.

#### Subdivision (e)

The purpose of this section is to specify that nothing in this chapter requires generators, jurisdictions, or other entities subject to these regulations to manage and recover organic waste that federal law explicitly requires to be managed in a manner that constitutes landfill disposal as defined in this chapter. This section is necessary to ensure that these state regulations do not conflict with federal rules pertaining to the required disposal of types of organic waste defined in this section.

## **Section 18984.14. Recordkeeping Requirements for Waivers and Exemptions.**

### Subdivision (a)

The purpose of this section is to specify which documents a jurisdiction shall include in the Implementation Record required by Section 18995.2 of this chapter. This section specifies which documents and records related to waivers and exemptions must be maintained by the jurisdiction. In response to stakeholder feedback, CalRecycle consolidated many reporting requirements into recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. This section is necessary to ensure that CalRecycle can access records to verify that a jurisdiction is in compliance with the requirements for waivers issued pursuant to this chapter.

### Subdivision (a)(1)

The purpose of this section is to specify that a jurisdiction shall retain records related to an event that triggers a processing facility temporary equipment or operations failure waiver. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction qualifies and has acted in accordance with the requirement of the waiver.

### Subdivision (a)(2)

The purpose of this section is to specify that a jurisdiction shall retain a description of the jurisdiction's process for issuing waivers and the frequency of inspections by the jurisdiction to verify the validity of waivers. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements for waivers issued pursuant to this chapter.

### Subdivision (a)(3)

The purpose of this section is to specify that a jurisdiction shall retain copies of all de-minimis waivers, including the location, date issued, and name of generators. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements for issuance of de-minimis waivers issued pursuant to Section 18984.11(a)(1).

### Subdivision(a)(4)

The purpose of this section is to specify that a jurisdiction shall retain copies of all physical space waivers including the location, date issued, and name of generators. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements for issuance of waivers pursuant to Section 18984.11(a)(2).

### Subdivision (a)(5)

The purpose of this section is to specify that a jurisdiction shall retain copies of all collection frequency waivers including the location, date issued, and name of generators. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements for issuance of a collection frequency waiver issued pursuant to Section 18984.11(a)(3.)

Subdivision (a)(6)

The purpose of this section is to specify that a jurisdiction shall maintain a record of the amount of sediment debris that is disposed of pursuant to Section 18984.13 on an annual basis. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the issuance of a disaster debris waiver pursuant to Section 18984.13(b).

Subdivision (a)(7)

The purpose of this section is to specify that a jurisdiction shall record the amount of solid waste removed from homeless encampments and illegal disposal sites as part of abatement activities if the total amount of material removed exceeds 100 tons. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with requirements for issuance of a waiver pursuant to Section 18984.13(c).

Subdivision (a)(8)

The purpose of this section is to specify that a jurisdiction shall retain copies of all compliance agreements for quarantined organic waste that is disposed, including the name of generator, date issued, location of final disposition, and amount of organic waste that was required to be disposed at a solid waste landfill. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements of this chapter.

#### **Article 4. Education and Outreach**

Article 4 specifies the requirements of jurisdictions to provide education and outreach to organic waste generators (as defined in Article 1, Section 18982 (a)(48)) concerning their obligation to reduce the disposal of organic waste (as defined in Article 1, Section 18982 (a)(46)), and outlines the frequency and type of education and outreach that must be provided. This Article also specifies the requirements of jurisdictions to provide education and outreach to commercial edible food generators (as defined in Article 1, Section 18982 (a)(7)) concerning their obligation to reduce the disposal of edible food (as defined in Article 1, Section 18982 (a)(18)), and outlines the frequency and type of education and outreach that must be provided.

#### **Section 18985.1. Organic Waste Recovery Education and Outreach.**

Subdivision (a)

The purpose of this section is to require that a jurisdiction, on or before February 1, 2022, and annually thereafter, provide education and outreach to its organic waste

generators that are provided an organic waste collection service authorized by Article 3. This section is necessary because the 2020 and 2025 targets for organic waste reduction required by statute cannot be achieved unless organic waste generators are aware of their obligation to reduce disposal of organic waste.

#### Subdivision (a)(1)

The purpose of this section is to require jurisdictions to provide information to organic waste generators regarding the requirement for generators to properly separate materials in appropriate containers pursuant to this chapter. This section is necessary because reducing contamination will ensure that the maximum amount of organic waste is recovered.

#### Subdivision (a)(2)

The purpose of this section is to require jurisdictions to provide information on methods for organic waste prevention, recycling organic waste on-site, sending organic waste to community composting, and any other local requirements regarding organic waste. This section is necessary to ensure that organic waste generators are aware of the options for managing organic waste and for collection services. This will help ensure that contamination is reduced and the maximum amount of organic waste is recovered.

#### Subdivision (a)(3)

The purpose of this section is to require jurisdictions to provide information on the methane reduction benefits of reducing landfill disposal of organic waste, and the methods of organic waste recovery the organic waste collection service uses (e.g., sending organic waste to compost, in-vessel digestion, biomass conversion, etc.). This section is necessary to ensure that organic waste generators are aware of the environmental and health benefits that result when methane is reduced by not disposing of organic waste in landfills, the methods used to recover their generated organic waste, and why they should prevent organic waste generation and recycle organic waste.

#### Subdivision (a)(4)

The purpose of this section is to require jurisdictions to provide organic waste generators with a list of approved haulers and information on how to recover organic waste, e.g., by processing it at a composting facility, etc. This section is necessary to ensure that organic waste generators know how to recover organic waste and that they must subscribe to haulers on the approved list. This will help ensure that contamination is reduced and the maximum amount of organic waste is recovered.

#### Subdivision (a)(5)

The purpose of this section is to require jurisdictions to provide information related to the public health and safety and environmental impacts associated with landfill disposal of organic waste. This section is necessary to ensure that organic waste generators are aware of the environmental and health benefits that result when methane is reduced by not disposing organic waste in landfills and are motivated to comply with collection requirements. This will help ensure that the maximum amount of organic waste is recovered.

#### Subdivision (a)(6)

The purpose of this section is to require jurisdictions to provide information regarding programs for the donation of edible food. This section is necessary to ensure that commercial edible food generators know how to donate edible food, which will help achieve the statute's requirement to recover at least 20 percent of edible food that is currently disposed by January 1, 2025.

#### Subdivision (a)(7)

The purpose of this section is to require a jurisdiction that allows generators subject to its authority to self-haul organic waste pursuant to Section 18988.1 to include information regarding self-hauling requirements in the jurisdiction's education and outreach material. This section is necessary to ensure that generators who are self-hauling understand the requirements for recycling their generated organic waste. During the formal rulemaking period, many stakeholders stated that it would be difficult to identify and provide education information to all self-haulers, such as landscape companies, because jurisdictions do not have business license information on these entities and dedicating additional resources to identifying and educating all self-haulers would be burdensome and costly. However, some jurisdictions do require businesses that self-haul, back-haul, share service, or use a third-party independent recycler to submit a Certification of Recycling Service form with information about where they are taking the recyclables or organics. To provide flexibility to jurisdictions, CalRecycle is not requiring that jurisdictions separately identify and provide education to all self-haulers, along with associated reporting requirements. Instead, this section requires jurisdictions to include educational material on self-hauling requirements in the educational material that the jurisdictions are already required to provide to all generators. This will help ensure that contamination is reduced and the maximum amount of organic waste is recovered.

#### Subdivision (b)

The purpose of this section is to clarify that a jurisdiction that provides an unsegregated single container collection service to organic waste generators is not required to include the information required in Subdivision (a)(1) of this Article in its education and outreach material, but is required to include the information required in Subdivisions (a)(2)-(7) in that material. This section is necessary to ensure that organic waste generators that have unsegregated single-container collection service are aware of (1) their options for reducing generation and otherwise managing organic waste, (2) the environmental and health benefits of reducing methane gas emissions by not disposing organic waste in landfills, and (3) how their material is being processed for recycling. This will help ensure that contamination is reduced and the maximum amount of organic waste is recovered.

#### Subdivision (c)

The purpose of this section is to provide that a jurisdiction may comply with the requirements of this section through a variety of methods including print and electronic media. A jurisdiction may also comply by conducting outreach through direct contact.



This provides flexibility for the jurisdictions to determine the most effective approach for educating their organic waste generators. This will help ensure that the maximum amount of organic waste is recovered and contamination is reduced. This section is necessary to ensure that jurisdictions know they can comply with the education and outreach requirements using a variety of approaches.

#### Subdivision (d)

The purpose of this section is to specify that a jurisdiction may comply with the requirements of this section through a designee (e.g., a hauler or third-party contractor). This provides flexibility for jurisdictions to determine the most effective approach for educating their organic waste generators. This will help ensure that contamination is reduced and the maximum amount of organic waste is recovered. This subdivision is necessary to ensure that jurisdictions know they can utilize a designee to conduct education and outreach activities.

#### Subdivision (e)

The purpose of this section is to require that, consistent with Government Code Section 7295, jurisdictions translate educational materials required by this chapter into any non-English language spoken by a substantial number of people who are provided organic waste collection services by the jurisdiction. This section provides jurisdictions flexibility for making the determination of when education and outreach materials need to be translated. This section is necessary to help ensure that linguistically isolated generators have information in their language and are able to properly participate in the organics recycling program provided by the jurisdiction. This will help ensure that the maximum amount of organic waste is recovered and contamination is reduced.

### **Section 18985.2. Edible Food Recovery Education and Outreach.**

#### Subdivision (a)

The purpose of this section is to require that on or before February 1, 2022, a jurisdiction shall develop and maintain a list of food recovery organizations and food recovery services operating within the jurisdiction and maintain the list on the jurisdiction's website. This section also requires that a jurisdiction shall update its list annually.

By developing this list, jurisdictions will gain a better understanding of the current food recovery operations and food recovery capacity that exists within the jurisdiction. This section is necessary because many jurisdictions in California are not fully aware of the food recovery organizations and services operating in their area. In addition, many jurisdictions do not maintain a list that contains specific information to help facilitate food recovery, such as the name, address, contact information, collection service area, or an indication of the types of food that food recovery organizations and services will accept for food recovery. This requirement is necessary to help jurisdictions comply with the food recovery capacity planning requirements in Section 18992.2 of this chapter. Furthermore, this requirement is critical because it will help commercial edible food generators find appropriate food recovery organizations and services with which to

establish a contract or written agreement for food recovery as is required in Section 18991.3 of this chapter.

The purpose of making the list available on the jurisdiction's website is to ensure that commercial edible food generators can easily access the information and find food recovery organizations and services to establish a contract or written agreement with for food recovery. Section 18991.3(b) of this chapter requires commercial edible food generators to arrange to have the maximum amount of their edible food that would otherwise be disposed be recovered for human consumption. Commercial edible food generators must comply with this requirement by establishing contracts or written agreements with food recovery organizations and services. Making the list available on the jurisdiction's website will help educate commercial edible food generators about food recovery organizations and food recovery services that are capable of collecting or receiving edible food that would otherwise be disposed on a routine basis. Providing this education will help facilitate additional food recovery between commercial edible food generators and food recovery organizations and services, thereby enhancing the efficacy of food recovery efforts and activities in each jurisdiction. This requirement serves as an educational resource to help commercial edible food generators comply with the commercial edible food generator requirements set forth in Section 18991.3 of this chapter.

To clarify this section further, the requirement does not specify that a jurisdiction shall maintain a list of *all* food recovery organizations and services operating within the jurisdiction. It is at the jurisdiction's discretion to determine which food recovery organizations and food recovery services to include on its list. The list is intended to serve as a tool to help commercial generators find appropriate food recovery organizations and food recovery services to establish a contract or written agreement with for food recovery. Developing such a list that includes food recovery organizations and food recovery services that have sufficient edible food recovery capacity and a proven track record of safely and efficiently recovering food for human consumption will help commercial edible food generators find food recovery organizations and food recovery services that are capable of safely recovering the generator's edible food that would otherwise be disposed on a regular basis. This will help ensure that edible food in the jurisdiction is not disposed in landfills, but rather put to its highest and best use of helping feed people in need.

#### Subdivision (b)

The purpose of this section is to require that, on or before February 1, 2022, and annually thereafter a jurisdiction shall provide all tier one and tier two commercial edible food generators (including commercial edible food generators that are local education agencies and non-local entities such as state agencies) with information about the jurisdiction's edible food recovery program established pursuant to Section 18991.1 of this chapter. The jurisdiction shall also provide information about the commercial edible food generator requirements specified Sections 18991.3 and 18991.4, information about food recovery organizations and food recovery services operating within the jurisdiction and where a list of those food recovery organizations and services can be found, and

information about the actions commercial edible food generators can take to prevent the creation of food waste. This section is necessary to educate commercial edible food generators about the requirements they are subject to, help assist commercial edible food generators with compliance, and help California achieve SB 1383's 20 percent edible food recovery goal.

In order to maximize edible food recovery, commercial edible food generators must be aware of the jurisdiction's edible food recovery program. Providing education to commercial edible food generators is vital to ensure compliance with the commercial edible food generator requirements of this chapter. This education must occur at least annually to keep them updated about changes to the jurisdiction's edible food recovery program. Providing this education annually will also ensure that new commercial edible food generators are aware of the commercial edible food generator requirements. This section is necessary to ensure that commercial edible food generators are aware of the jurisdiction's edible food recovery program and the commercial edible food generator requirements set forth in this chapter.

This section is also necessary to help commercial edible food generators better understand the actions they can take to prevent the creation of food waste. Jurisdictions could potentially comply with this education and outreach requirement by providing tools or other resources to commercial edible food generators that include information about the actions that commercial edible food generators can take to prevent the creation of food waste. While this education is important for all commercial edible food generators, this education will be critical for commercial edible food generators that dispose edible food types that are not desired or will not be accepted by food recovery organizations and food recovery services, as these generators are still required to comply.

### **Section 18985.3. Recordkeeping Requirements for a Jurisdiction's Compliance with Education and Outreach Requirements.**

#### Subdivision (a)

The purpose of this section is to require that a jurisdiction include all relevant documents supporting its compliance with Article 4 in the Implementation Record required by Section 18995.2. This section specifies all relevant documents that are required for a jurisdiction to demonstrate compliance with the education and outreach requirements set forth in this Article. This section is necessary to allow the department to monitor each jurisdiction's compliance with the education and outreach requirements of this chapter.

#### Subdivision (a)(1)

The purpose of this section is to specify the documents that are required for a jurisdiction to demonstrate compliance with the education and outreach requirements set forth in this Article. This section is necessary for the department to determine that the jurisdiction has provided sufficient education to organic waste and commercial edible food generators through print and electronic media.

#### Subdivision (a)(2)

The purpose of this section is to specify that jurisdictions must include the entities that received the required educational materials set forth in this Article and the date sent, or the entities contacted directly and the date contacted. This section also specifies that if a jurisdiction provides mass distribution through mailings or bill inserts, it must provide a copy of the information, the date it was sent, and the type and number of accounts that received the information. This section is necessary so the department can determine if a jurisdiction has complied with both the initial and annual edible food recovery education and outreach requirements of this section. In addition, this requirement is included in the regulations so the department can verify that organic waste generators and commercial edible food generators received the educational materials required by this Article.

#### Subdivision (a)(3)

The purpose of this section is to specify that a jurisdiction that solely uses electronic media to comply with the education requirements of this Article must include in the Implementation Record a copy of any electronic educational materials disseminated and the date that these materials were posted. This section is necessary for the department to determine if a jurisdiction has complied with the initial and annual education and outreach requirements of this Article. In addition, this requirement is included in the regulations so the department can verify that the electronic materials were disseminated in a manner designed to ensure that organic waste generators and commercial edible food generators receive the materials required by this Article.

#### Subdivision (a)(4)

The purpose of this section is to specify that jurisdictions relying on a designee to comply with this subdivision include copies of the educational materials distributed by the designee. This section is necessary to allow the department to verify that a jurisdiction that relies on a designee has satisfied the educational requirements in compliance with the education and outreach requirements set forth in this Article.

### **Article 5. Generators of Organic Waste**

Article 5 specifies the requirements of non-local entities and local education entities that are organic waste generators (as defined in Article 1, Section 18982 (a)(48)), to reduce the disposal of organic waste (as defined in Article 1, Section 18982 (a)(46)), and outlines the waiver process for these entities in specified scenarios.

#### **Section 18986.1. Non-Local Entities Requirements.**

##### Subdivision (a)

The purpose of this section is to require non-local entities that are organic waste generators to comply with the requirements of this chapter to prevent and reduce the generation of organic waste. This section is necessary to specify that non-local entities that are not subject to the authority of a local jurisdiction must adhere to the regulations to prevent and reduce the generation of organic waste.

#### Subdivision (a)(1)

The purpose of this section is to provide that non-local entities, as defined in Article 1, Section 18982(a)(42), may recycle their organic waste by subscribing to and complying with the requirements of an organic waste collection service that meets the requirements of Article 3 of this chapter. This section is necessary to ensure that non-local entities that generate organic waste are accountable for the organic waste they generate and to allow CalRecycle to verify that they are recycling their organic waste. This section is necessary to ensure that the maximum amount of organic waste is collected and recovered so the state is able to meet organic waste recovery targets established in statute.

#### Subdivision (a)(2)

The purpose of this section is to provide that non-local entities may recycle their organic waste by self-hauling it in a manner that complies with the requirements of Article 7 of this chapter. This section is necessary to allow CalRecycle to ensure that non-local entities that generate organic waste and choose to self-haul instead of subscribing to an organic waste collection service are recycling their organic waste, so the maximum amount of organic waste is collected and recovered and the state is able to meet organic waste recovery targets established in statute.

#### Subdivision (b)

The purpose of this section is to require non-local entities to provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located, except restrooms, and to require that the containers provided shall conform to the requirements of the containers provided through an organic waste collection service as authorized by Article 3. Additionally, if a non-local entity does not generate any of the materials that would be collected in one type of container, the non-local entity does not have to provide that particular container in all areas where disposal containers are located. This section is necessary to provide CalRecycle with the ability to ensure that non-local entities are providing proper containers for the collection of organic waste and that the maximum amount of organic waste is collected and recovered so the state is able to meet organic waste recovery targets established in statute.

#### Subdivision (c)

The purpose of this section is to require that non-local entities prohibit their employees from placing organic waste in a container not designated for organic waste. This section is necessary to ensure that non-local entities are accountable for organic waste handled by their employees by requiring the employees to safely reduce the disposal of organic waste. This task may also be carried out by a waste hauler or the jurisdiction in which the local education agency is located. This subdivision is also necessary to minimize contamination and ensure that the maximum amount of organic waste is recovered from non-local entities.

#### Subdivision (c)(1)

The purpose of this section is to provide that certain organic waste types shall not be collected in the green, blue, or gray container provided by non-local entities. This section is necessary to ensure that non-local entities are accountable for organic waste they generate and that it is properly handled by not placing certain types of organic waste in blue, green, or gray containers. This section is also necessary to provide CalRecycle with the ability to ensure that non-local entities are not contaminating containers used for the collection of organic waste so that contamination is reduced and the maximum amount of organics is collected.

Subdivision (d)

The purpose of this section is to require non-local entities to periodically inspect organic waste containers for contamination and, if the containers are contaminated, to inform employees of the requirement to only use those containers for organic waste. This section is necessary to ensure that non-local entities are accountable for their organic waste by maintaining awareness of the contents of their organic waste collection container, communicating to employees when containers are contaminated, and when needed, educating employees about the proper use of organic waste containers. This section is also necessary to provide CalRecycle with the ability to ensure that employees of non-local entities are not contaminating containers used for the collection of recyclables and organic waste so that contamination is reduced and the maximum amount of organic waste is recovered.

Subdivision (e)

The purpose of this section is to require non-local entities to provide information to employees on methods for the prevention of organic waste generation. This section is necessary to ensure that employees of non-local entities are informed of the methods for preventing or reducing generation of organic waste and to ensure that non-local entities are reducing their creation of organic waste.

Subdivision (f)

The purpose of this section is to clarify that nothing in this section prohibits a non-local entity from preventing waste generation, managing organic waste on-site, or using a community composting site. This section is necessary to ensure that non-local entities are informed about additional options available to prevent the creation of, as well as to recycle, organic waste beyond subscribing to an organic waste collection service or self-hauling their organic waste to a facility that processes source-separated organic waste.

## **Section 18986.2. Local Education Agencies Requirements.**

Subdivision (a)

The purpose of this section is to require local education agencies (as defined in Article 1, Section 18982(a)(40)) to comply with the requirements of this chapter to prevent and reduce the generation of organic waste. This section provides CalRecycle the ability to ensure that local education agencies are recycling organic waste. This section is necessary to require local education agencies that are not subject to city or county

regulations related to solid waste to adhere to this regulation and prevent and reduce the generation of organic waste.

Subdivision (a)(1)

The purpose of this section is to specify that local education agencies may recycle their organic waste by subscribing to and complying with the requirements of an organic waste collection service that meets the requirements of Article 3 of this chapter. This section is necessary to ensure that local education agencies who generate organic waste are accountable for the organic waste they generate and to provide CalRecycle with the ability to ensure that local education agencies are recycling organic waste so the maximum amount of organic waste is recovered and the state is able to meet the organic waste recovery targets established in statute.

Subdivision (a)(2)

The purpose of this section is to provide that local education agencies may recycle their organic waste by self-hauling organic waste in a manner that complies with the requirements of Article 7 of this chapter. This section is necessary to allow CalRecycle the ability to ensure that local education agencies that generate organic waste but self-haul instead of subscribing to an organic waste collection service are recycling their organic waste, and that the contamination is reduced and the maximum amount of organic waste is recovered.

Subdivision (b)

The purpose of this section is to require local education agencies that are organic waste generators to provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located, except restrooms, and that the containers provided shall conform to the requirements of the containers provided through an organic waste collection service authorized by Article 3. Additionally, if a local education agency does not generate any of the materials that would be collected in one type of container, the local education agency does not have to provide that particular container in all areas where disposal containers are located. This section is necessary to allow CalRecycle to ensure that local education agencies are providing proper containers for the collection and recycling of organic waste so the maximum amount of organic waste is recovered and contamination is reduced.

Subdivision (c)

The purpose of this section is to require that local education agencies prohibit their employees from placing organic waste in a container not designated to receive organic waste. This section is necessary to ensure that local education agencies are accountable for organic waste handled by their employees by requiring the employees to safely reduce the disposal of organic waste. This section is also necessary to provide CalRecycle with the ability to ensure that employees of local education agencies are not contaminating containers used for the collection of organic waste.

Subdivision (c)(1)

The purpose of this section is to provide that certain organic waste types shall not be collected in the green, blue, or gray container provided by local education agencies. This section is necessary to ensure that local education agencies are accountable for organic waste they generate and that they do not place certain types of organic waste in blue, green, or gray containers. This section is also necessary to provide CalRecycle with the ability to ensure that employees of local education agencies are not contaminating containers used for the collection of organic waste so that contamination is reduced and the maximum amount of organics is recovered.

Subdivision (d)

The purpose of this section is to require local education agencies to periodically inspect organic waste containers for contamination and, if the containers are contaminated, to inform employees of the requirement to only use those containers for organic waste. This task may also be carried out by a waste hauler or the jurisdiction in which the local education agency is located. This section is necessary to ensure that local education agencies are accountable for their organic waste by maintaining awareness of the contents of their organic waste collection containers, communicating to employees when containers are contaminated, and when needed, educating employees about the proper use of organic waste containers. This section is also necessary to provide CalRecycle with the ability to ensure that local education agencies are not contaminating containers used for the collection of recyclables and organic waste so that contamination is reduced and the maximum amount of organic waste is recovered.

Subdivision (e)

The purpose of this section is to require local education agencies to provide information to employees and students on methods for the prevention of organic waste generation. This section is necessary to ensure that employees and students of local education agencies are informed of the methods for preventing and recycling organic waste and to provide CalRecycle with the ability to ensure that local education agencies are reducing their creation of organic waste.

Subdivision (f)

The purpose of this section is to clarify that nothing in this section prohibits a local education agency from preventing waste generation, managing organic waste on site, or using a community composting site. This section is necessary to ensure that local education agencies are informed about additional options available to prevent the creation of, as well as to recycle, organic waste beyond subscribing to an organic waste collection service or self-hauling their organic waste to a facility that processes source-separated organic waste.

**Section 18986.3. Waivers for Non-Local Entities and Local Education Agencies.**

Subdivision (a)

The purpose of this section is to require CalRecycle to waive a non-local entity's or local education agency's obligation to comply with some or all of the organic waste collection service requirements of this Article if it provides documentation demonstrating any one



of four scenarios. This section is necessary to provide that non-local entities and local education agencies that are not subject to the authority of a city or county may receive a waiver from the requirements outlined in this section from CalRecycle. This section is also necessary to allow CalRecycle to grant a waiver in certain scenarios in which non-local entities and local education agencies do not generate specified amounts of organic waste, have space limitations, or are located in jurisdictions that have been granted a waiver by CalRecycle. The waivers authorized under this section align with the waivers allowed in Sections 189894.11 and 18984.12.

#### Subdivision (a)(1)

The purpose of this section is to specify that a waiver may be granted for a non-local entity or local education agency if the total solid waste collection service subscribed to is 2 cubic yards or more per week and organic waste subject to collection in a blue or green container as specified in Section 18984.1(a) comprises less than 20 gallons per week per container of the entity's or agency's total waste.

The de-minimis threshold was established based on input from stakeholders, including jurisdictions that implement organic waste collection services that are similar to those required in the regulations. According to jurisdictions that already require their generators to subscribe to organic waste collection services, the de-minimis amount of 2 cubic yards of total solid waste and 20 gallons of organic waste collected equates to roughly 10 percent of waste generation for those generators. This section is necessary to allow a non-local entity or local education agency that meets these thresholds the opportunity to apply for a waiver exempting them from the other requirements of this Article.

#### Subdivision (a)(2)

The purpose of this section is to specify that a waiver may be granted for a non-local entity or local education agency that generates less than 2 cubic yards of solid waste per week and organic waste subject to collection in a blue or green container as specified in Section 18984.1(a) comprises less than 10 gallons per week per container of the entity's or agency's total waste.

The de-minimis threshold was established based on input from stakeholders, including jurisdictions that had already implemented organic waste collection services similar to those required in the regulations. According to jurisdictions that already require their generators to subscribe to organic waste collection services, the de-minimis amounts of 10 gallons of organic waste equate to roughly 10 percent of waste generation for those generators. This section is necessary to allow a non-local entity or local education agency that meets these thresholds the opportunity to apply for a waiver exempting them from the other requirements of this Article.

#### Subdivision (a)(3)

The purpose of this section is to specify that a waiver may be granted for a non-local entity or local education agency if it provides documentation that a hauler, licensed architect, licensed engineer, or a similarly qualified entity has determined there is not

adequate space for separate organic waste containers. This waiver is only applicable in limited scenarios and should decrease in use over the years. There are few instances in which an existing waste collection space could not accommodate an additional organic waste recycling container if the existing containers were downsized (e.g., if two 90-gallon bins could not be replaced with three 60-gallon bins and occupy the same space).

This section is necessary to allow non-local entities or local education agencies that do not have room for organic waste collection containers in the pick-up or drop-off area near their normal solid waste pick-up or collection area (if self-hauling) the opportunity to apply for a waiver exempting them from the other requirements of this Article.

#### Subdivision (a)(4)

The purpose of this section is to specify that a waiver may be granted for a non-local entity or local education agency if the entity is located within a jurisdiction or census tract that has been granted a waiver by CalRecycle pursuant to Section 18984.12. This section is necessary to provide that non-local entities or local education agencies located within a low-population census tract or a rural jurisdiction that has received a waiver from CalRecycle are also subject to the provisions of that waiver.

### **Article 6. Biosolids Generated at a Publicly Owned Treatment Works (POTW)**

#### **Section 18987.1. Biosolids Generation at a POTW.**

##### Subdivision (a)

The purpose of this section is to clarify that POTWs are not subject to requirements found in Article 3 of this chapter or the transfer/processing operations and facilities measurement and recordkeeping requirements found in Sections 17409.5.1 through 17409.5.8 and 17414.2. This section is necessary because POTWs do not have the same type of collection services as other organic waste generators. This section is also necessary to clarify that POTWs are not permitted as transfer/processing operations or facilities and need not comply with the requirements of transfer/processing operations or facilities.

##### Subdivision (b)

The purpose of this section is to clarify that waste that is transported to a POTW that is not approved as set forth in Section 17896.6 shall not be considered a reduction in landfill disposal. This section is necessary to differentiate which type of waste received and processed at a POTW will be deemed a reduction in landfill disposal.

### **Article 7. Regulation of Haulers**

Article 7 specifies the requirements for jurisdiction approval of haulers (as defined in Article 1, Section 18982(a)(31)) and self-haulers (as defined in Article 1, Section 18982(a)(66)) of organic waste, as well as the recordkeeping requirements for compliance with jurisdiction hauler program requirements. This Article is also necessary to clarify

that landscapers fall within the definition of self-haulers and are therefore subject to the requirements of this Article.

### **Section 18988.1. Jurisdiction Approval of Haulers and Self-Haulers.**

#### Subdivision (a)

The purpose of this section is to provide that a jurisdiction shall require haulers providing residential, commercial, or industrial organic waste collection services to generators within its boundaries to meet the requirements and standards of this Article as a condition of approval of a contract, agreement, or other authorization to collect organic waste. Because the definition of “hauler” in Section 18982(a)(31) incorporates by reference the existing definition of “hauler” in Title 14 Section 18815.2(32), the requirements of this Article also apply to commercial service providers contracted by generators for organics maintenance services. Section 18815.2 defines “hauler” as follows: “‘Hauler’ means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. ‘Hauler’ includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.” Therefore, commercial service providers falling within this existing definition are subject to the hauler requirements of this Article. This section is necessary to ensure that entities that haul organic waste within a jurisdiction adhere to all of the requirements in this regulation as a pre-condition to hauling organic waste within that jurisdiction’s borders. This subdivision is also necessary to provide CalRecycle the ability to ensure that jurisdictions require organic waste haulers to follow all of the standards contained within the regulation.

#### Subdivision (a)(1)

The purpose of this section is to provide that a jurisdiction shall require haulers to identify the facilities to which they will transport organic waste as a requirement for the jurisdiction’s approval of those haulers. This section requires that any entity that intends to haul organic waste collected from within a jurisdiction must inform the jurisdiction of the facilities to which it intends to transport the organic waste, prior to the jurisdiction authorizing that hauler to operate within its borders. This section is necessary to provide jurisdictions with the ability to verify the facilities where their organic waste is being transported and how it may be processed based on that facility’s operations. This section is also necessary because, pursuant to Article 3, a jurisdiction may be found out of compliance if it approves or authorizes a hauler that transports organic waste materials collected within the jurisdiction’s borders to a processing facility that does not meet specified recovery rates. Accordingly, this identification requirement allows the jurisdiction to demonstrate to CalRecycle that it has complied with the requirements of this chapter.

#### Subdivision (a)(2)

The purpose of this section is to provide that a jurisdiction shall require haulers providing an organic waste collection service to comply with the applicable requirements of Article 3 of this chapter. This section is necessary to specify that any entity that

intends to haul organic waste within a jurisdiction must adhere to the requirements of Article 3 of this chapter, which includes provisions related to: collection system type (e.g., three-container, two-container, or unsegregated single-container), labeling of the containers, container color requirements, minimizing contamination within the containers, various recordkeeping requirements, organic waste generator and property owner requirements, waiver requirements, and emergency requirements. This subdivision is necessary to minimize contamination and maximize the recovery of organic waste.

#### Subdivision (b)

The purpose of this section is to require that if a jurisdiction allows generators subject to its authority to self-haul organic waste, it shall adopt an ordinance or a similarly enforceable mechanism that requires compliance with the requirements in the self-hauler provisions in Section 18988.3 of this Article. Based on stakeholder input during the formal comment periods, CalRecycle is clarifying that the definition of “self-hauler” in Section 18982(a)(66) includes landscapers and, if the jurisdiction elects not to regulate them as haulers and instead allows landscapers to self-haul, then the jurisdiction needs to explicitly include that landscapers are self-haulers in its enforcement ordinance. The enforcement ordinance must require all self-haulers to meet the requirements of Section 18988.3, which requires that self-haulers recycle the organic material collected, either through source separation or by hauling it to a high diversion organic waste processing facility.

This section is necessary to ensure that self-hauling of organic waste will be conducted in compliance with this Article. This subdivision is also necessary to provide jurisdictions with a mechanism by which they can enforce specified hauling activities to ensure that organic waste is recycled in accordance with this Article.

#### Subdivision (c)

The purpose of this section is to clarify that, notwithstanding Subdivision (a), this section is not applicable to two specified situations outlined in Subdivisions (c)(1) and (c)(2). This section is necessary to ensure that jurisdictions do not impede the safe transport of source separated organic waste within the limits of the specified situations.

#### Subdivision (c)(1)

The purpose of this section is to specify that, if a hauler is transporting source separated organic waste to a community composting site in a manner that is consistent with Article 1, Chapter 9, Part 2, Division 30, commencing with Section 41950 of the PRC, then the remaining provisions of Article 7 of this regulation do not apply to that hauler. This section is necessary to ensure the unimpeded safe and lawful transport of source separated organic waste to community composting sites.

#### Subdivision (c)(2)

The purpose of this section is to specify that, if a hauler is transporting construction and demolition debris in compliance with Section 18989.1 of this regulation, then the remaining provisions of Article 7 of this regulation do not apply to that hauler. This section is necessary to ensure that the requirements of this section are not applied to

the lawful hauling of construction and demolition debris, which is already subject to requirements under the CALGreen Building Code and are referenced in Article 8 of this chapter.

Subdivision (d)

The purpose of this section is to clarify that haulers and self-haulers operating or located within jurisdictions that are exempt from organic waste collection requirements pursuant to Section 18984.12 are not required to comply with the provisions of this Article for the duration of the department-issued exemption. This is necessary to ensure that regulated parties understand that collection exemptions will not extend to haulers and self-haulers when an exemption is in place.

**Section 18988.2. Haulers of Organic Waste Requirements.**

Subdivision (a)

The purpose of this section is to require that a hauler that is providing residential, commercial, or industrial organic waste collection services comply with provisions referenced in the following sections. This section is necessary to require that a jurisdiction has a mechanism by which it can enforce specified sections of this regulation that will increase the amount of organic waste recycled. This section is also necessary to provide jurisdictions and CalRecycle with the ability to ensure that organic waste haulers follow all standards set forth in the following sections, which will ensure the maximum amount of organic waste is recovered.

Subdivision (a)(1)

The purpose of this section is to specify that organic waste collected by the hauler shall be transported to a facility, operation, activity, or property that recovers organic waste as defined in Article 2, Section 18983.1(b) of this regulation. This section is necessary to provide jurisdictions and CalRecycle with the ability to ensure that organic waste haulers transport materials to appropriate facilities, operations, or activities that result in a reduction of landfill disposal in compliance with this chapter.

Subdivision (a)(2)

The purpose of this section is to specify that an organic waste hauler shall obtain any applicable approval from a jurisdiction pursuant to Section 18988.1 of this regulation. This section is necessary to require that haulers of organic waste follow previously outlined provisions within this Article to obtain a jurisdiction's approval prior to transporting organic waste collected within its boundaries. This section is also necessary to provide jurisdictions and CalRecycle with the ability to ensure that organic waste haulers follow all standards contained in Section 18988.1 of this regulation.

Subdivision (b)

The purpose of this section is to require that a hauler keep a record of the documentation of its approval by the jurisdiction to haul organic waste within the jurisdiction's boundaries. By including this in the regulation, jurisdictions and CalRecycle will have the ability to ensure that organic waste haulers have been approved by the

jurisdiction and are following all standards contained in the regulation. This section is necessary to ensure that haulers of organic waste have proof of their approval or authorization to operate within that jurisdiction's boundaries.

#### Subdivision (c)

The purpose of this section is to clarify that, notwithstanding subdivision (a), this section is not applicable to two specified situations outlined in Subdivisions (c)(1) and (c)(2). This section is necessary to provide CalRecycle with the ability to ensure that jurisdictions are not limiting the ability of haulers to transport organic waste in the situations described in the following sections.

#### Subdivision (c)(1)

The purpose of this section is to specify that if a hauler is transporting source separated organic waste to a community composting site in a manner consistent with Division 30, Part 2, Chapter 9, Article 1 commencing with PRC Section 41950, then the remaining provisions of Article 7 do not apply to that hauler. This section is necessary to provide CalRecycle with the ability to ensure the unimpeded safe and lawful transport of source separated organic waste to community composting sites.

#### Subdivision (c)(2)

The purpose of this section is to specify that if a hauler is transporting construction and demolition debris in compliance with Section 18989.1 of this regulation, then the rest of Article 7 of this regulation does not apply to that hauler. This section is necessary to ensure that the requirements of this section are not applied to the hauling of construction and demolition debris, which is already subject to requirements under the CALGreen Building Code and are referenced in Article 8 of this chapter.

### **Section 18988.3. Self-Haulers of Organic Waste.**

#### Subdivision (a)

The purpose of this is to provide that generators of organic waste may, in compliance with Section 18988.1, self-haul their own organic waste if they follow all standards contained within this section of the regulation. As discussed herein pertaining to Section 18988.1(a) of this regulation, landscapers fall within the definition of self-haulers and are therefore subject to the requirements of Section 18988.3.

#### Subdivision (b)

The purpose of this section is to require a generator of organic waste who is a self-hauler of organic waste to comply with provisions referenced in the following sections. This section is necessary to require that a jurisdiction has a mechanism by which it can enforce specified sections of this regulation that will increase the amount of organic waste recovered by generators who self-haul organic waste. This section is also necessary to provide jurisdictions and CalRecycle with the ability to ensure that generators who self-haul organic waste follow all standards contained within the following sections.

#### Subdivision (b)(1)

The purpose of this section is to provide that a generator shall source separate all organic waste generated on site in a manner consistent with Sections 18984.1 and 18984.2 of this chapter or haul organic waste to a high diversion organic waste processing facility as specified in Section 18984.3. This section is necessary to specify that a generator will source separate organic waste or haul unsegregated organic waste to a high diversion organic waste processing facility. This section is also necessary to provide jurisdictions and CalRecycle the ability to ensure that generators who self-haul organic waste follow the same standards as those participating in organic waste collection services provided by the jurisdiction. This section is necessary to ensure that contamination is reduced and the maximum amount of organic waste is recovered.

#### Subdivision (b)(2)

The purpose of this section is to provide that a generator shall self-haul source-separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source-separated organic waste. This section is necessary to ensure that the organic waste generated by a self-hauler be processed in a manner that increases the amount of organic waste recycled within the jurisdiction. This section is also necessary to provide jurisdictions and CalRecycle with the ability to ensure that generators who self-haul organic waste follow the same standards as those participating in organic waste collection systems authorized by the jurisdiction. This will ensure that contamination is reduced and that the maximum amount of organic waste is recovered.

#### Subdivision (b)(3)

The purpose of this section is to require a generator to maintain a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste and to specify that this record shall be subject to inspection by the jurisdiction. This section is necessary to require that a generator of organic waste who is a self-hauler of organic waste maintain adequate records of transport, delivery, and tons of organic waste sent to processing locations so that the jurisdiction and CalRecycle can monitor the generator's compliance with this subdivision.

#### Subdivision (b)(4)

The purpose of this section is to specify that a residential organic waste generator that self-hauls organic waste is not required to record or report the information identified in Subdivision (b)(3). This section is necessary to clarify that a residential organic waste generator that self-hauls organic waste will not be subject to the recordkeeping and reporting requirements in the preceding subdivision.

#### Subdivision (c)

The purpose of this section is to specify that a generator that is located in a jurisdiction or area that received a waiver under Section 18984.12 of this division and is not a business subject to the requirements of PRC Section 42649.81 is not required to comply with the requirements of this section. This section is necessary to clarify the

types of self-haulers of organic waste that are not subject to the requirements of this section.

#### **Section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program.**

##### Subdivision (a)

The purpose of this section is to specify that a jurisdiction shall include certain documents in the Implementation Record as required by Section 18995.2 of this chapter. This section specifies the documents and records related to the regulations that must be kept by the jurisdiction. In response to stakeholder feedback, CalRecycle replaced many reporting requirements with requirements to keep records that must be accessible to the department. This section is necessary to ensure that CalRecycle can access records to verify that a jurisdiction is in compliance with the requirements of this Article.

##### Subdivision (a)(1)

The purpose of this section is to require jurisdictions to maintain documentation of ordinances, contracts, franchise agreements, policies, procedures, or programs relevant to this section. This section is necessary to specify the types of documents that must be retained by the jurisdiction. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements of this Article.

##### Subdivision (a)(2)

The purpose of this section is to require jurisdictions to maintain a description of the jurisdiction's hauler program, including information referenced in the following sections of the regulation. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements of this Article.

##### Subdivision (a)(3)

The purpose of this section is to require jurisdictions to maintain a record of hauler compliance with local ordinances and the requirements of this Article, including the information referenced in the following sections of the regulation. This section is also necessary to provide CalRecycle with the ability to ensure that jurisdictions are requiring organic waste haulers to retain copies of reports and copies of all written approvals, denials, and revocations. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the requirements of this Article.

##### Subdivision (b)

The purpose of this section is to specify that all records required by this Article shall include the date of action, the name of the hauler, and the type of action taken by the jurisdiction. This section is necessary to ensure that CalRecycle can access records



necessary to verify that a jurisdiction is in compliance with the requirements of this Article.

## **Article 8. CALGreen Building Standards and Model Water-Efficient Landscape Ordinance**

Article 8 specifies the requirements of newly constructed multifamily residential and non-residential buildings to provide adequate space for organic waste (as defined in Article 1, Section 18982(a)(46)) recycling opportunities as well as the recycling of organic waste commingled with construction and demolition debris. Article 8 also specifies that a jurisdiction is required to enforce the use of organic compost and mulch on landscapes within the jurisdiction's purview, which supports the state achieving the organic waste reduction targets.

### **Section 18989.1 CALGreen Building Code.**

#### Subdivision (a)

The purpose of this section is to require a jurisdiction to adopt an ordinance or other enforceable measure that requires compliance with the California Green Building Code (CALGreen Building Code or Code) sections referenced in the following sections. This section is necessary to require that jurisdictions have a mechanism by which they can enforce specified sections of the CALGreen Building Code that will increase the amount of organic waste recycled by generators within the jurisdiction. This section is necessary to ensure that the maximum amount of organic waste is recovered.

#### Subdivision (a)(1)

The purpose of this section is to specify that jurisdictions enforce the provisions of CALGreen Building Code, California Code of Regulations, Title 24, Part 11, Sections 4.410.2 and 5.410.1. This section is necessary to specify that adoption of CALGreen Building Code 4.410.2 and 5.410.1 by ordinance or other enforceable requirement is essential to creating adequate organics collection and recovery opportunities in new residential multifamily building construction and new non-residential buildings in the state. This section is necessary to ensure that the maximum amount of organic waste is recovered.

#### Subdivision (a)(2)

The purpose of this section is to specify that jurisdictions enforce the provisions of CALGreen Building Code, California Code of Regulations, Title 24, Part 11, Sections 4.408.1 and 5.408. This section is necessary to specify that adoption of CALGreen Building Code 4.408.1 and 5.408 by ordinance or other enforceable requirement is essential to recycling organic waste commingled with the construction and demolition waste from new residential building construction and new non-residential building construction in the state. This section is necessary to ensure that the maximum amount of organic waste is recovered.

Subdivision (b)

The purpose of this section is to define “jurisdiction” for the purpose of this section. As a jurisdiction is the primary entity responsible for implementing an ordinance or other enforceable measure that requires compliance with CALGreen Building Code Sections 4.410.2, 5.410.1, 4.408.1 and 5.408 of these regulatory requirements, it is necessary to be clear what constitutes a jurisdiction for the purpose of this section of the regulation.

**Section 18989.2. Model Water Efficient Landscape Ordinance.**

Subdivision (a)

The purpose of this section is to require a jurisdiction to adopt an ordinance or other enforceable measure that requires compliance with Sections 492.6(a)(3)(B), (C), (D), and (G) of the Model Water Efficient Landscape Ordinance (MWELo). This section is necessary to require that jurisdictions enforce existing requirements regarding the incorporation of soil amendments when planting, use of compost for landscape installations and mulch requirements for planting areas, and the preferential use of recycled and post-consumer organic mulch materials over inorganic materials or virgin forest products unless post-consumer organic products are not locally available. Local agencies are already required to adopt the MWELo. This section is necessary to provide CalRecycle the ability to ensure that jurisdictions are implementing the ordinance. This section is also necessary to support the jurisdiction procurement requirements outlined in Article 12 through enforcing use of recycled and post-consumer compost and mulch materials in areas within a jurisdiction’s purview.

Subdivision (b)

The purpose of this section is to define “jurisdiction.” As a jurisdiction is the primary entity responsible for implementing an ordinance or other enforceable measure that requires compliance with Model Water Efficient Landscape Ordinance Sections 492.6(a)(3)(B), (C), (D), and (G), it is necessary to be clear what constitutes a jurisdiction only for this section of the regulation.

**Article 9. Locally Adopted Standards and Policies**

**Section 18990.1. Organic Waste Recovery Standards and Policies.**

Subdivision (a)

The purpose of this section is to clarify that this chapter does not limit a jurisdiction from adopting more stringent standards than the ones outlined in this chapter. This section is necessary to clarify and ensure consistency with the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions, as well as various provisions of Division 30 of the Public Resources Code.

Subdivision (b)

The purpose of the specific limitations set forth in paragraphs 1-5 of this section are to ensure that jurisdictions do not impose restrictions on the movement and handling of

waste and waste-derived recyclables in a manner that would interfere with or prevent meeting the organic waste recovery targets.

Specific limitations set forth in paragraphs 1-5 of this section are consistent with the goals set forth in the California Integrated Waste Management Act (CIWMA) (PRC 40000 et seq.). The purpose of the CIWMA is to reduce the amount of solid waste entering landfills. This supports the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. Specifically, PRC Section 41780.1 mandates that:

“(a) The Legislature hereby declares that it is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020, and annually thereafter ...”

The limitations set forth in paragraphs 1-5 of this section are necessary to meet the state's solid waste reduction goals and to be consistent with the legislature's direction in PRC Sections 40001 and 40002:

“The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans ...” (Emphasis added)

“As an essential part of the state's comprehensive program for solid waste management, and for the preservation of health and safety, and the well-being of the public, the Legislature declares that it is in the public interest for the state, as sovereign, to authorize and require local agencies, as subdivisions of the state, to make adequate provision for solid waste handling, both within their respective jurisdictions and in response to regional needs consistent with the policies, standards, and requirements of this division and all regulations adopted pursuant to this division. This division, which authorizes and requires local agencies to provide adequate solid waste handling and services, and the actions of local agencies taken pursuant to this division, are intended to implement this state policy.” (Emphasis added)

Thus, the specific provisions of this section are necessary to comply with statute and prohibit locally adopted permit conditions, initiatives, standards, procedures, policies, or ordinances, hereinafter in this section referred to as “action/actions/an action,” which would prevent lawful recovery activities that are necessary to meet the goals of statute.

Subdivision (b)(1)

The purpose of this section is to prevent jurisdictions from adopting actions that would prohibit or otherwise unreasonably limit or restrict the lawful recovery of organic waste within their boundaries. This section does not limit a jurisdiction's ability to enforce

reasonable restrictions and conditions on solid waste management facilities, and is consistent with PRC Section 40053:

“This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of a city, county, or district to impose and enforce reasonable land use conditions or restrictions on solid waste management facilities in order to prevent or mitigate potential nuisances, if the conditions or restrictions do not conflict with or impose lesser requirements than the policies, standards, and requirements of this division and all regulations adopted pursuant to this division.” (Emphasis added)

Adopting actions that prevent certain recovery activities logically leads to increased organic waste disposal, which is in direct conflict with the goals of the CIWMA (PRC 40000 et seq.) and the organic waste disposal reduction requirements codified in HSC Section 39730.6 and Chapter 13.1 of the PRC. Statewide adoption of organic waste recovery is crucial to meeting the organic waste disposal reduction targets.

A specific example of why this section is necessary are the 38 counties in the state that currently have enacted actions that prohibit land application of organic waste, specifically certain types of biosolids. Land application of biosolids that is conducted in compliance with the requirements in Article 2 of this chapter is an activity that constitutes a reduction in landfill disposal. The United States Environmental Protection Agency (US EPA) has established a regulatory framework to manage the use and disposal of biosolids (Title 40 of the Code of Federal Regulations (CFR), Appendix B, Section A; 40 CFR Part 503). US EPA has deemed Class A, Class B, and EQ biosolids as suitable for land application. CalRecycle relies on US EPA’s rigorously reviewed standards to determine safe levels of density and quality metals in regard to land application of biosolids. This section is necessary to prevent the enactment of local standards that prevent this type of recovery from occurring. The prohibition of recovery activities would lead to increased organic waste disposal, which is in direct conflict with PRC 40000 et seq.

#### Subdivision (b)(2)

The purpose of this section is to prohibit a jurisdiction from restricting the importation of organic waste for the lawful recovery of that waste, as that would be inconsistent with the Legislature’s direction in PRC Sections 40001 and 40002. In addition to the text of those sections quoted above, PRC Section 40002(b) provides that:

“The Legislature further declares that restrictions on the disposal of solid waste that discriminate on the basis of the place of origin of the waste are an obstacle to, and conflict with, statewide and regional policies to ensure adequate and appropriate capacity for solid waste disposal.”

The courts have further elaborated on this limitation when ruling on Kern County’s enactment of a ban on the land application of imported biosolids in 2007. The voter-approved initiative, Measure E, was later struck down. The courts held that Measure E created a barrier to a recovery activity that reduces the amount of waste disposed in

landfills, and that upholding the action would grant all other jurisdictions freedom to ban the recovery activity in question, which would be in direct conflict with CIWMA's waste reduction goals. (Note: The case went through multiple appeals and remands. The final decision related to the pre-emption issue can be found at City of Los Angeles v. County of Kern (2017) Tulare Superior Court Case No. VCU242057.)

The court ruled that preemption by CIWMA (PRC 40000 et seq.) and the approval of the practice of land application by US EPA was sufficient reason for the court to invalidate the measure.

Despite statute and that ruling, other jurisdictions continue to limit the importation of organic waste for recovery. Imperial County currently has an ordinance, Measure X, which prohibits the importation of biosolids from other jurisdictions for land application. This section is necessary to clarify the limits of local authority and to expressly prohibit these types of restrictions as they are in direct conflict with CIWMA and hinder the state's ability to achieve the state's organic waste reduction targets.

#### Subdivision (b)(3)

The purpose of this section is to prohibit actions that limit the export of organic waste to a facility, operation, property, or activity for recovery. A generator or hauler may not have access to recovery activities within their jurisdiction and limiting the export of materials would eliminate their ability to recover those materials. The materials would then be disposed, which is in direct conflict with the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. This section is necessary because limiting the export of materials outside a jurisdiction inherently limits recovery activities available to generators and haulers to comply with this chapter and facilitate the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (b)(4)

The purpose of this section is to clarify that a jurisdiction cannot prevent organic waste from being properly recovered by requiring that material be transported to a facility that does not recover or process organic waste. Transporting organic waste to a solid waste facility that does not process or recover organic waste will logically lead to that material being disposed, which is in direct conflict with the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

This section is necessary because jurisdictions have previously adopted actions that require a generator or hauler to transport waste to a specific facility without considerations for a facility's capacity to recover materials. For example, San Joaquin County adopted an ordinance (San Joaquin County Code §5-2702) that requires that all solid waste collected from both cities and the unincorporated areas of the county be deposited only at a solid waste facility that the director of public works designates. Failure to utilize the specific facility designated by the director results in a financial penalty. This is not necessarily in conflict with the statute if the designated facilities

recover organic waste; however, the ordinance does not include provisions concerning the designated facility's capacity to recover materials.

Actions like this create an artificial barrier to recovering organic waste. Without this section, an organic waste hauler in San Joaquin County could be subject to financial penalties for taking material to a facility that recovered its material or be forced to take material to a facility that will dispose the material. This section is necessary to prohibit local policies that conflict with the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (b)(5)

The purpose of this section is to prevent a jurisdiction from requiring a generator to use a collection service that does not recover material that the generator previously had recovered through its collection services. For example, if a generator has a collection service that collects and recovers cardboard, a jurisdiction cannot require the generator to start using a service that does not collect and recover cardboard. Maintaining recovery services is important to keep the level of recovery consistent with the statewide goals. Requiring a generator to use a collection service that disposes of organic waste that the generator previously had collected for recovery would inevitably lead to increased disposal of organic waste and would be an artificial barrier to the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. This section is necessary to ensure that opportunities to recover organic waste are available to generators.

#### Subdivision (c)

This section is necessary to clarify what this chapter does not prohibit or allow. This section is necessary as numerous stakeholders inquired and requested clarification in the informal rulemaking process.

#### Subdivision (c)(1)

The purpose of this section is to clarify that a solid waste facility is not required to accept waste that does not meet the quality standards of the facility (e.g., too contaminated). This section is necessary because during the informal rulemaking process, stakeholders expressed concerns that this section would supersede a facility's own quality control standards for accepting organic waste. There were concerns that the provisions prohibiting a jurisdiction from banning import of waste would prevent a facility from rejecting waste from another jurisdiction that is heavily contaminated. This section is also necessary to clarify that while a facility operator cannot reject organic waste based solely on origin, it can reject organic waste if the material doesn't meet the facility operator's quality standards.

#### Subdivision (c)(2)

The purpose of this paragraph is to clarify that this section does not prohibit a jurisdiction from arranging for guaranteed permitted capacity with a solid waste facility or operation. This clarifies that this section does not prevent a jurisdiction from reserving capacity at a facility, but a jurisdiction may not limit access to capacity that it is not using

at a facility or operation. This section is necessary to maintain consistency with Section 40059.3 of the PRC.

#### Subdivision (c)(3)

The purpose of this section is to clarify that this chapter does not prohibit a jurisdiction from adopting operational zoning limits or setting facility hours and other standards provided that the action is lawful and is consistent with Section 40053 of the PRC. This section is necessary to provide clarity to stakeholders who had raised concerns that this section could potentially prohibit a jurisdiction or facility from adopting reasonable operational zoning limits.

#### Subdivision (c)(4)

The purpose of this section is to clarify that a jurisdiction may require material to be hauled to specific facilities or operations for recovery as long as those decisions are consistent with the organic waste disposal reduction targets established as part of the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions. This section is necessary because stakeholders asked for clarification during the informal rulemaking process.

#### Subdivision (c)(5)

The purpose of this section is to clarify that nothing in this chapter exempts generators from complying with the regulations adopted by other agencies that apply or may apply to organic waste that is regulated under this chapter. Throughout the informal rulemaking process, stakeholders and other regulatory agencies asked CalRecycle to clarify that generators still must adhere to existing health and safety regulations established and enforced by the California Department of Toxic Substances Control and the California Department of Food and Agriculture. This section is necessary to clarify that these regulations do not exempt regulated entities from compliance with other health and safety regulations.

### **Section 18990.2. Edible Food Recovery Standards and Policies.**

#### Subdivision (a)

The purpose of this section is to clarify that a jurisdiction shall not implement or enforce an ordinance, policy, or procedure that prohibits the ability of a commercial edible food generator, food recovery organization, or food recovery service from recovering edible food that could be recovered for human consumption. This section is necessary to ensure that jurisdictions do not implement or enforce an ordinance, policy, or procedure that would create barriers to expanding food recovery efforts to maintain consistency with PRC Section 42652.5(a)(2), which mandates that CalRecycle adopt regulations that "shall include requirements intended to meet the goal that not less than 20 percent of edible food that is currently disposed of is recovered for human consumption by 2025." This section is necessary to eliminate barriers to expand food recovery efforts to enable the state to meet its food recovery goals established in the PRC.

#### Subdivision (b)

The purpose of this section is to specify that local education agencies shall not implement or enforce an ordinance, policy, or procedure that prohibits share tables in schools or requires schools to adhere to a food safety standard not specified in the Part 7 of Division 104 of the Health and Safety Code. Section 114079 of the HSC authorizes the use of share tables:

“(c)(1) A local educational agency may do both of the following to minimize waste and to reduce food insecurity:

(A) Provide sharing tables where food service staff, pupils, and faculty may return appropriate food items consistent with subparagraph (B) and make those food items available to pupils during the course of a regular school meal time ...”

This section is necessary because share tables can be a highly effective mechanism for increasing food recovery and reducing the disposal of edible food in schools. Allowing edible food to be redistributed to pupils or recovered by food recovery organizations and food recovery services can reduce the amount of edible food disposed in California. The prohibition of share tables would limit and impede the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

#### Subdivision (c)

The purpose of this section is to clarify that nothing in this chapter shall be construed to limit or conflict with the provisions of the California Good Samaritan Food Donation Act of 2017. Stakeholders expressed concern regarding potential liabilities associated with donating edible food as required by the regulations. This section is necessary to clarify that the liability protections in the California Good Samaritan Food Donation Act, which significantly limit the potential for liability, apply to this chapter.

#### Subdivision (d)

The purpose of this section is to clarify that this chapter does not prohibit a food recovery service or food recovery organization from refusing to accept edible food from a commercial edible food generator for any reason. Potential reasons for why edible food could be rejected include but are not limited to the following: the food is unfit for human consumption, the food does not meet all of the necessary food safety requirements specified in the California Retail Food Code, the food does not meet the nutrition standards of the food recovery organization or food recovery service, or the food recovery organization or food recovery service does not have the capacity to handle the edible food. This section is necessary to specify that food recovery services and food recovery organizations are not required to accept edible food from commercial edible food generators.

### **Article 10. Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery**

This Article specifies the edible food recovery and recordkeeping requirements for jurisdiction edible food recovery programs, edible food recovery and recordkeeping



requirements for commercial edible food generators, and recordkeeping requirements for food recovery organizations and food recovery services.

### **Section 18991.1. Jurisdiction Edible Food Recovery Program.**

#### Subdivision (a)

The purpose of this section is to require jurisdictions to implement an edible food recovery program. This requirement is necessary because it will help California achieve the 20 percent edible food recovery goal set in SB 1383 by requiring jurisdictions to assist commercial edible food generators with compliance and expand food recovery in the jurisdiction. As part of its program, the jurisdiction shall provide education and outreach to commercial edible food generators, increase commercial edible food generators' access to food recovery organizations and food recovery services, and increase food recovery capacity if the analysis required by Section 18992.2 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs.

In California, there is a significant lack of food recovery infrastructure and capacity available to recover edible food that would otherwise be disposed (Frasz et al., 2015). Under subdivision (a), jurisdictions will be responsible for providing critical food recovery education and outreach to commercial edible food generators in the jurisdiction. In addition, jurisdictions will be responsible for monitoring commercial edible food generators' compliance with the requirements set forth in Section 18991.3 and 18991.4 of this chapter. This section is necessary to help the state achieve the 20 percent edible food recovery goal established by SB 1383. This section will help the state achieve this goal by requiring jurisdictions to create new or enhance existing food recovery programs. The requirements in this section will help facilitate increased recovery of edible food that would otherwise be disposed. They will also help reduce some of the edible food recovery infrastructure and capacity gaps that exist in California.

#### Subdivision (a)(1)

The purpose of this section is to require jurisdictions to educate commercial edible food generators as set forth in Section 18985.2 of this chapter. Education and outreach will help commercial edible food generators throughout California better understand the edible food recovery requirements that they are subject to, and will provide them with helpful information to assist with compliance. This section is necessary to ensure that commercial edible food generators are aware of the commercial edible food generator requirements set forth in section 18991.3 and 18991.4 of this chapter, and that they are aware of food recovery organizations and food recovery services that they could potentially establish a contract or written agreement with to comply.

#### Subdivision (a)(2)

The purpose of this section is to specify that jurisdictions are required to increase commercial edible food generators' access to food recovery organizations and food recovery services. Some jurisdictions in California might not have any food recovery organizations or food recovery services that operate in their area. If jurisdictions do not

increase access to these critical organizations and services, commercial edible food generators will not be able to have their edible food that would otherwise be disposed be recovered for human consumption. This could ultimately result in millions of pounds of edible food being disposed o in landfills, rather than being put to its highest and best use of helping feed people. This section is necessary because many jurisdictions in California have thousands of commercial edible food generators, but have limited food recovery resources available to collect, process, and distribute the edible food that is available for food recovery.

#### Subdivision (a)(3)

The purpose of this section is to specify that jurisdictions are responsible for monitoring commercial edible food generator compliance (with the exception of local education agencies and non-local entities such as state agencies), and are responsible for enforcing the commercial edible food generator requirements of this chapter.

CalRecycle will monitor the compliance of local education agency and non-local entity commercial edible food generators. This section is necessary to ensure that commercial edible food generators are complying with the edible food recovery requirements of Section 18991.3 and recordkeeping requirements of Section 18991.4 of this chapter.

#### Subdivision (a)(4)

The purpose of this section is to specify that jurisdictions must assess their existing food recovery capacity and increase capacity if the analysis required by Section 18992.2 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs.

Investing in infrastructure and capacity is essential to effectively expand food recovery efforts, reduce wasted food, and feed people in need (Frasz et al., 2015). Capacity can be increased in many different ways. For example, capacity can be increased through purchasing refrigeration equipment and vehicles, purchasing new kitchen equipment, using food donation matching software, leveraging partnerships with other food recovery organizations, hiring staff, hiring drivers, training more volunteers, and using education and outreach to recruit new volunteers.

This requirement was added to the regulations in response to the policy recommendations of prominent food recovery research and key stakeholders including but not limited to the California Association of Food Banks, Natural Resources Defense Council, Waste Not Orange County, and the San Diego Food System Alliance.

Food recovery groups often do not have the capacity to collect, process, and distribute food donations. This lack of capacity is due in many cases to a lack of sustainable funding. If a jurisdiction lacks sufficient capacity to meet its food recovery needs, it could result in large amounts of edible food being disposed rather than going to feed people. This section is necessary to address the food recovery capacity gaps that exist throughout California and to ensure that jurisdictions are taking necessary actions to increase capacity in areas where it is needed.

#### Subdivision (b)

The purpose of this section is to identify potential funding mechanisms that a jurisdiction could voluntarily use to help fund its food recovery program. Including this provision in the regulations provides latitude for jurisdictions to best determine how to fund food recovery program expansion and increase food recovery capacity. This will foster the development of sustainable funding sources to support food recovery operations. This section is necessary to allow jurisdictions to develop and implement food recovery programs to help achieve the 20 percent edible food recovery target that was codified as part of the state's efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

Historically in California, there has been a lack of sustainable funding for food recovery infrastructure and capacity. To address this issue, this section was included in the regulations to encourage jurisdictions to establish a sustainable funding source to help fund their food recovery program and to help fund the organizations and services that are recovering food from the commercial edible food generators in the jurisdiction.

To clarify, this section does not require jurisdictions to provide funding. Rather, it allows jurisdictions to provide funding if they would like to do so. The language in this section regarding funding is permissive. The language states that a jurisdiction *may* fund its edible food recovery program through franchise fees, local assessments, or other funding mechanisms. The regulatory language uses the word "may" and not "shall." This allowance for funding mechanisms is consistent with the SB 1383 authorizing statute at Public Resources Code Section 42652.5(b).

### **Section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program.**

#### Subdivision (a)

The purpose of this section is to specify the documents that must be included in the Implementation Record. This section is necessary to enable the department to determine a jurisdiction's compliance with the jurisdiction edible food recovery program requirements set forth in Section 18991.1 of this chapter.

#### Subdivision (a)(1)

The purpose of this section is to specify the information that must be included in the Implementation Record. This section is necessary for the department to evaluate a jurisdiction's compliance with monitoring commercial edible food generator compliance as is required in Section 18991.1(a)(3). Section 18991.2(a)(1) specifies that the jurisdiction must include a list of commercial edible food generators in the jurisdiction that have a contract or written agreement with a food recovery organization or food recovery service pursuant to Section 18991.3(b) in the Implementation Record. For clarification, since the jurisdiction is not required to monitor the compliance of local education agencies or non-local entities such as state agencies, the jurisdiction is

therefore not required to include local education agencies or non-local entities on its list pursuant to Section 18991.2(a)(1). However, all tier one and tier two commercial edible food generators in the jurisdiction (that are not local education agencies or non-local entities) that have established a contract or written agreement pursuant to Section 18991.3(b) must be included on the jurisdiction's list required in Section 18991.2(a)(1).

CalRecycle would also like to clarify that on or before February 1, 2022, jurisdictions are still required to provide **all** tier one and tier two commercial edible food generators with education and outreach. This includes commercial edible food generators that are local education agencies and non-local entities such as state agencies. Therefore, the jurisdiction must still identify all tier one and tier two commercial edible food generators in the jurisdiction (including local education agencies and non-local entities) and include the number of all those commercial edible food generators on its list required in Section 18994.2 (h)(1).

#### Subdivision (a)(2)

The purpose of this section is to specify the information that must be included in the Implementation Record. This section is necessary for the department to evaluate if a jurisdiction has sufficient edible food recovery capacity to recover the edible food that would otherwise be disposed by commercial edible food generators in the jurisdiction.

#### Subdivision (a)(3)

The purpose of this section is to specify the information that must be included in the Implementation Record. This section is necessary for the department to ensure the jurisdiction is taking action to increase edible food recovery capacity if the analysis required by Section 18992.2 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs.

### **Section 18991.3. Commercial Edible Food Generators.**

#### Subdivision (a)

The purpose of this section is to specify that commercial edible food generators are responsible for arranging to recover the maximum amount of edible food that would otherwise be disposed through a contract or written agreement with a food recovery organization or a food recovery service.

This section specifies that there are different years in which commercial edible food generators will be required to begin to comply with this requirement. The year in which a commercial edible food generator will be required to begin to comply depends on the tier under which the commercial edible food generator is included (tier one or tier two).

The department performed qualitative and quantitative research to identify the necessary industry groups to include in each commercial edible food generator tier. While determining the necessary commercial edible food generator industry groups to include in the regulations, California-based food recovery organizations and food recovery services raised concerns to the department regarding the significant lack of

food recovery infrastructure and food recovery capacity throughout the state. In particular, the lack of infrastructure and capacity available to recover prepared foods was highlighted. Stakeholders also warned that many food recovery operations in California are not equipped to recover prepared foods, or their capacity for recovery of prepared foods is limited. Finally, stakeholders made the compelling argument that requiring all commercial edible food generators to have their edible food be recovered in 2022 would inundate California's food recovery network with food that food recovery organizations and services in many cases will not have the ability to collect and handle. Consensus between CalRecycle and key stakeholders was reached that without adequate food recovery infrastructure and capacity, millions of pounds of edible food could still potentially be disposed.

To further investigate these issues and concerns, CalRecycle conducted interviews with key stakeholders and analyzed food recovery research and data. While conducting this work, the department found that some commercial edible food generators dispose much greater quantities of edible food that could potentially be recovered for human consumption than other generators. In addition, the department found that the types of food available for recovery from commercial edible food generators can also vary significantly, resulting in different costs, infrastructure, and capacity being required to make such recoveries. For example, the cost, infrastructure, and capacity necessary to recover produce or non-perishable foods can vary significantly from what is necessary to recover prepared foods.

To address these issues and concerns, CalRecycle determined that the commercial edible food generator requirements should be phased in over a two-year period to allow for food recovery infrastructure and capacity to expand. Tier one commercial edible food generators include businesses that typically have greater quantities of edible food available to be recovered than do tier two commercial edible food generators. In addition, tier one commercial edible food generators typically have food types more readily recoverable with the infrastructure and capacity that currently exists. Furthermore, many tier one commercial edible food generators have an existing food recovery program in place, while tier two commercial edible food generators do not.

The phased-in generator mandate is necessary to ensure that jurisdictions and food recovery organizations and services are given additional time to build food recovery infrastructure and capacity over the two-year time frame from 2022 to 2024. Adopting a phased-in generator mandate will cultivate robust food recovery networks throughout California and foster an environment of sustainable food recovery growth. This section is necessary to ensure that edible food that would otherwise be disposed is diverted from landfills and put to its highest and best use of helping feed people in need.

#### Subdivision (b)

The purpose of this section is to specify that commercial edible food generators are responsible for arranging to recover the maximum amount of their edible food that would otherwise be disposed. This section also specifies that a commercial edible food generator must comply with this requirement through a contract or written agreement

with a food recovery organization or a food recovery service. This requirement therefore provides that commercial edible food generators can be subject to enforcement action if it is determined that the generator is not ensuring the recovery of the maximum amount of its edible food that would otherwise be disposed.

To clarify this requirement further, the expectation for commercial edible food generators is that they contract with or have a written agreement with food recovery organizations or food recovery services that are willing and capable of recovering their edible food for human consumption. Several key stakeholders asked questions regarding the expectation for compliance when a commercial edible food generator only has “unhealthy food” available to be recovered. If a commercial edible food generator only has food that is considered “unhealthy” available, then the commercial edible food generator must contract with a food recovery organization or a food recovery service that is willing to accept that type of food. For example, if a commercial edible food generator contracts with a food recovery organization that will accept all of the generator’s produce and non-perishable edible food, but will not accept the generator’s baked goods, then the generator must contract with or have a written agreement with an additional food recovery organization or food recovery service that is willing to accept the generator’s baked goods. Commercial edible food generators are not exempt from compliance if they only have food that is considered “unhealthy” available for food recovery.

SB 1383’s statute requires that 20 percent of currently disposed edible food be recovered for human consumption by 2025. The statute does not specify that only “healthy foods” be recovered. As a result, some commercial edible food generators will be required to establish multiple contracts or written agreements to ensure recovery of the maximum amount of their edible food that would otherwise be disposed. This section is necessary and essential for ensuring that California achieves the 20 percent edible food recovery goal established by SB 1383.

#### Subdivision (b)(1)

The purpose of this section is to specify a method that commercial edible food generators can utilize to comply with the requirements set forth in this section. This section specifies that a commercial edible food generator can comply with the commercial edible food generator requirements through a contract or written agreement with food recovery organizations or food recovery services that will collect their edible food for food recovery. Although a contract or written agreement for food recovery must be established, it is at the discretion of food recovery organizations, food recovery services, and commercial edible food generators to determine the exact provisions to include in their contracts or written agreements. For example, some food recovery organizations may include specific language in their contracts or written agreements to protect their operation from receiving food they are not able or willing to accept. Others could include cost-sharing components such as specifying a fee that will be charged to the commercial edible food generator for the food recovery services offered. CalRecycle would like to clarify that nothing in the SB 1383 regulations prohibits a food recovery organization or a food recovery service from negotiating cost-sharing as part of its

contract or written agreement with a commercial edible food generator. This section is necessary to help commercial edible food generators understand how they can comply with the requirements set forth in Section 18991.3.

#### Subdivision (b)(2)

The purpose of this section is to specify a second method that commercial edible food generators can utilize to comply with the requirements set forth in this section. This section specifies that a commercial edible food generator can comply through a contract or written agreement that allows the commercial edible food generator to self-haul its edible food to the food recovery organization with which they have a contract or written agreement for food recovery.

This section was added to the regulations due to feedback from the California Association of Food Banks. Historically, food recovery organizations have had to collect edible food from commercial edible food generators and pay for the collection costs themselves. This section is necessary because allowing for self-hauling of edible food to a food recovery organization will help reduce collection costs for food recovery organizations and help increase food recovery overall.

To clarify, under no circumstances should a commercial edible food generator self-haul its edible food to a food recovery organization without having the consent of the organization and a contract or written agreement with that organization. Furthermore, the contract or written agreement must specify that edible food can be self-hauled. Edible food that is self-hauled pursuant to a contract or written agreement should only be self-hauled during the drop-off and delivery times specified in the contract or written agreement. If edible food is self-hauled without the consent of the food recovery organization or does not meet the self-haul provisions included in the contract or written agreement, the commercial edible food generator could potentially be at risk of its contract being terminated by the food recovery organization. It is at the discretion of food recovery organizations, food recovery services, and commercial edible food generators to determine the specific self-haul provisions to include in their contracts or written agreements.

#### Subdivision (c)

The purpose of this section is to specify that a large venue or large event operator that does not provide food services, but allows for food to be provided, shall require food facilities operating at the large venue or large event to comply with the commercial edible food generator requirements of Section 18991.3. This section is necessary to ensure that individual food facilities operating at large venues and large events comply with the requirements of this section.

#### Subdivision (d)

The purpose of this section is to specify the extraordinary circumstances under which a commercial edible food generator would not be required to comply with the commercial edible food generator requirements specified in this section. To clarify, a commercial edible food generator shall comply with the requirements of this section unless the

generator can demonstrate extraordinary circumstances beyond its control that make such compliance impracticable. If enforcement action is commenced against a commercial edible food generator for noncompliance, the burden of proof shall be upon the commercial edible food generator to demonstrate extraordinary circumstances. This section is necessary to ensure that commercial edible food generators are not responsible for compliance if the generator is able to demonstrate extraordinary circumstances to the jurisdiction. However, this section does not state that a generator is permanently exempt from compliance. The generator is only exempt from compliance during the period of time that the extraordinary circumstance making compliance impracticable persists. Sections (d)(1) and (d)(2) are in the alternative and do not need to be present at the same time to establish extraordinary circumstances.

#### Subdivision (d)(1)

The purpose of this section is to specify the first extraordinary circumstance that could potentially make compliance impracticable for a commercial edible food generator. In this section, the extraordinary circumstance specified is a failure by the jurisdiction to increase edible food recovery capacity as required by Section 18991.1. This section is necessary to ensure that commercial edible food generators that are unable to comply with the requirements of this section because the jurisdiction has failed to comply with Section 18991.1 could potentially be exempt from compliance during the period that the extraordinary circumstance making compliance impracticable persists.

#### Subdivision (d)(2)

The purpose of this section is to specify the second extraordinary circumstance that could potentially make compliance impracticable for a commercial edible food generator. In this section, the extraordinary circumstances are “acts of God” such as earthquakes, wildfires, flooding, and other emergencies or natural disasters. This section is necessary to ensure that commercial edible food generators that are unable to comply with the requirements of this section due to “acts of God” could potentially be exempt from compliance during the period that the extraordinary circumstance making compliance impracticable persists. The language “other emergencies” is intended as a catch-all provision to take into account other situations that are emergent in nature, that do not fall into the enumerated list of natural disasters, that may not be commonly defined as “natural disasters,” but that are nevertheless outside the control of the jurisdiction that cause compliance to be impracticable.

#### Subdivision (e)

The purpose of this section is to specify that surplus edible food shall not be intentionally spoiled, and that if it is found that a commercial edible food generator is intentionally spoiling edible food that is capable of being recovered for human consumption, the jurisdiction can take enforcement action against them. Including this requirement in the regulations will help ensure that food recovery from commercial edible food generators is being maximized to achieve the edible food recovery goal set in SB 1383. This section is necessary to ensure that commercial edible food generators do not intentionally spoil edible food that could potentially be recovered to help feed people in need.



#### **Section 18991.4. Recordkeeping Requirements for Commercial Food Generators.**

##### Subdivision (a)

The purpose of this section is to specify that commercial edible food generators must maintain records to demonstrate their compliance with the requirements set forth in Section 18991.3 of this chapter. This section is necessary to provide an essential mechanism for jurisdictions to evaluate a commercial edible food generator's compliance. Because commercial edible food generators are subject to inspection, and since an "inspection" is defined in Section 18982(a)(35) to include the review of applicable records, commercial edible food generators must provide jurisdictions with access to the records required under this section upon request by the jurisdiction. A failure to provide such access may be considered a failure to maintain records. Maintenance of and access to the records described in this section is critical for jurisdictions to monitor commercial edible food generator compliance as required in Section 18991.1(a)(3). This section may also have the added benefit of helping commercial edible food generators collect vital data that could help them prevent the creation of edible food that would otherwise be disposed.

##### Subdivision (a)(1)

The purpose of this section is to specify that commercial edible food generators must maintain records of the food recovery entities with which they contract or have written agreements for food recovery. Specifically, commercial edible food generators must maintain a list of each food recovery organization or food recovery service that collects or receives its edible food pursuant to a contract or written agreement established under Section 18991.3(b). This section is necessary to ensure that commercial edible food generators have sufficient documentation to demonstrate compliance with the commercial edible food generator requirements set forth in Section 18991.3 of this chapter.

##### Subdivision (a)(2)

The purpose of this section is to specify the records that commercial edible food generators must maintain. This section requires that commercial edible food generators maintain a copy of contracts and written agreements between the commercial edible food generator and a food recovery service or a food recovery organization. This section is necessary to ensure that commercial edible food generators have records that sufficiently demonstrate their compliance with the commercial edible food generator requirements set forth in Section 18991.3 of this chapter.

##### Subdivision (a)(3)

The purpose of this section is to specify the records that commercial edible food generators must maintain. This section requires that edible food generators that comply with the requirements of Article 10 through contracting with a food recovery organization or food recovery service as allowed in Section 18991.3 shall keep a record of specific information for each food recovery organization or food recovery service with which the commercial edible food generator contracts or has a written agreement for food

recovery. This section is necessary to ensure that commercial edible food generators have records to sufficiently demonstrate compliance with the commercial edible food generator requirements of Section 18991.3 of this chapter.

This section may also have the added benefit of helping commercial edible food generators collect vital data that could help them prevent the creation of edible food that would otherwise be disposed. This section requires commercial edible food generators to maintain a record of the types of food that will be collected or self-hauled to the food recovery service or organization and the amount, in pounds per month, of food recovered from them. Tracking pounds recovered per month may help commercial edible food generators better understand the amount of edible food they would have otherwise disposed and provide them with data that could help them adjust their practices to prevent the generation of surplus edible food.

#### Subdivision (a)(3)(A)

The purpose of this subdivision is to specify the records that commercial edible food generators must maintain. Subdivision (a)(3)(A) requires commercial edible food generators to maintain a record of the name, address and contact information of the food recovery services and food recovery organizations that they have established a contract or written agreement with pursuant to Section 18991.3(b). This subdivision is necessary to ensure that commercial edible food generators have a record of specific information that will be necessary to help determine if the generator is in compliance with the commercial edible food generator requirements of Section 18991.3 of this chapter.

#### Subdivision (a)(3)(B)

The purpose of this subdivision is to specify the records that commercial edible food generators must maintain. Subdivision (a)(3)(B) requires commercial edible food generators to maintain a record of the types of food that will be collected by or self-hauled to the food recovery service or food recovery organization. This subdivision is necessary to ensure that commercial edible food generators have a record of specific information that will be necessary to help determine if the generator is in compliance with the commercial edible food generator requirements of Section 18991.3 of this chapter.

#### Subdivision (a)(3)(C)

The purpose of this subdivision is to specify the records that commercial edible food generators must maintain. Subdivision (a)(3)(C) requires commercial edible food generators to maintain a record of the established frequency that food will be collected or self-hauled. This subdivision is necessary to ensure that commercial edible food generators have a record of specific information that will be necessary to help determine if the generator is in compliance with the commercial edible food generator requirements of Section 18991.3 of this chapter.

#### Subdivision (a)(3)(D)

The purpose of this subdivision is to specify the records that commercial edible food generators must maintain. Subdivision (a)(3)(D) requires commercial edible food generators to maintain a record of the quantity of food collected or self-hauled to a food recovery service or food recovery organization for food recovery. This subdivision also specifies that the quantity shall be measured in pounds recovered per month. This subdivision is necessary to ensure that commercial edible food generators have a record of specific information that will be necessary to help determine if the generator is in compliance with the commercial edible food generator requirements of Section 18991.3 of this chapter. This section may also have the added benefit of helping commercial edible food generators collect vital data that could help them prevent the generation of edible food that would otherwise be disposed. Tracking the pounds of edible food recovered per month may help commercial edible food generators better understand the amount of edible food they would have otherwise disposed and provide data that could help them adjust their practices to prevent the generation of surplus edible food.

### **Section 18991.5. Food Recovery Services and Organizations.**

#### Subdivision (a)

The purpose of this section is to require a food recovery organization or a food recovery service to maintain records if it has established a contract or written agreement to collect or receive edible food **directly** from commercial edible food generators pursuant to Section 18991.3(b). Subdivision (a)(1) specifies the information that a food recovery service must maintain in its records. Subdivision (a)(2) specifies the information that a food recovery organization must maintain in its records. The recordkeeping requirements specified in this section are necessary for enforcement purposes and to track data necessary for measuring statewide progress toward achieving SB 1383's 20 percent edible food recovery goal.

During the rulemaking process, concerns were raised that duplicate recordkeeping of pounds recovered could occur if the requirements in this section were not structured to address this. To ensure that duplicate recordkeeping of pounds recovered would not occur, the requirements in this section were structured to require that food recovery organizations and food recovery services only maintain a record of the pounds they collect or receive directly from commercial edible food generators.

To clarify further, if a food recovery organization or a food recovery service collects food directly from a commercial edible food generator, then, under this section, that organization or service is responsible for maintaining a record of those pounds collected and also responsible for reporting those pounds to the jurisdiction it is located in upon request. If, for example, a food recovery organization receives food from a food recovery service, the food recovery organization is not responsible for maintaining a record of those pounds because the food was not collected or received directly from a commercial edible food generator.

During the rulemaking process, CalRecycle worked closely with the California Association of Food Banks and other key stakeholders to determine if there should be a recordkeeping threshold established for food recovery organizations and food recovery services. According to the California Association of Food Banks, there are approximately 6,000 food recovery organizations operating in California. Many of these organizations are very small charities. These small charities often receive edible food from larger food recovery organizations and services and then provide that food to the community. In most cases, these smaller charities lack funding, resources, and staff to track food donation data. Since many of these smaller charities are receiving edible food from larger food recovery organizations, it is more efficient to capture data from larger facilities that provide food to these smaller organizations.

The department held targeted stakeholder meetings with the California Association of Food Banks, food bank and food pantry directors, and food recovery staff to identify an appropriate recordkeeping threshold for food recovery organizations and food recovery services. Based on the feedback received, the department originally established a requirement that a food recovery organization or a food recovery service that collects or receives 6 tons or more of edible food from commercial edible food generators per year shall maintain records. However, upon further evaluation, it became apparent that establishing any tonnage threshold would present enforcement issues and gaps in the food recovery data necessary for measuring statewide progress toward achieving the 20 percent edible food recovery goal.

Upon further evaluation and meetings with key stakeholders, a determination was made that it is critical that any food recovery organization or food recovery service that contracts with or has a written agreement with a commercial edible food generator be required to maintain records of the food they collect or receive from those generators. This is critical for multiple reasons. The first reason is for enforcement purposes. All commercial edible food generators are required to maintain records of the food that is recovered from them. These recordkeeping requirements are specified in Section 18991.4 of this chapter.

Although all commercial edible food generators are required to maintain records of the food that is recovered from them, in an earlier draft of the regulations, only food recovery organizations and food recovery services that collected or received 6 tons or more of edible food from commercial edible food generators were required to maintain records of the food they received from those generators.

The 6-ton threshold was removed because it created a serious enforcement issue for jurisdictions. Specifically, jurisdictions are required by SB 1383's regulations to monitor commercial edible food generator compliance. If the 6-ton threshold remained in the regulations, then a commercial edible food generator could claim that they have a contract or written agreement with a food recovery organization that collects less than 6 tons per year, and also claim that they donate the maximum amount of their edible food that would otherwise be disposed to that food recovery organization. Because the food recovery organization that the generator claims they contract with recovers less than 6

tons of food per year, the jurisdiction would not be able to review the records from that organization to verify the commercial edible food generator's compliance.

To eliminate this potential enforcement issue, CalRecycle removed the 6-ton threshold and revised the regulatory text. The regulations now require a food recovery organization or a food recovery service that has established a contract or written agreement to collect or receive edible food **directly** from commercial edible food generators, pursuant to Section 18991.3(b) to maintain records of the food they receive from those generators.

Removing the 6-ton threshold was also critical for measurement purposes. If the 6-ton threshold remained in the regulations, jurisdictions would not receive a complete data set of total pounds recovered from commercial edible food generators in the previous calendar year. A complete data set is critical in order for jurisdictions to report accurate data to CalRecycle so that CalRecycle can measure the state's progress toward achieving the 20 percent edible food recovery goal set by SB 1383. In addition, a complete data set can be used by jurisdictions to help them assess the impact of their food recovery programs and identify the food recovery organizations and food recovery services in their area that are recovering the most food from commercial edible food generators.

#### Subdivision (a)(1)

The purpose of this section is to specify the information that food recovery services must maintain in their records. This section specifies that their records must include the name, address, and contact information for each commercial edible food generator the service contracts with or has a written agreement with for food recovery, and the quantity in pounds of edible food collected from each commercial edible food generator per month. This section is necessary to help jurisdictions verify that commercial edible food generators have contracts or written agreements with the food recovery services they claim to have a contract or written agreement with for food recovery. This section is also necessary to help jurisdictions determine if a commercial edible food generator has arranged to recover the maximum amount of its edible food that would otherwise be disposed. In addition, this section is necessary to evaluate achievement of the edible food recovery goal set in SB 1383 by allowing the jurisdiction and the department to gain a comprehensive understanding of the commercial edible food generator business types that are complying with the edible food recovery requirements of this chapter and the pounds of edible food recovered from commercial edible food generators per month.

This section also specifies that food recovery services must maintain a record of the quantity in pounds of edible food transported to each food recovery organization per month, and the name, address, and contact information for each food recovery organization to which the food recovery service transports edible food for recovery. This requirement is necessary to verify that food recovery services are in fact distributing the edible food they collect to food recovery organizations for the sole purpose of food recovery. This requirement is also necessary to help jurisdictions and CalRecycle better understand food recovery networks throughout California.

#### Subdivision (a)(2)

The purpose of this section is to specify the information that food recovery organizations must maintain in their records. This section specifies that the record must include the name, address, and contact information for each commercial edible food generator that the organization contracts with for food recovery, the quantity in pounds of edible food collected from each commercial edible food generator per month, and the name, address, and contact information for each food recovery service from which the organization receives edible food for recovery. This section is necessary to help jurisdictions verify that commercial edible food generators have contracts or written agreements with the food recovery organizations they claim to have a contract or written agreement with for food recovery. This section is also necessary to help jurisdictions determine if a commercial edible food generator has arranged to recover the maximum amount of its edible food that would otherwise be disposed. This section will therefore help jurisdictions monitor commercial edible food generator compliance as is required in Section 18991.1 of this chapter. In addition, this section is necessary to evaluate achievement of SB 1383's edible food recovery goal by allowing the jurisdiction and the department to gain a comprehensive understanding of the commercial edible food generator business types that are complying with the edible food recovery requirements of this chapter and the pounds of edible food recovered from commercial edible food generators per month.

Comprehensive statewide data on the total pounds of edible food recovered does not exist. This requirement serves as a mechanism for jurisdictions to verify that commercial edible food generators are donating the maximum amount of their edible food that would otherwise be disposed. This requirement therefore will assist the jurisdiction with the requirement to monitor commercial edible food generator compliance. This section is also necessary to track data and measure the amount of edible food recovered at the jurisdiction level and statewide.

### **Article 11. Organic Waste Recycling Capacity Planning**

Article 11 specifies the requirements of jurisdictions related to organic waste recycling capacity planning, edible food recovery capacity, and the schedule for reporting by jurisdictions for the two sections. This Article expands upon information that counties and regional agencies are required to report regarding long-term planning for organics infrastructure, pursuant to AB 876 (McCarty, Chapter 593, Statutes of 2015.) CalRecycle analyzed the data submitted in August 2017 pursuant to AB 876 and concluded that the existing process does not include many key stakeholders and cannot provide a full and accurate picture of future organics processing capacity needed to meet the requirements of SB 1383. For example, SB 1383 has a broader definition of organics and also includes requirements regarding edible food recovery. The proposed requirements in this Article are designed to address these issues and therefore include provisions to: (1) address SB 1383's broader definition and food recovery requirements; (2) ensure reported capacity is not double-counted and is verified as being available; (3) ensure collaboration among jurisdictions, facility operators, local task forces, and others

to facilitate a common understanding of capacity and future planning needs; and (4) hold cities, counties, and regional agencies responsible for planning and identifying new capacity if they lack access to sufficient existing, new, or planned capacity.

### **Section 18992.1. Organic Waste Recycling Capacity Planning.**

#### Subdivision (a)

The purpose of this section is to require counties, in coordination with jurisdictions and regional agencies located within the county, to comply with provisions referenced in the following sections, and to provide CalRecycle with the ability to ensure that counties, cities, and regional agencies are cooperating on their overall organic waste capacity planning. The purpose of this section is also to require that counties and other local entities within their boundaries work in conjunction with each other when compiling information related to estimating their organic waste tonnage, identifying existing organic waste recycling capacity, and estimating organic waste recycling capacity that will be needed. The capacity planning required by this section is necessary to ensure local jurisdictions are aware of and can address their capacity shortfalls and secure access to facilities that recover organic waste. This will help increase organic waste recovery in California and meet the targets specified in statute.

#### Subdivision (a)(1)

The purpose of this section is to require that counties, in coordination with jurisdictions and regional agencies located within the county, estimate the amount of all organic waste in tons that will be disposed by the county by either: (1) multiplying the percentage of organic waste reported as disposed in CalRecycle's most recent waste characterization study by the total amount of disposal attributed to the county and each jurisdiction located within the county as reported in the Recycling and Disposal Reporting System, or (2) using a waste characterization study or studies performed by jurisdictions within the county and applying the results of those studies to the total amount of landfill disposal attributed to the county and each jurisdiction within the county by the Recycling and Disposal Reporting System. Local studies may be used if the study was performed in the last five years, includes at least the same categories as the department's most recent waste characterization study that was available at the time the local study or studies were performed, and includes a statistically significant sampling of solid waste disposed by the jurisdiction.

This section is necessary to specify the acceptable parameters for estimating the amount of organic waste tonnage that could be disposed by the county and jurisdictions within the county.

#### Subdivision (a)(2)

The purpose of this section is to require that a county has the option to incorporate the findings of a published report, generated by the appropriate solid waste management entities within the county, that provides organic waste disposal tonnages or percentages for specific organic waste material types that are not covered in the department's most

recent waste characterization study, including, but not limited to, reports on tons of biosolids or digestate disposed in the county.

This section is necessary because statewide or local characterization studies may not characterize certain types of organic waste, such as digestate or biosolids. However, this information should be limited to using a published report or another form of data generated by the appropriate solid waste management entities within the county that provides organic waste disposal tonnages or percentages for digestate or biosolids. This data would be used in addition to either statewide or local characterization studies. The Recycling and Disposal Reporting System will have some reporting of the disposal and other end destinations for some digestate and biosolids (if the reporting entity is over the tonnage thresholds and is not just sending it to another POTW or if they are using it on-site).

#### Subdivision (a)(3)

The purpose of this section is to require that counties, in coordination with jurisdictions and regional agencies located within the county, identify the amount in tons of existing organic waste recycling infrastructure capacity, located both in the county and outside the county, that is verifiably available to the county and jurisdictions within the county. The county may demonstrate the capacity that is verifiably available through a contract, permit, franchise, or other documentation of existing, new, or expanded capacity at a facility, activity, operation, or property that recovers organic waste that will be available to the county or its jurisdictions prior to the end of the reporting period. This section is necessary to specify the acceptable parameters for identifying the existing organic waste capacity; a facility permit is not an indication of capacity available to a jurisdiction, but instead is just a statement of the amount of material an individual facility is authorized to process, and it is not linked to individual jurisdictions.

#### Subdivision (a)(4)

The purpose of this section is to require that counties, in coordination with jurisdictions within the county, including special districts that provide solid waste collection and regional agencies located within the county, estimate the amount of new or expanded organic waste recycling facility capacity that will be needed to process the organic waste identified pursuant to subdivision (a)(1) in addition to the existing capacity identified in subdivision (a). This section is necessary to provide jurisdictions with the ability to identify how much additional capacity they will need at new or existing facilities that are inside or outside its boundaries, and assist in identifying capacity at facilities that may become oversubscribed if other jurisdictions identify the same facilities.

#### Subdivision (b)

The purpose of this section is to require a jurisdiction, including a special district that provides solid waste collection services or regional agency contacted by a county pursuant to subdivision (a), to respond to the county's request for the information necessary to comply with the requirements of this Article within 120 days of receiving the request from the county. This section is necessary to ensure the county can submit the capacity planning information to CalRecycle in the time required by the regulation.



#### Subdivision (b)(1)

The purpose of this section is to require that if a county is not responded to by a jurisdiction or regional agency within 120 days pursuant to subdivision (b) of Section 18992.1, then the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3. This section is necessary because counties are penalized financially for failing to estimate organic waste disposed, and this clarifies that counties are not liable if jurisdictions, special districts that provide solid waste collection services, or regional agencies fail to respond within the given time frame.

#### Subdivision (b)(2)

The purpose of this section is to require that if a county is not responded to by a jurisdiction or regional agency within 120 days pursuant to subdivision (b) of Section 18992.1, then the county will identify any jurisdiction or regional agency that did not provide the information necessary to comply with the requirements of this Article within 120 days of receiving a request from the county. This section is necessary to ensure that CalRecycle is informed of which jurisdictions, special districts that provide solid waste collection services, or regional agencies are not included in the capacity planning estimates reported pursuant to Section 18992.3.

#### Subdivision (c)

The purpose of this section is to require jurisdictions to comply with provisions referenced in the following sections. This section is necessary to specify which local entities, non-local entities, businesses, and other entities that jurisdictions must coordinate with concerning their organic waste recycling capacity planning efforts, as well as community outreach that may be needed in conjunction with these efforts. This section is also necessary to allow CalRecycle to ensure that jurisdictions, special districts that provide solid waste collection services, or regional agencies engage with important entities that play a role in organic waste recycling capacity planning efforts. Such engagement will provide more accuracy in determining the organic waste capacity needed to meet the organic waste reduction targets required by statute.

#### Subdivision (c)(1)

The purpose of this section is to require that a county in coordination with jurisdictions and regional agencies consult with the local enforcement agency and the local task force created pursuant to Public Resources Code Section 40950 on the status of locations for new or expanded solid waste facilities and locations, including the potential capacity increase each facility may provide if approved. This section is necessary to provide CalRecycle with the ability to ensure that jurisdictions are engaging with the entities that have the primary responsibility for ensuring the correct operation and closure of solid waste facilities in the state and for guaranteeing the proper storage of and transportation of solid waste, as well as engaging with the group that assists in coordinating the development of local jurisdictional planning documents related to solid waste and recycling.

#### Subdivision (c)(2)

The purpose of this section is to require that jurisdictions, special districts that provide solid waste collection services, or regional agencies consult with the haulers and owners of facilities, operations, and activities that recover organic waste, including but not limited to compost facilities, in-vessel digestion facilities, and POTWs, to gather information on the existing capacity and potential new or expanded capacity at those facilities, operations, and activities. Additional sections require that these entities respond within 60 days when contacted for information related to organic waste recycling capacity planning. This section is necessary for CalRecycle to ensure that jurisdictions are receiving information from the businesses and other local entities that may control the operational infrastructure needed to recycle organic waste, sufficiently plan for additional infrastructure that may be needed, and ensure that the capacity-planning requirements can be met in a timely manner with appropriate information.

#### Subdivision (c)(3)

The purpose of this section is to require that counties conduct community outreach regarding locations being considered for new or expanded facilities, operations, or activities to seek feedback on the benefits and impacts that may be associated with new or expanded facilities, operations, or activities. This section is necessary to specify the information and process for this outreach, including options for the format of outreach, other entities that could be involved, and details for outreach to disadvantaged communities. This may or may not include outreach in additional languages. This section is also necessary to provide CalRecycle with the ability to ensure that counties are involving local communities in their organic waste recycling capacity planning efforts.

#### Subdivision (c)(4)

The purpose of this section is to require that counties consult with community composting operators to estimate the amount of organic waste the county, jurisdictions, special districts that provide solid waste collection services, or regional agencies within the county anticipate will be handled at community composting activities. This section is necessary to require the county to coordinate with small-scale community composting operators that may be able to recycle additional organic waste outside of conventional organic waste processing infrastructure that may be available. This section is also necessary to provide CalRecycle with the ability to ensure that counties are involving local communities in their organic waste recycling capacity planning efforts.

#### Subdivision (d)

The purpose of this section is to specify that if a county determines that organic waste recycling capacity, in addition to the available and proposed capacity identified pursuant to subdivision (a) of this section, is needed within that county, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity that it is required to follow provisions referenced in the following sections. This section is necessary to specify that some jurisdictions within counties will have specified parameters that must be followed if their county identifies a lack of organic waste recycling capacity and a shortfall of capacity within their jurisdictions and will provide CalRecycle with the ability to ensure

that jurisdictions within counties are cooperating on their overall organic waste capacity planning.

#### Subdivision (d)(1)

The purpose of this section is to require that a jurisdiction submit an implementation schedule to CalRecycle that demonstrates how it will ensure there is enough available capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period. This section is necessary to specify that a jurisdiction with a shortfall of organic waste recycling capacity will submit a plan to CalRecycle that will include: obtaining funding to increase infrastructure, identifying existing locations that could be used for additional capacity, and identifying locations for proposed new or expanded organic waste recycling facilities. The county is required to notify any jurisdiction that lacks sufficient capacity that the county has reported a list of these jurisdictions to CalRecycle. This section is also necessary to provide CalRecycle with the ability to ensure that jurisdictions that have been identified as having a lack of capacity are participating in an individual organic waste capacity planning process.

#### Subdivision (d)(2)

The purpose of this section is to require that jurisdictions, special districts that provide solid waste collection services, or regional agencies within the county identify proposed new or expanded organic waste recycling facilities that will be used to process the organic waste identified pursuant to Subdivision (a)(3). This section is necessary to ensure that new or expanded organic waste recycling facilities are identified to the county by the notified jurisdictions, special districts that provide solid waste collection services, or regional agencies.

#### Subdivision (e)

The purpose of this section is to require that the county providing notice to jurisdictions, special districts that provide solid waste collection services, or regional agencies within the county pursuant to Subdivision (d) shall provide such notice on or before the date that the county submits the report required pursuant to Section 18992.3. This section is necessary to specify that a county provides notice to these entities within a specific time frame and ensures that the capacity-planning requirements can be met in a timely manner with appropriate information.

#### Subdivision (f)

The purpose of this section is to specify that for capacity planning, organic waste shall only include the following types of materials: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate, and biosolids. This section is necessary to specify that, when jurisdictions are engaged in the organic waste recycling capacity planning outlined within this section, the focus is on these particular organic waste types rather than the larger group of materials that comprise “organic waste” as defined in Article 1, Section 18982(a)(46) of this chapter. This section is also necessary to require jurisdictions that host facilities that generate digestate (e.g., in-vessel digesters) and biosolids (wastewater treatment plants) to plan for the recycling capacity for these materials.

Subdivision (g)

The purpose of this section is to require that for the purposes of conducting the estimates required by this section, a county may subtract the waste generated in an area subject to a waiver granted by the department pursuant to Section 18984.12. A county is not required to obtain information from a jurisdiction, special district that provide solid waste collection services, or regional agency that is waived from all of the organic waste collection requirements of this chapter. This section is necessary to specify that capacity planning for locations that are exempted from providing required collection services by the department, are not to be included in the county's capacity planning estimates since those locations will not necessarily be contributing to the county's organics waste totals.

Jurisdictions that are exempt from the organic waste collection requirements pursuant to Section 18984.12, are not required to conduct the capacity planning required in Section 18992.1 and are not required to include capacity plans required by Section 18992.1 during any report required by Section 18992.3 as long as the waiver is still in effect.

**Section 18992.2. Edible Food Recovery Capacity.**

Subdivision (a)

The purpose of this section is to require that counties, in coordination with jurisdictions and regional agencies located within the county, conduct a food recovery capacity analysis. As part of their capacity analysis they shall estimate the amount of edible food that will be disposed by commercial edible food generators located within the county and jurisdictions within the county, identify existing and proposed new food recovery capacity, and identify the amount of new or expanded edible food recovery capacity, if any, that is necessary to recover the edible food that is estimated to be disposed by commercial edible food generators. This section does not require estimates to be exact or absent of uncertainty. Rather it requires that each estimate be conducted in compliance with the requirements of this section.

This section is necessary to ensure that counties, jurisdictions, and regional agencies located within the county work in collaboration when compiling the information that is required to conduct a food recovery capacity planning analysis.

Subdivision (a)(1)

The purpose of this section is to require counties, in coordination with jurisdictions and regional agencies located within the county, to collect critical information that will help produce an impactful edible food recovery capacity planning analysis. This section requires that an estimate of the amount of edible food that will be disposed by commercial edible food generators located within the county and jurisdictions within the county be produced. Including this subdivision in the regulations provides CalRecycle with the ability to ensure that counties in consultation with jurisdictions and regional agencies located within the county are identifying and estimating the amount of edible food that will be disposed by the commercial edible food generators in the county and

jurisdictions within the county. This section is necessary for capacity planning purposes. Without an estimate of the amount of edible food that will be disposed by commercial edible food generators, counties will not be able to make a meaningful and impactful assessment of how much additional capacity (if any) is needed to meet its food recovery needs.

Subdivision (a)(2)

The purpose of this section is to require counties, in coordination with jurisdictions and regional agencies located within the county, to identify existing capacity at food recovery organizations identified in Section 18982(a)(25)(A)-(B) and food recovery services that are available to commercial edible food generators located within the county and jurisdictions within the county. This section is necessary for counties to assess their existing edible food recovery capacity, which is critical to identify if additional edible food recovery capacity will be needed to recover the amount of edible food that is estimated to be disposed by commercial edible food generators located within the county.

Subdivision (a)(3)

The purpose of this section is to require counties, in coordination with jurisdictions and regional agencies located within the county, to identify new or expanded food recovery organizations and food recovery services that will be used to recover edible food pursuant to Section 18992.2 (a)(1). This section is necessary because identifying proposed new or expanded edible food recovery capacity is critical information that must be collected to determine if additional edible food recovery capacity will be needed to recover the amount of edible food that is estimated to be disposed pursuant to Section 18992.2 (a)(1).

Subdivision (a)(4)

The purpose of this section is to require counties, in coordination with jurisdictions and regional agencies located within the county, to identify the amount of new or expanded edible food recovery capacity at food recovery organizations and food recovery services that is necessary to recover the edible food that is estimated to be disposed pursuant to Section 18992.2(a)(1). This section is necessary to provide counties, jurisdictions, and regional agencies with the ability to identify how much, if any, additional capacity is necessary to meet their edible food recovery needs.

Subdivision (b)

The purpose of this section is to require that counties, in coordination with jurisdictions and regional agencies located within the county, consult with food recovery organizations and food recovery services to complete their analysis of existing and proposed new and expanded edible food recovery capacity that could be accessed by the jurisdiction and its commercial edible food generators. This section is necessary to ensure that food recovery organizations and food recovery services are consulted and involved regarding each edible food recovery capacity planning analysis that is conducted.

Subdivision (b)(1)

The purpose of this section is to require the food recovery entities that are contacted by the jurisdiction to respond to the jurisdiction within 60 days regarding their existing and proposed new or expanded (if any) edible food recovery capacity. This section is necessary in order to help jurisdictions conduct edible food recovery capacity planning analyses in a timely manner.

#### Subdivision (c)

The purpose of this section is to specify that, if a county determines that new or expanded capacity is needed to recover the amount of edible food identified in Subdivision (a) of this section, then each jurisdiction within that county that lacks sufficient capacity shall follow provisions referenced in the following sections. This section is necessary to specify that some jurisdictions within counties will have to submit implementation schedules if they identify a lack of capacity and to allow CalRecycle to ensure that jurisdictions are conducting the necessary planning to ensure adequate capacity.

#### Subdivision (c)(1)

The purpose of this section is to require a jurisdiction to submit an implementation schedule to CalRecycle that demonstrates how it will ensure that there is enough new or expanded capacity to recover the edible food identified in Subdivision (a)(1).

This planning is critical and requires identifying sustainable funding to support edible food recovery organizations, which typically have limited funding and often are staffed by volunteers. The Natural Resources Defense Council's October 2017 report titled *Modeling the Potential to Increase Food Rescue* concluded that "while some participating organizations may have capacity to handle additional food within their existing infrastructure, others are already constrained by existing limitations in their operating budgets and physical infrastructure." To achieve the required edible food recovery goals, jurisdictions will need to coordinate with organizations and provide sustainable funding. As a result, edible food recovery organizations will be able to process and distribute the edible food to those people in the jurisdiction who are food insecure. The purpose of including this in the regulation is to provide CalRecycle with the ability to ensure that jurisdictions are conducting the necessary planning to ensure adequate capacity. By allowing jurisdictions to submit an implementation schedule and demonstrate that they are doing the necessary planning, CalRecycle is providing jurisdictions with flexibility and acknowledging that capacity planning takes time. This section is necessary to require that jurisdictions with a lack of edible food recovery capacity submit an implementation schedule to CalRecycle that includes timelines and milestones to demonstrate how they will ensure enough capacity, so the state can achieve the 20 percent edible food recovery goal set in SB 1383.

#### Subdivision (c)(1)(A)

The purpose of this section is to specify the information that must be included in the implementation schedule. Specifically, the implementation schedule must include timelines and milestones for planning efforts to access additional new or expanded capacity, including, but not limited to obtaining funding for edible food recovery

infrastructure and identification of facilities, operations, and activities inside the county that could be used for additional capacity. The purpose of including this in the regulation is to provide CalRecycle with the ability to ensure that jurisdictions are conducting the necessary planning to ensure adequate capacity. By allowing jurisdictions to submit an implementation schedule and demonstrate that they are doing the necessary planning, CalRecycle is providing jurisdictions with flexibility and acknowledging that capacity planning takes time. This section is necessary to require that jurisdictions with a lack of edible food recovery capacity submit an implementation schedule to CalRecycle that includes timelines and milestones to demonstrate how they will ensure enough capacity, so the state can achieve the 20 percent edible food recovery goal set in SB 1383.

#### Subdivision (c)(2)

The purpose of this section is to require a jurisdiction to consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded, capacity that could be available to a jurisdiction and its commercial edible food generators. This coordination is necessary to ensure that jurisdictions have an understanding of the types and amounts of edible food that can be recovered for human consumption, as well as the type of funding needed for increasing or building new capacity. Based upon feedback from stakeholders, it is critical that jurisdictions work closely with food recovery organizations and services to understand what infrastructure and capacity is needed most. With this collaboration, these organizations can inform the jurisdictions about what is needed to expand or create new capacity (e.g., types of equipment, staffing, facility needs, etc.). This section is necessary to provide CalRecycle with the ability to ensure that jurisdictions are involving food recovery organizations and food recovery services in their capacity planning efforts so the state can achieve the 20 percent edible food recovery goal set in SB 1383.

#### Subdivision (d)

The purpose of this section is to require that if a county finds that new or expanded capacity is need pursuant to Subdivision (c), then on or before the county submits the report required pursuant to Section 18992.3, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity. This section is necessary to ensure that individual jurisdictions are notified if they do not have enough capacity to meet their edible food recovery needs so jurisdictions can plan accordingly.

#### Subdivision (e)

The purpose of this section is to require any jurisdiction or regional agency that is contacted by the county pursuant to this section to respond to the county's request for the information necessary to comply with the requirements of this Article within 120 days of receiving the request from the county. This section is necessary to ensure that counties are provided with the information that is required for compliance with this section in a timely manner.

#### Subdivision (e)(1)

The purpose of this section is to specify that if a jurisdiction or regional agency fails to provide the information necessary to comply with the requirements of this Article within

120 days, the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3. This section is necessary to ensure that counties will not be penalized in a scenario in which a jurisdiction or regional agency has failed to provide the information that is necessary for the county to be able to comply with the requirements of this section.

Subdivision (e)(2)

The purpose of this section is to specify that in the report submitted pursuant to Section 18992.3 the county shall identify any jurisdiction that failed to provide the information necessary to comply with the requirements of this section within 120 days of receiving a request from the county. This section is necessary so that CalRecycle is aware of the jurisdictions that failed to provide required information to counties for potential enforcement if necessary.

**Section 18992.3. Schedule for Reporting.**

Subdivision (a)

The purpose of this section is to specify the schedule for counties, in coordination with cities and regional agencies, to conduct the capacity planning required in Article 11. These time frames are necessary to provide jurisdictions with the specified periods for conducting the planning activities in Article 11. The time frames were developed as a result of stakeholder input (e.g., the timelines that stakeholders felt were reasonable to gather the required data and still provide long-term planning to ensure adequate capacity as the population increases for organics recycling and edible food recovery). These time frames were developed recognizing the time necessary for gathering the required data and collaborating with affected entities such as organic waste recycling facilities, small-scale community composting organizations, and edible food recovery organizations. This section is necessary to ensure that there is adequate organics recycling and edible food recovery capacity into the future.

Jurisdictions that are exempt from the organic waste collection requirements pursuant to Section 18984.12, are not required to conduct the capacity planning required in Section 18992.1 and are not required to include capacity plans required by Section 18992.1 during any report required by Section 18992.3 as long as the waiver is still in effect.

Subdivision (a)(1)

The purpose of this section is to specify that the report due date is August 1, 2022, for the reporting period of January 1, 2022, through December 31, 2024. This section is necessary to inform the counties of the reporting time frame and report due date and that jurisdictions that are exempt from the organic waste collection requirements pursuant to Section 18984.12 are not required to conduct the capacity planning required in Section 18992.1 and are not required to include capacity plans required by Section 18992.1 in the first reporting period.

Subdivision (a)(2)



The purpose of this section is to specify that the report due date is August 1, 2024, for the reporting period of January 1, 2025, through December 31, 2034. This section is necessary to inform counties of the reporting time frame and report due date.

Subdivision (a)(3)

The purpose of this section is to specify that the report due date is August 1, 2029, for the reporting period of January 1, 2030, through December 31, 2039. This section is necessary to inform counties of the reporting time frame and report due date.

Subdivision (a)(4)

The purpose of this section is to specify that the report due date is August 1, 2034, for the reporting period January 1, 2035, through December 31, 2044. This section is necessary to inform counties of the reporting time frame and report due date.

Subdivision (b)

The purpose of this section is to ensure that jurisdictions are aware of the time frame for submitting the implementation schedule. This section is necessary to provide a time frame for a jurisdiction to gather the required data for submitting to CalRecycle.

## **Article 12. Procurement of Recovered Organic Waste Products**

### **18993.1. Recovered Organic Waste Product Procurement Target.**

Subdivision (a)

The purpose of this section is to establish requirements on jurisdictions to meet an annual recovered organic waste procurement target effective January 1, 2022. For the purposes of this section, “jurisdiction” is defined as a city, a county, or a city and county. The intent of having a special definition for “jurisdiction” in this section is to be consistent with how the California Department of Finance (DOF) reports population data, which is necessary to calculate each jurisdiction’s procurement target. DOF does not report population data by “special district,” which is included in the regular definition of “jurisdiction” in Section 18982(a)(36). PRC 42652.5 provides general authority to require what is necessary to “achieve the organics waste reduction goals for 2020 and 2025 established in Section 39730.6 of the Health and Safety Code.” Furthermore, PRC 42653(a)(3) and (b) refer to requirements related to “markets for products generated by organics recycling facilities.” Likewise, HSC 39730.8, also in SB 1383, refers to the department considering recommendations in the 2017 Integrated Energy Policy Report (IEPR) for the use of biomethane and biogas, and this section is consistent with the recommendations that “state agencies should consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas.” Finally, the SLCP Strategy states, “CalRecycle will continue to work towards strengthening state procurement requirements relative to use of recycled organic products.” This section is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste.

Subdivision (b)

The purpose of this section is to explain the timing and method for recalculating the recovered organic waste product procurement target. The purpose is to clarify that January 1, 2022, is the date the regulations take effect and on that date, jurisdictions shall be responsible for procuring recovered organic waste products. The department will recalculate each jurisdiction's procurement target every five years. The purpose of setting the procurement target at five-year intervals is to provide the stability needed for jurisdictions to plan and budget appropriately to meet the target. Recalculating the recovered organic waste product procurement target every five years ensures that the requirement for local governments to create markets for products generated by organics recycling facilities accounts for changes in population over time. This section is necessary because the procurement target will require readjustment based on changing jurisdictional population.

#### Subdivision (c)

The purpose of this section is to explain the methodology the department will use to calculate each jurisdiction's recovered organic waste product procurement target. The per capita procurement target, as described in subdivision (c)(1), shall be multiplied by the jurisdiction population, using estimates published by the California Department of Finance (DOF). The purpose is to create a transparent method to establish the requirement for local governments to create markets for products generated by organics recycling facilities that is proportional to the number of residents in a jurisdiction. Using the method, statewide procurement of recovered organic waste products by local governments equals approximately 3.4 million tons, which accounts for approximately 13 percent of the organics that must be diverted from landfills in the year 2025. This section is necessary to regulate how the department will be establishing the procurement target in a transparent manner.

#### Subdivision (c)(1)

The purpose of this section is to establish the per capita procurement target of 0.08 tons, or the amount of diverted organic waste per California resident per year. An estimated 25,043,272 tons of organics must be recovered in the year 2025 in order to meet the organic waste disposal reduction target mandated by SB 1383. The 25,043,272-ton organics diversion estimate is higher than in the Initial Statement of Reasons (ISOR) due to higher-than-estimated disposal data obtained from the department's Disposal Reporting System (DRS) after the release of the ISOR. In order to create markets for products generated by organic waste recycling facilities, local governments will be required to purchase a percentage of this diverted organic waste in the form of recovered organic waste products. The department determined this percentage based on the government share of statewide gross domestic product (GDP), which has averaged 13 percent over 10 years (2007-2017) of data from the United States Bureau of Economic Analysis (BEA). The tons of organic waste that need to be diverted from landfill disposal in 2025 is multiplied by the government share of GDP and then divided by the estimated statewide population in 2025 to obtain the per capita procurement target, as shown below:

$$\frac{(25,043,272 \text{ tons} \times 13\% \text{ govt GDP share})}{42,066,880 \text{ statewide population}} = 0.08 \text{ tons/person}$$

This metric, 0.08 tons/person, will be applied to each jurisdiction's population to determine the recovered organic waste product procurement target, which will be updated every five years in accordance with Subdivision (b). This section is necessary to provide a required numerical component to calculate the recovered organic waste product procurement target.

#### Subdivision (c)(2)

The purpose of this section is to explain how the department will determine the jurisdiction population. The department will determine the population of a jurisdiction using the most recent data as reported by the DOF. Population data ensures that the recovered organic waste product procurement target is proportional to the number of residents in a jurisdiction. This section is necessary to provide a required numerical component to calculate the recovered organic waste product procurement target.

#### Subdivision (d)

The purpose of this section is to state the methods the department will use to notify each jurisdiction of its recovered organic waste product procurement target. Annually, the department will make the notice available publicly via the department website and provide direct written notice to the jurisdiction. This section is necessary to ensure jurisdictions are informed of their target each year.

#### Subdivision (e)

The purpose of this section is to inform a jurisdiction of how they can comply with the requirements in Subdivision (a). This section is necessary to inform jurisdictions that they may comply not only through their own procurement but also through direct service providers, which may use recovered organic waste products while subject to contractual control by the jurisdictions and thus provide a useful pathway to increase procurement.

#### Subdivision (e)(1)

The purpose of this section is to clarify that a jurisdiction may directly procure recovered organic waste products for use or to give away in order to meet the procurement target. The intent is to encourage the demand and use of recovered organic waste products, as this is where most of the environmental benefits and avoidance of disposal are realized. Note that sale of recovered organic waste products creates supply and not demand. This section is necessary to clarify how a jurisdiction can comply with this Article.

#### Subdivision (e)(2)

The purpose of this section is to clarify that a jurisdiction may meet the procurement target through its direct service providers, meaning that a separate entity that provides a

service to a jurisdiction pursuant to a contract or other written agreement could procure a sufficient quantity of recovered organic waste product(s) to meet the requirement. The purpose of this section is to provide jurisdictions flexibility to comply with the procurement target. It is common practice for contractors to procure and utilize recovered organic waste products to comply with a jurisdiction's requirements. For example, a contracted waste hauler may fuel refuse trucks with renewable transportation fuel, or a contracted landscaper may use compost at the behest of the jurisdiction. The intent is to encourage the demand and use of recovered organic waste products by direct service providers. Note that sale of recovered organic waste products creates supply and not demand. This section is necessary to clarify how a jurisdiction can comply with this Article.

#### Subdivision (f)

The purpose of this section is to identify the specific recovered organic waste products that jurisdictions may procure to comply with Subdivision (a). This section is necessary to limit the universe of recovered organic waste products to those that are readily available and align with policies and mandates for methane reduction as described in the SLCP Strategy. In response to stakeholder comments, the original set of recovered organic waste products described in the ISOR has been expanded beyond compost and renewable transportation fuel to include mulch from specified solid waste facilities, renewable gas used for electricity and heating applications, and electricity from biomass conversion. The purpose is to provide more flexibility to jurisdictions to choose the recovered organic waste products that best fit local needs.

#### Subdivision (f)(1)

The purpose of this section is to identify compost as an eligible recovered organic waste product that jurisdictions may procure to comply with Subdivision (a). If jurisdictions choose to procure compost, this compost is subject to any applicable limitations of Public Contract Code Section 22150 as well as limitations on the facilities from which compost may be procured. The inclusion of the reference to the Public Contract Code is necessary to avoid conflict between this Article and those provisions of the Public Contract Code that deal with local purchasing requirements for compost and mulch. The use of compost aligns with policies and mandates for methane reduction as described in the Air Resources Board's SLCP Strategy. The Economic Analysis conducted for the SLCP Strategy notes several scenarios that can achieve the needed reductions in short-lived climate pollutants from the waste sector, and every scenario modeled includes new compost facilities. Therefore, the purpose of including compost as part of the procurement requirement is to establish markets for compost, a product generated by organics recycling facilities, which the SLCP Strategy has identified as in need of market development.

#### Subdivision (f)(1)(A)

The purpose of this section is to clarify that compost produced at a permitted or authorized compostable material handling operation or facility under Chapter 3.1 is eligible for procurement by jurisdictions. This requirement is included because the department is able to verify that compost produced at permitted or authorized compost

operations or facilities meets environmental health standards and is from material in the solid waste collection stream that has been diverted from disposal, consistent with the organics diversion requirements of SB 1383. This section is necessary to clarify how a jurisdiction can comply with this Article.

#### Subdivision (f)(1)(B)

The purpose of this section is to clarify that compost produced at a large-volume in-vessel digestion facility permitted under Chapter 3.2 is eligible for procurement by jurisdictions. This requirement is included because the department is able to verify that compost produced at permitted, large-volume in-vessel digestion facilities meets environmental health standards and is from material in the solid waste collection stream that has been diverted from disposal, consistent with the organics diversion requirements of SB 1383. This section also clarifies that digestate is considered a distinct material from compost and will not count toward a jurisdiction's procurement target. However, digestate may be composted or used as a feedstock for compost, and the resulting compost could count toward a jurisdiction's procurement target if the final product meets the compost definition per Section 17896.2(a)(4). Similarly, biosolids generated at a publicly owned treatment works (POTW) may qualify as a recovered organic waste product if the material is composted or used as a feedstock for compost, and the final product meets the compost definition. Biosolids and/or digestate that is land-applied without being composted will not be considered an eligible recovered organic waste product. The intent of this section is to clarify that only compost, as defined in Section 17896.2(a)(4), is an eligible recovered organic waste product if it otherwise meets the requirements of this section.

#### Subdivision (f)(2)

The purpose of this section is to identify renewable gas used as fuel for transportation, electricity, or heating applications as an eligible recovered organic waste product that jurisdictions may procure to comply with Subdivision (a). The expanded list of products is in response to stakeholder comment and is necessary to provide more flexibility for jurisdictions to procure products that fit local needs while still reflecting products derived from material that has been diverted from disposal. Per the Article 1 definition, renewable gas means gas derived from diverted organic waste and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14. The purpose is to be consistent with SB 1383 language that specifies the adoption of policies that incentivize biomethane derived from solid waste facilities. In-vessel digestion facilities are solid waste facilities subject to department jurisdiction, which allows the department to verify that these facilities are reducing the disposal of organic waste. Renewable gas derived solely from sewage sludge at a POTW will not count toward procurement targets because POTWs are not solid waste facilities and therefore not in the scope of the legislative intent of SB 1383. Sewage sludge is also not typically destined for a landfill, so its use does not help achieve SB 1383's landfill diversion goals. However, POTWs that accept food waste can technically do so without a solid waste facility permit, they are explicitly authorized to do so per Title 14, making it functionally similar to incentivizing biomethane from a solid waste facility. Therefore it is justifiable to allow the portion of renewable gas resulting from the digestion of food

waste that is recovered at POTWs that accept food waste from a facility or operation identified in Section 18993.1(h)(1)(A)-(C) to count toward the procurement targets.

Similar to compost, procurement of renewable gas aligns with policies and mandates for methane reduction as described in the SLCP Strategy. The SLCP Economic Analysis notes several scenarios that can achieve the needed reductions in short-lived climate pollutants from the waste sector; every scenario modeled includes new or expanded anaerobic digestion (AD) facilities producing renewable gas from diverted organic waste. While the analysis focuses on transportation fuel via pipeline injection as the highest-value use of biomethane generated through organic waste diversion, it also identifies barriers such as the economic uncertainty associated with federal and state renewable fuel credit prices. The report recommends electricity generation for use on-site and exporting to the grid as an alternative and potentially more stable revenue stream compared to transportation fuel. SB 1383 also requires state agencies to consider recommendations in the Energy Commission's 2017 Integrated Energy Policy Report (IEPR) for priority end uses of renewable gas. Chapter 9, titled "Renewable Gas," states that renewable gas is not "one size fits all" and the best end use depends on factors such as feedstock, location, and timing. While the IEPR identified renewable transportation fuel as the most likely near-term, cost-effective solution to maximizing greenhouse gas emissions reduction benefits, it also notes that priority end uses may evolve over time in reaction to state climate change goals, market transformations, and technology advancements. The regulations are designed to provide more flexibility to jurisdictions in choosing the end use that best fits local needs, and they also allow for those needs to evolve over time.

The purpose of this section is also to clarify that only the end uses of renewable gas for fuel, electricity, or heating applications will count toward a jurisdiction's procurement target. Pipeline injection is considered a means of conveyance and not an end use, for the purpose of these regulations. While facilities may inject their gas into the pipeline, only the end use of that gas will count for procurement. Pipeline injection can be integral to procuring one of the eligible end products identified in this section, but it is not in and of itself an end use for renewable gas. This approach is intended to eliminate the potential for double-counting the same gas for different procurement targets. While the regulatory text specifies "fuel for transportation, electricity, or heating applications," there is a range of end uses that fit within these general descriptions but use different terminology. For example, end uses such as cooking, energy storage, and renewable hydrogen production for electricity are examples of "heating application" and "electricity" uses that could be procured for the purposes of complying with a jurisdiction's procurement target. Cooking is a form of "heating applications," and the conversion factor for heating applications noted below would apply to this use. Energy storage and renewable hydrogen are potential uses of renewable gas to create "electricity," and the conversion factor for electricity noted below would apply to these uses. To specify and develop conversion factors for every potential end use of renewable gas would be overly burdensome and unnecessary, and would not be transparent to all stakeholders. However, the intent is that many industrial and

commercial end uses for renewable gas may default to the conversion factors specified in the regulations.

#### Subdivision (f)(3)

The purpose of this section is to identify electricity from biomass conversion as an eligible recovered organic waste product that jurisdictions may procure to comply with Subdivision (a). This section was added in response to stakeholder feedback and is necessary to provide more flexibility to jurisdictions to meet the procurement target with recovered organic waste products in a manner consistent with local needs.

#### Subdivision (f)(4)

The purpose of this section is to identify mulch from the solid waste facilities specified in (f)(4)(B)(1) through (3) as an eligible recovered organic waste product that jurisdictions may procure to comply with Subdivision (a). This section was added in response to stakeholder feedback. This section is necessary to provide more flexibility to jurisdictions to meet the procurement target with recovered organic waste products in a manner consistent with local needs.

#### Subdivision (f)(4)(A)

The purpose of this section is to require a jurisdiction to have an enforceable ordinance or similarly enforceable mechanism requiring mulch procured from solid waste facilities to meet or exceed the specified environmental health standards for land application. The intent is to ensure that mulch procured from solid waste facilities meets public health and safety standards codified in state regulation. Due to the utmost importance of protecting public health and safety and the expected increased use of mulch driven by this regulation, this section is necessary to ensure the prevention of the application of contaminated material.

#### Subdivision (f)(4)(B)

The purpose of this section is to specify the eligible solid waste facilities from which mulch may be produced in order to count toward a jurisdiction's procurement target. These requirements are necessary to enable the department to verify that materials used to produce mulch are from material in the solid waste collection stream that has been diverted from disposal in order to be consistent with the statutory requirements of SB 1383.

#### Subdivision (f)(4)(B)(1)

The purpose of this section is to specify that mulch produced at a permitted or authorized compostable material handling operation or facility, excluding chipping and grinding facilities, is a product that can count toward a jurisdiction's procurement target. This is necessary to ensure that jurisdictions are procuring mulch made from material in the solid waste collection stream that are diverted from disposal. The regulatory framework under which composting facilities are permitted or authorized ensures that the department can verify landfill diversion. Chipping and grinding facilities are excluded because the feedstock entering those facilities is not typically landfilled, and therefore procuring this material is unlikely to reduce landfill disposal. Chipping and grinding

facilities are defined in 14 CCR 17852(10) as limited to handling “green material.” “Green material” is defined in 17852(21) as “any plant material except food material and vegetative food material that is *separated at the point of generation*,” which in turn is defined in 17852(35) as “material *separated from the solid waste stream* by the generator of that material.” Therefore, material entering a chipping and grinding facility is not considered landfill-diverted organics.

#### Subdivision (f)(4)(B)(2)

The purpose of this section is to specify that mulch may be produced at a permitted or authorized transfer/processing facility. This is necessary to ensure organic materials are diverted from a landfill to be consistent with the statutory requirements of SB 1383. Transfer/processing facilities are designed to sort recyclable material from the disposal stream; therefore, the department can verify landfill diversion if material is procured from these facilities.

#### Subdivision (f)(4)(B)(3)

The purpose of this section is to specify that mulch may be produced at a permitted solid waste landfill. This is necessary to ensure organic materials are diverted from a landfill to be consistent with the statutory requirements of SB 1383. The department can verify landfill diversion if mulch is produced from organic material separated from the disposal stream at a solid waste landfill.

#### Subdivision (g)

The purpose of this section is to identify the factors to convert one ton of organic waste into equivalent amounts of recovered organic waste products. This section is necessary because tons of organic waste and amounts of finished recovered organic waste products are not directly equivalent absent conversion factors.

#### Subdivision (g)(1)

The purpose of this section is to establish that one ton of organic waste constitutes varying amounts of recovered organic waste products. This section is necessary to establish a common baseline (i.e. one ton of organic waste) from which to calculate equivalent amounts of different recovered organic waste products.

#### Subdivision (g)(1)(A)

The purpose of this section is to establish that one ton of organic waste is equivalent to 21 diesel gallon equivalents (DGE) of renewable transportation fuel. This section is necessary to provide a method for jurisdictions to convert the recovered organic waste product procurement target, measured in tons of organic waste, to DGE of renewable transportation fuel. The slightly higher value compared to the ISOR is due to applying the higher heating value (HHV) of biomethane versus the lower heating value (LHV) in order to be consistent with utility bills and other financial transactions for renewable gas. This conversion is based on data from the Air Resources Board’s “Simplified CI Calculator for Biomethane from Anaerobic Digestion of Organic Waste” and CA-GREET3.0 as represented in the following equation:



$$2,724 \frac{\text{SCF CH}_4}{\text{ton}} \times 1,010 \frac{\text{Btu}}{\text{SCF CH}_4} \div 133,075 \frac{\text{Btu}}{\text{gal diesel}} = \mathbf{21 DGE}$$

where:

- 2,724 standard cubic feet (SCF)/ton = biomethane yield from high-solids anaerobic digestion of food and green waste
- 1,010 British Thermal Units (BTU)/SCF = higher heating value of biomethane
- 133,075 BTU/gallon diesel = energy content of ultra-low sulfur diesel (ULSD)

#### Subdivision (g)(1)(B)

The purpose of this section is to establish that one ton of organic waste is equivalent to 242 kilowatt-hours (kWh) of electricity derived from renewable gas. This section is necessary to provide a method for jurisdictions to convert the recovered organic waste product procurement target, measured in tons of organic waste, to kWh of renewable electricity. This conversion is based on data from the Air Resources Board's "Simplified CI Calculator for Biomethane from Anaerobic Digestion of Organic Waste" and CA-GREET3.0 as represented in the following equation:

$$2,724 \frac{\text{SCF CH}_4}{\text{ton}} \times 1,010 \frac{\text{Btu}}{\text{SCF CH}_4} \div 3,412.14 \frac{\text{Btu}}{\text{kWh}} \times 0.30 = \mathbf{242 kWh}$$

where:

- 2,724 standard cubic feet (SCF)/ton = biomethane yield from high-solids anaerobic digestion of food and green waste
- 1,010 British Thermal Units (BTU)/SCF = higher heating value of biomethane
- 3,412.14 BTU/kWh = conversion to kWh
- 0.30 = assumed efficiency of microturbine

#### Subdivision (g)(1)(C)

The purpose of this section is to establish that one ton of organic waste is equivalent to 22 therms of heating derived from renewable gas. This section is necessary to provide a method for jurisdictions to convert the recovered organic waste product procurement target, measured in tons of organic waste, to therms of renewable heat. This conversion is based on data from the Air Resources Board's "Simplified CI Calculator for Biomethane from Anaerobic Digestion of Organic Waste" and CA-GREET3.0 as represented in the following equation:

$$2,724 \frac{\text{SCF CH}_4}{\text{ton}} \times 1,010 \frac{\text{Btu}}{\text{SCF CH}_4} \div 10^6 \frac{\text{MMBtu}}{\text{Btu}} \times 10 \frac{\text{therms}}{\text{MMBtu}} \times .80 = \mathbf{22 therms}$$

where:

- 2,724 standard cubic feet (SCF)/ton = biomethane yield from high-solids anaerobic digestion of food and green waste
- 1,010 British Thermal Units (BTU)/SCF = higher heating value of biomethane
- 10<sup>6</sup> = conversion to MMBTU
- 10 = conversion to therms
- 0.80 = assumed efficiency of natural gas boiler

#### Subdivision (g)(1)(D)

The purpose of this section is to establish that one ton of organic waste is equivalent to 650 kilowatt-hours (kWh) of electricity derived from biomass conversion. This section is necessary to provide a method for jurisdictions to convert the recovered organic waste product procurement target, measured in tons of organic waste, to kilowatt-hours of electricity from biomass conversion. This conversion is based on data from the Air Resources Board's "Method for Estimating Greenhouse Gas Emission Reductions from Recycling," November 2011 data from the California Biomass Collaborative, and data reported to CalRecycle by biomass facilities, and is represented in the following equation:

$$1 \text{ bone dry ton wood chips} = 1 \text{ MWh} \times 35\% \text{ moisture content} = \mathbf{650 \text{ kWh}}$$

where:

- 1 bone dry ton wood chips = 1 MWh of electricity
- Moisture content of 1 green ton = 35%.
  - Note: moisture content was accounted for to be consistent with how the department calculates disposal, which is always in wet tons, not bone dry tons.

#### Subdivision (g)(1)(E)

The purpose of this section is to establish that one ton of organic waste is equivalent to 0.58 tons of compost, based on the Air Resources Board's quantification methodology, "Method for Estimating Greenhouse Gas Emission Reductions from Diversion of Organic Waste from Landfills to Compost Facilities," May 2017, page 19. This section is necessary to provide a method for jurisdictions to convert the organic waste product procurement target, measured in tons of organic waste, to tons of finished compost. Tons of organic waste and finished compost are not equivalent due to mass reduction that occurs during the composting process. Due to stakeholder feedback, a conversion factor for compost measured in cubic yards was included. This is necessary to provide additional flexibility to jurisdictions for measuring compost procurement.

#### Subdivision (g)(1)(F)

The purpose of this section is to establish that one ton of organic waste is equivalent to 1 ton of mulch. This section is necessary to provide a method for jurisdictions to convert the organic waste product procurement target, measured in tons of organic waste, to tons of mulch. The ratio of organic waste to mulch is equivalent due to the lack of mass reduction during chipping and grinding.

#### Subdivision (h)

The purpose of this section is to specify conditions that must be met if jurisdictions choose to procure renewable gas from a POTW. Since POTWs do not typically operate under a solid waste facility permit, it is necessary to ensure that the renewable gas produced by the POTW and counted towards a jurisdiction's procurement target is derived from landfill-diverted organic waste, and not sewage sludge or other non-landfilled materials, to be consistent with the statutory requirements of SB 1383.

#### Subdivision (h)(1)

The purpose of this section is to specify the eligible solid waste facilities from which a POTW must directly receive organic feedstock for the POTW's renewable gas to count toward a jurisdiction's procurement target. This is necessary to clearly define the solid waste facilities to ensure renewable gas is produced from organic material diverted from disposal and also to make verification and enforcement feasible for the department.

#### Subdivision (h)(1)(A)

The purpose of this section is to specify that renewable gas produced at a POTW is eligible for a jurisdiction's procurement target if the POTW receives organic waste directly from a permitted or authorized compostable material handling operation or facility, excluding chipping and grinding facilities. This is one of three types of solid waste facilities from which a POTW may accept organic waste for purposes of fulfilling jurisdictions' procurement targets. The intent is to ensure organic materials are diverted from disposal. The regulatory framework under which composting facilities or operations are permitted or authorized ensures that the renewable gas is derived from material in the solid waste collection stream that has been diverted from disposal. Chipping and grinding facilities are excluded because the feedstock accepted is not typically landfilled and does not contribute to organic waste reduction. Chipping and grinding facilities are defined in 14 CCR 17852(10) as limited to handling "green material." "Green material" is defined in 17852(21) as "any plant material except food material and vegetative food material that is *separated at the point of generation*," which in turn is defined in 17852(35) as "material *separated from the solid waste stream* by the generator of that material." Therefore, material entering a chipping and grinding facility is not considered landfill-diverted organics.

#### Subdivision (h)(1)(B)

The purpose of this section is to specify that renewable gas produced at a POTW is eligible for a jurisdiction's procurement target if the POTW receives organic waste directly from a permitted or authorized transfer/processing facility. This is one of three types of solid waste facilities from which a POTW may accept organic waste for purposes of fulfilling jurisdictions' procurement targets. The intent is to ensure organic materials are diverted from a landfill to be consistent with the statutory requirements of SB 1383. If the organic material is accepted at a POTW directly from a transfer/processing facility, the department can verify the renewable gas is derived from material in the solid waste collection stream that has been diverted from disposal.

#### Subdivision (h)(1)(C)

The purpose of this section is to specify that renewable gas produced at a POTW is eligible for a jurisdiction's procurement target if the POTW receives organic waste directly from a permitted solid waste landfill. This is one of three types of solid waste facilities from which a POTW may accept organic waste for purposes of fulfilling jurisdictions' procurement targets. The intent is to ensure organic materials are diverted from a landfill to be consistent with the statutory requirements of SB 1383. If the organic material is accepted at a POTW directly from a landfill, the department can verify that

the renewable gas is derived from material in the solid waste collection stream that has been diverted from disposal.

#### Subdivision (h)(2)

The purpose of this section is to specify that a POTW must be in compliance with the exclusion from in-vessel digestion requirements described in Section 17896.6(a)(1). The intent is to ensure that the procurement requirements of this regulation do not conflict with or incentivize solid waste material handling at a POTW in a manner that conflicts with existing regulatory requirements established in Title 14.

#### Subdivision (h)(3)

The purpose of this section is to specify that a jurisdiction must receive a record of all tons of organic waste received by a POTW in order to count renewable gas procured from a POTW toward a jurisdiction's procurement target. This is necessary to ensure there is a record to verify that renewable gas is derived from organic materials that are diverted from disposal to be consistent with the statutory requirements of SB 1383. This record requirement is also necessary to verify the requirements in Subdivision (h)(4).

#### Subdivision (h)(4)

The purpose of this section is to clarify that a jurisdiction cannot count renewable gas from a POTW in an amount that exceeds the production capacity of renewable gas generated from organic waste received at a POTW directly from solid waste facilities. This is necessary to prevent a jurisdiction from claiming procurement credit for renewable gas that is not verifiably derived from material not diverted from disposal. For example, renewable gas derived solely from sewage sludge is ineligible for procurement because sewage sludge is not typically destined for a landfill, so the gas generated from digesting that material does not contribute to achieving the SB 1383 landfill diversion targets. It is inconsistent with the requirements of SB 1383 to incentivize or mandate activities that do not contribute to landfill diversion of organic waste.

#### Subdivision (h)(5)

The purpose of this section is to specify that a jurisdiction may only count renewable gas procured from a POTW toward its procurement target if that POTW disposes less than 25 percent of its biosolids. Biosolids are included in the "organic waste" definition per section 18982(46); therefore, disposal of biosolids conflicts with the intent of the SB 1383 targets that mandate the reduction of organic waste disposal. This section does not prohibit the disposal of biosolids, but it ensures that the disposal of biosolids is not incentivized. This section ensures that renewable gas procured from POTWs to comply with this section contributes to achieving the organic waste disposal reduction targets of SB 1383. Incentivizing the procurement of gas from a POTW that generates renewable natural gas from organic waste, but ultimately disposes of the residual organic waste (biosolids) they produce, will not help achieve the statutory organic waste reduction targets. If a POTW accepting organic waste disposes of less than 25 percent of the biosolids it produces, this section allows the gas that is produced to count toward the procurement targets as the POTW's activities help reduce organic waste disposal. The 25 percent threshold was designed to align with the overarching purpose of SB 1383,

which is to reduce organic waste disposal by 75 percent. This section is necessary to ensure the procurement targets do not incentivize activities that contribute to landfill disposal.

#### Subdivision (i)

The purpose of this section is to specify the eligible solid waste facilities from which a biomass conversion facility must directly receive organic waste feedstock in order for electricity from that facility to count toward a jurisdiction's procurement target. This is necessary to ensure the electricity produced by the biomass conversion facility is derived from landfill-diverted organic waste, versus clean green material that was never destined for the landfill. The intent is to clearly define the solid waste facilities in order to ensure electricity is verifiably derived from material in the solid waste collection stream that has been diverted from disposal. The listed facilities take material from the solid waste stream that would otherwise be destined for disposal.

#### Subdivision (i)(1)

The purpose of this section is to specify that electricity procured from a biomass conversion facility is eligible for a jurisdiction's procurement target if the biomass conversion facility receives organic waste directly from a permitted or authorized compostable material handling operation or facility, excluding chipping and grinding facilities. This is one of three types of solid waste facilities from which a biomass conversion facility may accept organic waste for purposes of fulfilling jurisdictions' procurement targets. This is necessary to ensure organic materials are diverted from a landfill, and the regulatory framework under which composting facilities are permitted or authorized ensures that the department can verify landfill diversion. Chipping and grinding facilities are excluded because the feedstock accepted is not typically landfilled; therefore, inclusion would not contribute to organic waste reduction. Chipping and grinding facilities are defined in 14 CCR 17852(10) as limited to handling "green material." "Green material" is defined in 17852(21) as "any plant material except food material and vegetative food material that is *separated at the point of generation*," which in turn is defined in 17852(35) as "material *separated from the solid waste stream* by the generator of that material." Therefore, material entering a chipping and grinding facility is not considered to be landfill-diverted organics. This section is necessary to ensure electricity is derived from material in the solid waste collection stream that has been diverted from disposal.

#### Subdivision (i)(2)

The purpose of this section is to specify that electricity procured from a biomass conversion facility is eligible for a jurisdiction's procurement target if the biomass conversion facility receives organic waste directly from a permitted or authorized transfer/processing facility. This is one of three types of solid waste facilities from which a biomass conversion facility may accept organic waste for purposes of fulfilling jurisdictions' procurement targets. The intent is to ensure organic materials are diverted from a landfill to be consistent with the statutory requirements of SB 1383. If the organic material is accepted from a biomass conversion facility directly from a transfer/processing facility, the department can verify landfill diversion. This section is

necessary to ensure electricity is verifiably derived from material in the solid waste collection stream that has been diverted from disposal.

#### Subdivision (i)(3)

The purpose of this section is to specify that electricity procured from a biomass conversion facility is eligible for a jurisdiction's procurement target if the biomass conversion facility receives organic waste directly from a permitted solid waste landfill. This is one of three types of solid waste facilities from which a biomass conversion facility may accept organic waste for purposes of fulfilling jurisdictions' procurement targets. The intent is to ensure organic materials are diverted from a landfill to be consistent with the statutory requirements of SB 1383. If the organic material is accepted from a biomass conversion facility directly from a landfill, the department can verify landfill diversion. This section is necessary to ensure electricity is verifiably derived from material in the solid waste collection stream that has been diverted from disposal.

#### Subdivision (j)

The purpose of this section is to provide jurisdictions with a method to lower the procurement target calculated in Subdivision (b). This section allows jurisdictions to lower their recovered organic waste product procurement target if they can demonstrate that their procurement of comparable virgin products in the previous year is lower than their recovered organic waste product procurement target when the equivalent virgin products are converted to their comparable recovered organic waste product. The purpose is to ensure that the recovered organic waste procurement target does not result in the jurisdiction being obligated to procure more recovered organic waste products than it can use.

Jurisdictions seeking to lower their recovered organic waste product procurement target as allowed in this section are only required to count their previous year's procurement of transportation fuel, electricity, and gas for heating applications when demonstrating their eligibility for a lower target. The selected products have readily available organic waste conversion factors. The department selected the time interval of the preceding 12 months to reduce the impact of seasonal variation in procurement of fuel, electricity, and gas for heating when determining if a lower procurement target for recovered organic waste products is appropriate for a jurisdiction. The focus on energy products (fuels, electricity, and gas for heating) is intended to simplify the process by which a jurisdiction can lower its procurement target. The variety of virgin products that could be replaced by compost or mulch (e.g. chemical weed suppressants) cannot uniformly be converted into equivalent amounts of compost or mulch; therefore, a jurisdiction's previous purchases of such materials and products shall not be factored into a jurisdiction's ability to lower its target. Not including these types of products eliminates potential subjectivity and decreases the amount of products a jurisdiction must count in order to lower its procurement target. Although this mechanism relies only on energy and gas procurement, a jurisdiction can still choose to meet its lowered procurement target with any recovered organic waste product listed in Section 18993.1(f). This section is

necessary to provide a regulatory adjustment in those extraordinary cases in which the procurement target exceeds jurisdictional need for recovered organic waste products.

#### Subdivision (k)

The purpose of this section is to require jurisdictions to identify additional procurement opportunities for recovered organic waste products. The purpose is to require a jurisdiction to identify all opportunities in which products can be replaced with recovered organic waste products, and to do so to meet the procurement target. For example, a jurisdiction can identify the use of petrochemical fertilizer for a landscaping project as an opportunity to replace it with compost, or the replacement of diesel buses with renewable transportation fuel. However, procurement is often decentralized within a jurisdiction, which results in a number of different divisions and departments purchasing products that could be replaced with recovered organic waste products. This section clarifies that a jurisdiction must identify all procurement opportunities, not just those procurement opportunities within the division or department that is assigned primary responsibility for ensuring the jurisdiction is complying with these regulations. This section is necessary to ensure that jurisdictions do not inadvertently miss procurement opportunities that would help them meet their procurement target.

#### Subdivision (l)

The purpose of this section is to provide an exemption from the procurement requirements from January 1, 2022, to December 31, 2026 for rural counties, and cities located within those counties, that are exempt from the organic waste collection requirements. Under PRC 42649.82, rural jurisdictions are exempt from early implementation of commercial organic waste recycling requirements. Exempting those jurisdictions from early implementation requirements of mandatory commercial organic waste recycling requirements of AB 1826 provided additional time for these jurisdictions to phase in organic waste recycling requirements. Consequently, these jurisdictions were not required to undergo the same organic waste recycling program expansion as jurisdictions that were subject to AB 1826 and therefore may need additional time to comply with the requirements of this Article.

Exempting these jurisdictions until the end of 2026 is reasonable as it will not significantly impact the state's ability to achieve the organic waste reduction targets established by SB 1383, and it mirrors the statutory intent of previous organic waste disposal laws that provided rural jurisdictions five additional years to phase in compliance. These jurisdictions will still contribute to the state's organic waste reduction targets through compliance with other sections of the regulation, including edible food recovery. This section is necessary to respond to stakeholder feedback and provide flexibility and additional time to rural jurisdictions.

### **Section 18993.2. Recordkeeping Requirements for Recovered Organic Waste Procurement Target.**

#### Subdivision (a)

The purpose of this section is to explain the recordkeeping requirements for jurisdictions, as defined in 18993.1(a), to demonstrate compliance with Section 18993.1. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(1)

The purpose of this section is to require jurisdictions to include a description of how they will comply with the recovered organic waste procurement target. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(2)

The purpose of this section is to require jurisdictions to maintain the name, physical location, and contact information of each entity, operation, or facility from which they procured recovered organic waste products. Jurisdictions must also provide a general description of how and where the product was used. The intent is to provide greater accountability for the use of recovered organic waste products by jurisdictions. This is necessary to provide the department with information about how and where recovered organic waste products are being used across the state. This information can help guide future efforts for using recovered organic waste products in California. This section is also necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(3)

The purpose of this section is to require jurisdictions to maintain invoices or similar records of procurement. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(4)

The purpose of this section is to require jurisdictions to maintain all records of procurement by a direct service provider on behalf of a jurisdiction, if applicable. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

Subdivision (a)(5)

The purpose of this section is to require that if a jurisdiction procures renewable gas from a POTW for the purposes of meeting their procurement target, the jurisdiction shall maintain written certification of certain conditions and data on diverted organic waste, as specified in the following sections. The certification is to be provided by an authorized representative of the POTW under penalty of perjury. This section is necessary to ensure that CalRecycle can access the records necessary to verify that a POTW meets all statutory definitions and is producing renewable gas derived from organic waste that would otherwise be landfilled.

Subdivision (a)(5)(A)



The purpose of this section is to require that if a jurisdiction procures renewable gas from a POTW for the purposes of meeting their procurement target, the jurisdiction shall maintain written certification that the POTW was in compliance with the exclusion in Section 17896.6(a)(1). The intent is to ensure that the procurement requirements of this regulation do not conflict with or incentivize solid waste material handling at a POTW in a manner that conflicts with existing regulatory requirements established in Title 14 as required in 18993.1(h)(2). This section is necessary to ensure that CalRecycle can access records necessary to verify that a POTW meets applicable regulatory requirements and is anaerobically digesting solid waste.

#### Subdivision (a)(5)(B)

The purpose of this section is to require that if a jurisdiction procures renewable gas from a POTW for the purposes of meeting their procurement target, the jurisdiction shall maintain written certification attesting to the total tons of organic waste received by the POTW from the specified solid waste facilities in Section 18993.1(h)(1). This section is necessary to ensure that CalRecycle can access records necessary to verify that a POTW is diverting organic waste that would otherwise be landfilled, to be consistent with the statutory requirements of SB 1383. This section is also necessary to provide a mechanism to verify that the renewable natural gas that is procured from the POTW by a jurisdiction or jurisdictions to comply with the requirements of Section 18993.1 does not exceed the amount of gas that could actually be produced from the amount of organic waste received at the POTW. This section is also necessary to ensure that CalRecycle can access records necessary to verify the renewable gas production capacity from diverted organic waste, as required per Section 18993.1(h)(4).

#### Subdivision (a)(5)(C)

The purpose of this section is to require that if a jurisdiction procures renewable gas from a POTW for the purposes of meeting their procurement target, the jurisdiction shall maintain written certification attesting to the percentage of biosolids produced and transported by the POTW to activities that constitute landfill disposal. This section is necessary to ensure that CalRecycle can access records necessary to verify that jurisdictions are procuring renewable gas from POTWs that are landfilling less than 25 percent of their biosolids and contributing to the organic waste reduction mandates of SB 1383. This section is also necessary to provide a method to verify compliance with Section 18993.1(h)(5).

#### Subdivision (a)(6)

The purpose of this section is to require that if a jurisdiction procures electricity from a biomass conversion facility for the purposes of meeting their procurement target, the jurisdiction shall maintain written certification attesting that the organic waste received by the biomass conversion facility is sourced from the specified solid waste facilities per Section 18993.1(i). This section is necessary to ensure that CalRecycle can access records necessary to verify that the biomass conversion facility is diverting organic waste that would otherwise be landfilled, to be consistent with the statutory requirements of SB 1383. This section is also necessary to provide a method to verify compliance with Section 18993.1(i).

Subdivision (a)(7)

The purpose of this section is to require that if a jurisdiction adjusts its recovered organic waste product procurement target below the amount calculated using the methodology provided in Section 18993.1(c), the jurisdiction shall provide records of the transportation fuel, electricity, and gas for heating applications procured in the previous calendar year. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is complying with the requirements for adjusting a procurement target in Section 18993.1(j).

Subdivision (a)(8)

The purpose of this section is to require that if a jurisdiction procures mulch to comply with the recovered organic waste product procurement target, the jurisdiction shall maintain a copy of the ordinance or similarly enforceable mechanism required to demonstrate compliance with the environmental health standards for land application described in Section 18993.1(f)(4)(A). This section is necessary to ensure that CalRecycle can access records necessary to verify compliance with Section 18993.1(f)(4).

**Section 18993.3. Recycled Content Paper Procurement Requirements.**

Subdivision (a)

The purpose of this section is to require jurisdictions to procure recycled content paper products and printing and writing paper consistent with existing requirements in Public Contract Code 22150-22154. The reference to existing code is a substantive change compared to the requirements described in the ISOR for jurisdictions to procure a minimum percentage of recycled content paper products. Given the prevalence of paper in the disposal stream, procurement of recycled paper is needed to grow the market for recycled paper to achieve the organic waste reduction goals. This section is necessary to help achieve the organic waste diversion goals in SB 1383 by ensuring an end use for diverted organic waste to avoid disposal of such material.

Subdivision (b)

The purpose of this section is to establish the requirement that jurisdictions procure recycled content paper products and printing and writing paper that are eligible to be labeled with the unqualified recyclable label as defined in the Federal Trade Commission “Guides for the Use of Environmental Marketing Claims.” As specified in the “Guides for the Use of Environmental Marketing Claims,” marketers can make unqualified recyclable claims when “recycling facilities are available to a substantial majority of consumers or communities where the item is sold,” where “substantial majority” means at least 60 percent. Currently, multi-material products (e.g., plastic-lined paper cups) are not recyclable and are instead landfilled. The Institute of Scrap Recycling Industries, in its “Scrap Specifications Circular” (February 2018), notes that non-preferable or prohibited paper products in curbside recyclables inbound to material recovery facilities includes multi-material products such as “wax paper,” “clean, dry double-polycoat food packages,” “cardboard lined with plastic,” and “waxed/waterproof

cardboard.” The purpose of this section is to ensure that jurisdictions comply with the procurement requirement by purchasing recyclable paper products and printing and writing paper. This section is necessary because allowing a jurisdiction to meet the procurement requirement by purchasing non-recyclable paper products that are then landfilled would undermine the overall efforts to meet the organic waste reduction goals established in Section 39730.6 of the Health and Safety Code.

#### Subdivision (c)

The purpose of this section is to clarify that a jurisdiction must require businesses from which it purchases paper products and printing and writing paper to provide written certifications as to postconsumer recycled content and recyclability. This section is necessary to provide a documentary record of jurisdictional compliance so this Article may properly be enforced. This section is necessary to notify the jurisdiction of the requirement to obtain written certifications as they are subject to the recordkeeping requirements pursuant to Section 18993.4.

#### Subdivision (c)(1)

The purpose of this section is to clarify what must be included in the written certification the jurisdiction obtains from a business. The written certification supplied by the business must state the minimum percentage of postconsumer material in the product for the department to verify the product is in compliance with subdivisions (a) and (b). This section also clarifies that the requirement to obtain a written certification from a business may be waived if the postconsumer material percentage can be verified by a product label, catalog, invoice, or a manufacturer or vendor website. This section is necessary to provide a jurisdiction the ability to waive the requirement to obtain a written certification from a business if needed to prevent an unnecessary administrative burden for jurisdictions.

#### Subdivision (c)(2)

The purpose of this section is to clarify what a business must certify in writing regarding the products sold to the jurisdiction that are eligible for an unqualified recyclable label as defined in 16 Code of Federal Regulations Section 260.12. A product is eligible for an unqualified recyclable label if recycling facilities are available to at least 60 percent of the consumers or communities where the product is sold. This certification is necessary for the department to verify that jurisdictions are complying with the procurement requirement by purchasing recyclable paper products and printing and writing paper. Allowing a jurisdiction to meet the procurement requirement by purchasing non-recyclable paper products and printing and writing paper that are then landfilled would undermine the overall efforts to meet the organics waste reduction goals established in Section 39730.6 of the Health and Safety Code. This section is necessary to clarify what must be included in the written certification the jurisdiction obtains from a business.

### **Section 18993.4. Recordkeeping Requirements for Recycled Content Paper Procurement.**

#### Subdivision (a)

The purpose of this section is to explain the recordkeeping requirements for jurisdictions to demonstrate compliance with Section 18993.3. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

#### Subdivision (a)(1)

The purpose of this section is to require that jurisdictions maintain all invoices, receipts, or other proofs of purchase for paper product purchases that describe the procurement by volume and type. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

#### Subdivision (a)(2)

The purpose of this section is to require jurisdictions to maintain all certifications or other verification required under Section 18993.3. This section is necessary to ensure that CalRecycle can access records necessary to verify that a jurisdiction is in compliance with the minimum requirements of this chapter.

### **Article 13. Reporting**

#### **Section 18994.1. Initial Jurisdiction Compliance Report.**

##### Subdivision (a)

The purpose of this section is to provide the department with an initial compliance report from jurisdictions soon after these regulations go into effect on the January 1, 2022, date reflected in the statutory language of SB 1383. The most crucial first step for jurisdictions is to adopt an ordinance or other enforceable mechanism to enforce this chapter and to provide jurisdiction contact information to the department. This section is necessary to ensure jurisdictions have performed that action in a timely manner in keeping with the effective date of the regulations and to have a point of contact for enforcement or other purposes to ensure effective and timely communication.

#### **Section 18994.2. Jurisdiction Annual Reporting.**

The purpose of this section is to require jurisdictions to report relevant information to the department to verify compliance with requirements in Chapter 12. This is necessary to ensure, given the number of jurisdictions in California, that the department is provided with sufficient information to verify jurisdiction compliance. This is a more efficient model than the department verifying compliance solely through inspections, which would be cost- and resource-prohibitive. Jurisdictions will have direct access to the data required in this section, and the department determined that reporting will be more efficient than a heavy department field enforcement presence.

##### Subdivision (a)

The purpose of this section is to require jurisdictions to report information that is indicative of compliance with the regulatory requirements of this chapter. In response to stakeholder feedback, CalRecycle consolidated many reporting requirements into

recordkeeping requirements that are accessible to the department but are not required to be reported on a regular basis to CalRecycle. The information required to be reported in this section summarizes elements of the Implementation Record that a jurisdiction must keep that demonstrate compliance with this chapter.

This section specifies that the first report is due on October 1, 2022, and covers the period of January 1, 2022, through June 30, 2022. This is necessary for the department to conduct a mid-year review (6 months) of the jurisdiction's compliance and implementation of the requirements of this chapter and allows CalRecycle an opportunity to assist in the implementation phase of the regulations.

Annual reports for 2023 and onward will be due on August 1 of each year. This aligns the reporting dates with the existing reporting dates used by jurisdictions to report information on their solid waste programs to CalRecycle.

#### Subdivision (b)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the organic waste collection requirements of Article 3 of this chapter. This section requires jurisdictions to report information that indicates the type of collection service it provides its generators, the number of generators receiving each service, the Recycling and Disposal Reporting System (RDRS) number of any high diversion organic waste processing facility serving the jurisdiction, if applicable, and whether the jurisdiction allows the placement of compostable plastics in containers or plastic bags and the facilities receiving that material. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 3 is reported to CalRecycle so compliance with the regulations can be verified.

#### Subdivision (c)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the contamination-monitoring requirements of Article 3 of this chapter. This section requires jurisdictions to identify the number of route reviews conducted, the number and type of contamination notices issued to generators, and the results of waste evaluations performed. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the container contamination minimalization requirements of Article 3 is reported to CalRecycle so compliance with the regulations can be verified.

#### Subdivision (d)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the implementation of waivers as allowed in Article 3 of this chapter. This section requires jurisdictions to report on the number of de-minimis and physical space waivers issued by a jurisdiction and the tons of organic waste disposed due to the waivers. This section also requires jurisdictions to report on the number of days emergency waivers were in effect, as the tons of organic waste disposed due to disaster and emergency waivers are not required to be reported. Finally, this section requires jurisdictions that have received a waiver from complying with the collection service requirements of this chapter to report on the number of generators that are unserved as a result of the waiver. This section is necessary to

ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 3 is reported to CalRecycle.

#### Subdivision (e)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the education and outreach requirements of Article 4 of this chapter. This section requires jurisdictions to identify the number of generators that received education information required by Article 4. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 4 is reported to CalRecycle.

#### Subdivision (f)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the hauler oversight requirements of Article 7. This section requires jurisdictions to identify the number of haulers approved to operate in the jurisdiction, the Recycling and Disposal Reporting System number for each facility that receives organic waste from haulers serving the jurisdiction, and the number of haulers that have had their approval revoked or denied. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 7 is reported to CalRecycle.

#### Subdivision (g)

The purpose of this section is to require jurisdictions to report information that demonstrates implementation of the CALGreen Building Standards and the Model Water Efficient Landscape Ordinance requirements specified in Article 8 of this chapter. This section requires jurisdictions to identify the number of construction and demolition debris removal activities that are conducted in compliance with Article 8 and the number of projects subject to Section 18989.2. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 8 is reported to CalRecycle.

#### Subdivision (h)

The purpose of this section is to require jurisdictions to report information regarding their implementation of the edible food recovery requirements of Article 10 of this chapter. This section is necessary because it requires jurisdictions to collect and report critical data to CalRecycle for tracking and potential enforcement purposes. This section is also necessary because it requires jurisdictions to collect and report information that will help them evaluate the effectiveness and success of their edible food recovery programs and assess overall commercial edible food generator compliance in the jurisdiction.

#### Subdivision(h)(1)

The purpose of this section is to require jurisdictions to report the number of commercial edible food generators located within the jurisdiction. This section is necessary because it requires jurisdictions to collect data that will help determine the rate of commercial edible food generator compliance in the jurisdiction.

#### Subdivision (h)(2)

The purpose of this section is to require jurisdictions to report the number of food recovery organizations and food recovery services physically located and operating within the jurisdiction that contract with or have written agreements with commercial edible food generators for food recovery. This section is necessary to help jurisdictions and CalRecycle assess the effectiveness and success of jurisdiction food recovery programs.

#### Subdivision (h)(2)(A)

The purpose of this section is to specify that a jurisdiction shall require food recovery organizations and food recovery services that are physically located within the jurisdiction and contract with or have a written agreement with one or more commercial edible food generators pursuant to Section 18991.3(b) to report the total pounds of edible food collected in the previous calendar year to the jurisdiction. To clarify, food recovery organizations and food recovery services should only report the total pounds collected in the previous calendar year to the jurisdiction in which their primary address is physically located. They should not report the total pounds collected to multiple jurisdictions, as that would result in double-counting of pounds recovered. This section is necessary to help jurisdictions and CalRecycle assess the effectiveness and success of jurisdiction food recovery programs and to help jurisdictions better understand the food recovery entities that are recovering the most edible food from commercial edible food generators. This section is also necessary to ensure that jurisdictions are able to collect information on the total pounds collected in the previous calendar year from commercial edible food generators in the jurisdiction, which they are required to report to CalRecycle. CalRecycle will then analyze and compile the data to measure progress toward achieving the 20 percent edible food recovery goal set in SB 1383.

#### Subdivision (h)(3)

The purpose of this section is to require jurisdictions to report the total pounds of edible food recovered by food recovery organizations and food recovery services pursuant to Subdivision (h)(2)(A) of this section. This section is necessary because it provides the information that is required for CalRecycle to evaluate the success of jurisdiction food recovery programs, countywide capacity-planning efforts, commercial edible food generator compliance, and California's progress toward achieving the statewide 20 percent edible food recovery goal set in SB 1383.

#### Subdivision (i)

The purpose of this section is to require jurisdictions to report information that demonstrates compliance with the capacity planning requirements of Article 11. This section is necessary to distinguish between county reporting requirements and reporting requirements for other jurisdictions.

#### Subdivision (i)(1)

This section requires counties to report on the amount of organic waste that will be generated for disposal, the amount of capacity available, the amount of capacity needed, and the locations suitable for new or expanded recycling facilities. This section

also requires counties to identify jurisdictions that are required to submit implementation schedules to the department and jurisdictions that did not provide information required by Article 11 to the county within 120 days. This section is necessary to identify jurisdictions that are required to submit implementation schedules and to provide CalRecycle information demonstrating a county's compliance with the requirements of Article 11.

#### Subdivision (i)(2)

The purpose of this section is to clarify that the items reported under this section are subject to a distinct reporting schedule specified in Article 11. This section is necessary because reporting on the capacity planning elements is on a distinct schedule that provides jurisdictions additional time to submit their implementation schedule.

#### Subdivision (j)

The purpose of this section is to require jurisdictions to report information that demonstrates implementation of the procurement requirements specified in Article 12 of this chapter. This section requires jurisdictions to identify the amount of recovered organic waste products procured by the jurisdiction, and, if the jurisdiction procures an amount of recovered organic waste products that is less than its procurement target, the amount of transportation fuel, electricity, and gas for heating applications that was procured. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Article 12 is reported to CalRecycle.

#### Subdivision (k)

The purpose of this section is to require jurisdictions to report information that demonstrates implementation of the compliance monitoring and enforcement requirements in Articles 14, 15, and 16. This section is necessary to ensure that information demonstrating a jurisdiction's compliance with the requirements of Articles 14, 15, and 16 is reported to CalRecycle.

#### Subdivision (l)

The purpose of this section is to require jurisdictions to report any changes to their adopted ordinances and enforceable mechanisms and their contact information previously reported in the Implementation Record. This section is necessary to ensure the department is aware of any changes to adopted ordinances and enforcement mechanisms, and that it has the most up-to-date contact information for the jurisdiction so compliance and enforcement issues can be addressed efficiently and in a timely manner.

### **Article 14. Enforcement Requirements**

Through the creation of Public Resources Code, Division 30, Part 3, Chapter 12.9, and most recently Chapter 13.1 (SB 1383), the California Legislature has recognized the need for local jurisdictions to have an active role in ensuring generators of organic waste participate in local organic recycling programs to meet the state's goal under AB 341 to recycle 75 percent of all waste by 2020 and to meet the SB 1383 target to reduce



the statewide level of disposal of organic waste by 50 percent by 2020 and 75 percent by 2025.

PRC Section 42649.8 et seq. requires jurisdictions to identify and monitor business compliance with mandatory organics recycling requirements. SB 1383 set additional state goals to recycle organic waste due to the known impacts of landfilling organic waste on GHG emissions and provided the department authority to set minimum requirements on entities to ensure state goals are met, which this chapter does in previous articles. In order to meet the state mandates, all entities regulated under this chapter must comply with the minimum standards set forth in this chapter.

The purpose of this Article is to ensure compliance with this chapter, ensure a fair playing field for all entities regulated by this chapter, and specify that jurisdictions have the primary responsibility for monitoring compliance and taking enforcement on entities failing to comply with the chapter. Since the chapter allows flexibility to consider jurisdiction differences, jurisdictions shall fulfill this oversight role by adopting their own enforceable ordinances or other enforceable mechanisms that meet or exceed the requirements of this chapter, and through compliance reviews or inspections and enforcement of those ordinances or policies.

This Article and Article 15 include an enforcement structure under which jurisdictions oversee day-to-day compliance of residents, businesses, and haulers under their authority (e.g. ensuring that businesses are subscribed to organic waste recycling services), and CalRecycle oversees jurisdiction compliance. This approach mirrors the delegated enforcement approach used by CalRecycle in the waste tire hauling and solid waste facility programs, under which primary oversight is conducted at the local level (typically by county offices of environmental health) with CalRecycle concurrence. The structure of delegated local oversight, whereby local entities conduct primary oversight and the state provides secondary oversight, is a proven mechanism for ensuring compliance with existing environmental regulations. The oversight structure in the regulations is modeled on existing facility oversight conducted by local enforcement agencies (LEAs) and tire enforcement agencies (TEAs). In these programs, compliance with state requirements consistently exceeds 90 percent, and fewer than 2 percent of violations require escalated enforcement beyond a Notice of Violation or notice to correct.

Within this structure of delegated enforcement, the specific oversight, monitoring, and enforcement requirements that apply to jurisdictions in the regulations are modeled on enforcement ordinances adopted and implemented by jurisdictions that enjoy the highest rates of businesses in compliance with organic waste recycling requirements (as measured by business participation in existing organic waste recycling requirements). CalRecycle modeled the local enforcement provisions (monitoring, noticing processes, and penalties) that jurisdictions must implement on the provisions included in the organic waste recycling and enforcement ordinances adopted by the City and County of San Francisco and the Alameda County Waste Management Authority. These jurisdictions enjoy the highest business compliance rates, with more than 75 percent of their businesses subscribed to organic waste recycling services.

Numerous stakeholders argued that provisions requiring jurisdictions to monitor compliance and take enforcement action for noncompliance are unnecessary and should be removed from the final regulations. Under existing law (AB 1826 (Chesbro, Chapter 727, Statutes of 2014)), certain commercial businesses are already required to subscribe to organic waste recycling services and jurisdictions are required to *offer* organic waste recycling to those businesses. However, that law does not currently require jurisdictions to take enforcement action against businesses that fail to obtain service (the state is not authorized to take enforcement action against businesses under AB 1826). The vast majority of jurisdictions have chosen not to take enforcement action against any businesses that fail to have service as required by law. These jurisdictions reported that fewer than 25 percent of their businesses are in compliance with existing organic waste recycling requirements.

The compliance rates achieved in the jurisdictions on which CalRecycle modeled the delegated local enforcement provisions represent the minimum compliance levels necessary to meet the statewide organic waste reduction targets. Compliance levels in jurisdictions that lack enforcement mechanisms reveal that failure to include mandatory jurisdiction oversight and enforcement in the regulation is incompatible with the state's ability to achieve its organic waste reduction and climate change goals.

This Article is necessary to specify the minimum oversight a jurisdiction is required to have on regulated entities by setting minimum compliance activities. Activities include record reviews, inspections and route reviews, and visual reviews of the compliance of an entity within the jurisdiction. Furthermore, this Article is needed to set minimum requirements for recordkeeping by jurisdictions so the department can review a jurisdiction's compliance with these requirements and other requirements of this chapter.

#### **Section 18995.1. Jurisdiction Inspection Requirements.**

##### Subdivision (a)

The purpose of this section is to set forth that a jurisdiction must have an inspection and enforcement program meeting enumerated requirements that are equivalent to or stricter than the requirements in this chapter. This section is necessary to inform the jurisdiction of the minimum requirements, the expected beginning date, and the frequency with which to perform these minimum requirements to comply with the chapter. These requirements are necessary to ensure the requirements of the chapter are adequately enforced in order to achieve the ambitious organic waste diversion goals set in SB 1383. A jurisdiction has the flexibility to develop an inspection and enforcement plan that best fits its individual needs.

##### Subdivision (a)(1)(A)(1)

The purpose of this section is to require a jurisdiction using a three-bin or two-bin collection service to complete an annual compliance review of all solid waste collection accounts for commercial businesses subject to its authority that generate 2 cubic yards or more per week of solid waste and to determine compliance with organic waste generator requirements and self-haul requirements. This section is necessary to ensure adequate regulatory oversight of commercial businesses that generate 2 cubic yards or

more per week of solid waste and produce organic waste. This section requires the jurisdiction to complete a compliance review of all garbage accounts for commercial businesses generating 2 cubic yards per week.

The jurisdiction may conduct a compliance review in the office by verifying normal business records such as billing accounts demonstrating that organic waste generators are subscribing to organic waste recycling services and complying with the collection service provided by the jurisdiction. A compliance review does not necessarily require a physical inspection of each commercial business that is subscribing to a collection service. However, the jurisdiction may do so if it finds that it is necessary to determine if a business is complying with applicable regulatory requirements. This section is necessary to ensure that jurisdictions take actions to verify compliance with the applicable requirements of this chapter.

#### Subdivision (a)(1)(A)(2)

The purpose of this section is to require jurisdictions to either (1) conduct annual route reviews of commercial businesses and residential areas for compliance with organic waste generator requirements set forth in Section 18984.9 and container contamination requirements set forth in Section 18984.5 or (2) perform waste evaluations consistent with Section 18984.5(c) to verify commercial business and residential generator compliance with container contamination minimization requirements. This section is necessary to achieve the goals of SB 1383 by ensuring that organic waste is being properly diverted from disposal at the generator level through adequate regulatory oversight of relevant commercial businesses and residential generators. A compliance review alone is not sufficient to determine if organic waste collected is being properly separated and recovered to the full extent to reduce contamination.

#### Subdivision (a)(1)(B)

The purpose of this section is to require jurisdictions using the unsegregated single-container compliance method in Section 18984.3 to perform an annual compliance review of all solid waste collection accounts for commercial businesses that generate 2 cubic yards or more per week of solid waste, including organic waste. This section is necessary to require that jurisdictions perform adequate regulatory oversight of relevant businesses to ensure the proper diversion of organic waste from disposal to achieve the goals of SB 1383.

#### Subdivision (a)(1)(B)(1)(i)

The purpose of this section is to require jurisdictions using the unsegregated single-container compliance method in Section 18984.3 to determine the regulatory compliance of relevant commercial businesses with organic waste generator requirements in Section 18984.9(a) and self-haul requirements pursuant to Section 18988.3, including if a business is complying through back-hauling. This section is necessary to ensure adequate regulatory compliance by verifying that commercial businesses are subscribing to a collection service, complying through back-hauling, or self-hauling organic waste to a high diversion solid waste facility that recovers 50 percent (in 2022) and 75 percent (in 2025) of the organic waste that comes into the

facility. This ensures that jurisdictions opting for a single-bin system are meeting the minimum regulatory requirements and contributing to the overall state goal to remove organics from landfill disposal. Furthermore, this section is necessary to ensure that there is a level playing field across all jurisdictions independent of the type of compliance method chosen by the jurisdictions.

Subdivision (a)(1)(B)(1)(ii)

The purpose of this section is to require jurisdictions to determine the compliance of relevant commercial businesses with the self-hauling requirements in Section 18988.3, including whether a business is complying through back-hauling organic waste. This section is necessary to require that jurisdictions ensure that organic waste is not sent to disposal in contravention of the requirements of this chapter.

Subdivision (a)(2)

The purpose of this section is to specify that a jurisdiction shall conduct inspections on commercial edible food generators and the dates by which such inspections shall commence. This section is necessary to require that jurisdictions are adequately enforcing the edible food regulatory requirements of Article 10 of this chapter to achieve the edible food recovery goals required by SB 1383.

Subdivision (a)(3)

The purpose of this section is to clarify that jurisdictions shall investigate complaints consistent with Section 18995.3. This section is necessary to ensure that a jurisdiction is complying with that section and to provide the department a method to enforce if the jurisdiction fails to comply.

Subdivisions (a)(4) and (a)(5)

The purpose of these sections is to establish phased-in jurisdictional enforcement of this chapter. These sections are necessary because SB 1383 does not allow the department to require a jurisdiction to impose penalties until after January 1, 2024. However, SB 1383 still requires that the state meet a 50 percent reduction in statewide disposal of organic waste by 2020 and a 75 percent reduction by 2025. Thus, to ensure that the state is on track to meet the diversion goals of SB 1383, it is necessary to provide educational materials in order to ensure awareness of regulatory requirements.

Subdivision (a)(6)

The purpose of this section is to clarify that jurisdictions shall verify, at least every five years from the date of issuance, through inspection or route review, that commercial businesses are meeting the requirements of de-minimis and physical space waivers pursuant to Section 18984.11. Since a jurisdiction may waive a commercial business's obligation to comply with some or all of the organic waste requirements of this Article when its organic waste generation is below the specified threshold, or if the business can document or a jurisdiction has evidence to support that the premises lack adequate space for separate organic waste containers, the department requires the jurisdiction to verify that the commercial business's organic waste generation meets the waiver requirements set forth in 18984.11. This section is necessary to reassess if waivers

should still be in place. Commercial businesses may have fluctuating amounts of organic waste generation due to seasonality or changes in business practices, etc. Without this section, a jurisdiction could issue a waiver and have no requirement to ensure that it continues to be justified, thus potentially allowing certain organic waste generators to improperly avoid complying with applicable requirements of this chapter and negatively impacting the state's ability to achieve the organic waste diversion goals in SB 1383. This section was updated to allow jurisdictions to inspect relevant businesses every five years instead of annually due to stakeholder concerns that annual inspections were too burdensome.

#### Subdivision (b)

The purpose of this section is to clarify that a jurisdiction is required to conduct a sufficient number of route reviews and inspections on regulated entities to ensure that they are complying with this chapter and has the ability to prioritize inspections of entities that are more likely to be out of compliance. This includes the need to conduct a sufficient number of route reviews and inspections to have an overall picture of the compliance of generators under their authority. This section is necessary to ensure that jurisdictions are adequately monitoring compliance with regulatory requirements to ensure the diversion goals of SB 1383 are met while still allowing flexibility to conduct the number of inspections appropriate to a jurisdiction.

#### Subdivision (c)

The purpose of this section is to specify that a jurisdiction shall generate a written or electronic record for each inspection, route review, and compliance review and include the minimum information that is required in each record. This section is necessary to ensure an adequate evidentiary record for enforcement purposes to allow the department to evaluate whether a jurisdiction is complying with the requirements of this chapter.

#### Subdivision (d)

The purpose of this section is to specify the minimum records a jurisdiction shall include in the Implementation Record and how to maintain the records, including documentation of all route reviews, compliance reviews, inspections, and enforcement actions, for review by the department. This section is necessary to provide the department, as an oversight agency, evidence that a jurisdiction is meeting its requirements for compliance reviews, inspections, route reviews, educational material, and enforcement actions.

#### Subdivision (e)

The purpose of this section is to specify that a jurisdiction may have a designee conduct inspections required by this section, pursuant to Section 18981.2. This section is necessary to allow jurisdictions to have a contract or agreement with a public or private entity to fulfill its responsibilities when such entities, such as waste haulers, are in a better position to gather evidence regarding regulatory compliance.

#### Subdivision (f)

The purpose of this section is to specify that any records obtained by a jurisdiction through its implementation and enforcement of the requirements of this chapter are subject to the requirements and applicable disclosure exemptions of the Public Records Act set forth in Government Code Section 6250 et seq. This section is necessary to clarify how records may be disclosed to the public. This section was drafted in response to stakeholder concerns about the protection of confidential, proprietary, and trade secret information. There are existing practices for public agency handling of such records through the Public Records Act, and this section clarifies that fact.

### **Section 18995.2. Implementation Record and Recordkeeping Requirements.**

#### Subdivisions (a) through (e)

The purpose of sections (a) through (e) is to require that certain records be retained by a jurisdiction in an Implementation Record and to describe how such records shall be maintained. This section is necessary to provide a sufficient evidentiary record for the department to evaluate jurisdictional compliance with regulatory requirements.

#### Subdivision (f)

The purpose of this section is to provide a list of the records that a jurisdiction must maintain in the Implementation Record. This section is necessary to establish, with clarity, the full extent of recordkeeping requirements for a jurisdiction.

#### Subdivision (g)

The purpose of this section is to clarify that all records in the Implementation Record are subject to the California Public Records Act. This section is necessary to clarify how records may be disclosed to the public. This section was drafted in response to stakeholder concerns about the protection of confidential, proprietary, and trade secret information. There are existing practices for public agency handling of such records through the Public Records Act, and this section clarifies that.

### **Section 18995.3. Jurisdiction Investigation of Complaints of Alleged Violations.**

The overall purpose of this section is to provide for a process by which any person may file a complaint with a jurisdiction regarding a violation of this chapter. This section is necessary to enhance regulatory enforcement and compliance by allowing members of the public a method to bring potential violations to the attention of a jurisdiction. The public may be aware of regulatory violations that go undetected by a jurisdiction despite regular inspections and other enforcement requirements.

#### Subdivision (a)

The purpose of this section is to require a jurisdiction to provide a procedure for the receipt and investigation of written complaints of alleged violations, including those submitted anonymously. This section is necessary to ensure that jurisdictions have measures in place to ensure that complaints are appropriately addressed.

#### Subdivision (b)

The purpose of this section is to outline the required information that shall be included in the procedure for receiving complaints. This is necessary to set a minimum threshold for the content of complaints to ensure there is sufficient information for a jurisdiction to adequately investigate that complaint.

#### Subdivision (c)

The purpose of this section is to state that the jurisdiction has a requirement to begin an investigation within 90 days of receiving a complaint and that the jurisdiction may decline to investigate the complaint if, in its judgement, the jurisdiction believes it is unwarranted or the allegations are contrary to known facts. This section does not require a jurisdiction to complete an investigation within 90 days, but rather to commence an investigation if the complaint meets minimum requirements. This section is necessary to ensure complaints are being responded to in a timely manner while also relieving jurisdictions of the requirement to investigate a complaint that is known to be false. This is necessary to avoid the unwarranted expenditure of limited resources by a jurisdiction.

#### Subdivision (d)

The purpose of this section is to state that the jurisdiction is required to provide a procedure to notify the complainant of the results of the investigation of the complaint (excluding complaints filed anonymously). This section is necessary to encourage responsiveness and transparency on the part of a jurisdiction, which is intended to encourage the public to bring potential violations to the attention of a jurisdiction.

#### Subdivision (e)

The purpose of this section is to clarify that a jurisdiction shall maintain all complaints and responses in the Implementation Record, including the complaint as received, the determination of compliance, and any Notice of Violations issued. This section is necessary for oversight purposes to allow the department to verify that a jurisdiction is following the requirements for investigating complaints, including having a procedure, following that procedure, commencing the investigation within the allowed time frame, and ultimately resolving the complaint.

### **Section 18995.4. Enforcement by a Jurisdiction.**

The main purpose of this section is to describe the procedures and timelines for enforcement of the requirements of this chapter by jurisdictions. This section is necessary to require adequate and timely enforcement by jurisdictions to ensure that the organic waste diversion goals of SB 1383 are met.

#### Subdivision (a)(1) and (a)(2)

The purpose of these sections is to outline the enforcement action a jurisdiction shall take, and the timelines it is subject to, for a violation occurring on or after January 1, 2024. This section states a jurisdiction shall issue a Notice of Violation requiring compliance within 60 days of the issuance of that notice. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the jurisdiction shall

commence an action to impose penalties pursuant to Article 16 of this chapter. These sections are necessary to ensure that jurisdictions provide adequate notice of violations for due process purposes and that jurisdictions enforce the requirements of this chapter in a timely manner to prevent widespread, lingering violations that may undermine the organic waste diversion goals of SB 1383.

#### Subdivision (b)

The purpose of this section is to allow the jurisdiction the ability to extend the compliance deadlines set forth in a Notice of Violation pursuant to subdivision (a) under specified extenuating circumstances. This section is necessary because there may be cases in which violations are beyond the control or responsibility of a regulated entity. In those instances, it is necessary to allow a jurisdiction to avoid expending limited enforcement resources and subjecting regulated entities to potential administrative civil penalties when vigorous enforcement may be unjustified. The language “other emergencies” is intended as a catch-all provision to take into account other situations that are emergent in nature, that do not fall into the enumerated list of natural disasters, that may not be commonly defined as “natural disasters,” but that are nevertheless outside the control of the jurisdiction that cause compliance to be impracticable.

#### Subdivision (c)

The purpose of this section is to outline the information that is required to be included in a Notice of Violation issued by a jurisdiction. This information is necessary to provide adequate due process notice to a responsible party.

### **Article 15. Enforcement Oversight by the Department**

Through the creation of Public Resources Code, Division 30, Part 3, Chapter 12.9, and most recently Chapter 13.1 (SB 1383), the California Legislature has recognized the need for the department to have oversight and enforcement authority over jurisdictions that have a role in carrying out organic waste recovery requirements to meet state mandates. This regulation requires jurisdictions to implement and comply with regulatory requirements. The overall purpose of this Article is to outline the process by which jurisdictions and other entities subject to requirements in this chapter are subject to the department’s oversight and enforcement. This Article is necessary to ensure that jurisdictions receive adequate oversight by the department to ensure statewide consistency in the implementation of the requirements of this chapter as well as to provide a mechanism for enforcement by the department when jurisdictions fail to meet minimum regulatory requirements.

Under this Article, CalRecycle is responsible for conducting oversight and ensuring compliance across the state. CalRecycle’s oversight is focused on cities and counties, and entities that are not subject to the solid waste authority and oversight of cities and counties. CalRecycle’s oversight, enforcement, and penalty procedures in the 1383 regulations are modeled on existing environmental regulations enforced by CalRecycle. The SB 1383 regulations require CalRecycle to follow noticing protocols, penalty factors, and administrative procedures that are standard practices for remedying



violations of environmental regulations. The structure of the enforcement articles in the SB 1383 regulations require CalRecycle to issue notices for violations, provide a time for the regulated entity to correct the violation or violations, and in the event of an entity's failure to comply with the regulations within the established time frame, levy fines based on a transparent set of factors.

Jurisdiction representatives requested that in lieu of the proposed enforcement articles in the SB 1383 regulations, CalRecycle adopt and apply the "Good Faith Effort" compliance model that applies to jurisdiction compliance with AB 939 (Sher, Chapter 1095, Statutes of 1989). This oversight model was specifically designed to evaluate whether a jurisdiction implemented self-selected programs to achieve a unique jurisdiction diversion target. Unique jurisdiction diversion and recycling targets and, by extension, self-selected programs, do not exist in the statutory construction of SB 1383. The statute specifically precludes CalRecycle from setting unique diversion targets for individual jurisdictions. The statute instead requires CalRecycle to adopt regulations that place objective standards and requirements on regulated entities (including but not limited to jurisdictions) necessary to achieve a statewide recycling target.

#### **Section 18996.1. Department Evaluation of Jurisdiction Compliance.**

The purpose of this section is to require the department to evaluate a jurisdiction's compliance with this chapter and specify the process the department will use to do so, including reviewing the Implementation Record and conducting inspections, compliance reviews, and route reviews. This section is necessary to clarify the department has oversight and enforcement authority over jurisdictions to ensure they comply with the requirements of this chapter and to provide transparency as to the method by which it will occur.

Subdivisions (a) through (e)

The purpose of these sections is to outline the general method used by the department to evaluate jurisdiction compliance. These sections are necessary to provide clear oversight authority to the department and describe a transparent description of the methods by which the department will evaluate jurisdictional compliance with this chapter.

#### **Section 18996.2. Department Enforcement Action Over Jurisdictions.**

The overall purpose of this section is to describe the department's enforcement process over a jurisdiction in violation of this chapter. This section is necessary to require a timely enforcement process to address violations of this chapter by jurisdictions to ensure that the organic waste diversion goals of SB 1383 are met. Adequate and timely enforcement is essential to encourage compliance with the regulatory requirements in this chapter that are designed to achieve those goals.

Retaining flexibility to provide additional time to remedy violations may be justified, such as when a jurisdiction is making substantial efforts or when extenuating circumstances or lack of infrastructure or capacity may be a factor. This avoids forcing penalties when violations may be corrected in a reasonably timely manner or a delay in penalties may be justified. Jurisdictions have a generous amount of time to come into compliance after a violation has occurred and a Notice of Violation is issued.

#### Subdivisions (a) and (a)(1)

The purpose of these sections is to describe the initial enforcement process for violations of this chapter by jurisdictions. This section is necessary to put jurisdictions on notice as to how violations of this chapter will be enforced and the amount of time that will be allowed to correct violations prior to the imposition of administrative civil penalties.

#### Subdivision (a)(2)

The purpose of this section is to provide for a process under which the deadline for compliance with a Notice of Violation shall be extended due to extenuating circumstances. This section is necessary to allow the department some enforcement flexibility if a jurisdiction is unable to meet the compliance deadline in a Notice of Violation due to circumstances that may be beyond its control. This section is necessary to allow the department to avoid expending limited enforcement resources and subjecting jurisdictions to potential administrative civil penalties when vigorous enforcement may be unjustified.

#### Subdivision (a)(2)(A)

The purpose of this section is to outline the factual findings necessary for the department to issue a Corrective Action Plan (CAP) to a jurisdiction that is unable to comply within the allotted maximum of 180 days due to organic waste recycling capacity infrastructure deficiencies. This is necessary to ensure that, for purposes of enforcement, jurisdictions in violation of this chapter remain on an accountable path to compliance despite extenuating circumstances. This section also ensures that there are factual findings in the enforcement record that demonstrate additional time for compliance is justified and that jurisdictions are otherwise providing for organic waste collection services where infrastructure deficiencies are not causing a lack of compliance. This is necessary to restrict the use of Corrective Action Plans to only those very limited circumstances under which a jurisdiction has done everything within its authority and ability to comply with this chapter and that enforcement otherwise proceeds in a timely manner to ensure that the organic waste diversion goals of SB 1383 are met.

#### Subdivision (a)(2)(B)

The purpose of this section is to define “substantial effort.” This section is necessary because “substantial effort” is a key term used in Section (a)(2) to define the parameters for eligibility for the extended compliance timelines in a Corrective Action Plan, and the department needs standards by which to evaluate that parameter. See Section (a)(2) for further information.

#### Subdivision (a)(2)(C)

The purpose of this section is to define “extenuating circumstances.” This section is necessary because “extenuating circumstances” is a key term used in Section (a)(2) to define the parameters for eligibility for the extended compliance timelines in a Corrective Action Plan, and the department needs standards by which to evaluate that

parameter. See Section (a)(2) for further information. The language “other emergencies” is intended as a catch-all provision to take into account other situations that are emergent in nature that do not fall into the enumerated list of natural disasters, that may not be commonly defined as “natural disasters,” but that are nevertheless outside the control of the jurisdiction that cause compliance to be impracticable.

**Subdivision (a)(3)**

The purpose of this section is to state the maximum compliance deadline and the information the department shall include in a Corrective Action Plan. This section is necessary to ensure that Corrective Action Plans are not allowed to continue without time limits. SB 1383 has strict timelines to achieve its organic waste diversion goals, and allowing violations of this chapter to continue without limit will frustrate the state’s ability to achieve those goals. In addition, this section is necessary for transparency purposes to put all parties on notice as to what needs to be included in a Corrective Action Plan.

**Subdivision (a)(4)**

The purpose of this section is to allow an extension to the Corrective Action Plan of 12 months if a jurisdiction continues to struggle with inadequate organic waste recycling infrastructure capacity and has demonstrated substantial effort to correct the violation. This is necessary to provide flexibility and avoid undue enforcement in those exceptional cases in which infrastructure capacity issues are major while still keeping jurisdictions on an accountable path to compliance.

**Section 18996.3. Department Enforcement When Jurisdiction Fails to Enforce.**

The purpose of this section is to allow the department to take direct enforcement action in lieu of a jurisdiction against regulated entities if a jurisdiction fails to enforce the requirements set forth in the chapter. This section is necessary to ensure that if a jurisdiction is not fulfilling its obligation to enforce the requirements of this chapter, the department shall intervene and take enforcement action on entities not complying if the department notifies a jurisdiction in writing of its intent to do so. This section is necessary for the department to meet the strict organic waste diversion timelines in SB 1383 so violations of this chapter are not allowed to linger without limit, to discourage jurisdictions from not taking enforcement, and to ensure an even playing field.

**Section 18996.4. Access for Inspection by the Department.**

The purpose of this section is to clarify that regulated entities must provide the department access to conduct inspections and investigations. This section is necessary to ensure the department has access as needed to evaluate and verify compliance with this chapter and pursue enforcement action if needed pursuant to Section 18996.9.

**Section 18996.5. Enforcement Actions Against Organic Waste Generators**

**Located in Multiple Jurisdictions.**

The purpose of this section is to provide a process by which multiple jurisdictions may jointly refer organic waste generators with locations in more than one jurisdiction, that pose substantial statewide concern, to the department for enforcement action. This section was added in response to stakeholder requests for a mechanism to allow unified department enforcement in cases involving entities violating this chapter in multiple jurisdictions. This section outlines the procedure for a jurisdiction to adhere to when filing a joint referral and the process the department will follow to determine if it will take enforcement action in lieu of the jurisdictions. This is necessary to allow clear direction on the information required, including credible evidence, for the referral to be accepted by the department. In some cases, enforcement by the department may be more effective at achieving the intent of the chapter than separate enforcement by each jurisdiction. This section is necessary because a local jurisdiction does not have authority to take enforcement action against entities outside its boundaries and a process is necessary to allow the state to undertake unified enforcement in such situations for effective enforcement. This section also requires a jurisdiction to take certain due diligence steps prior to making a referral to the department, allows the department to refuse enforcement if a referral does not meet certain requirements, and requires a jurisdiction to suspend enforcement if the department takes over enforcement.

#### **Section 18996.6. Department Enforcement Action Regarding State Agencies.**

The purpose of this section is to establish progressive enforcement procedures to be taken by the department if it finds a state agency in violation of Article 5 or Article 10 of this chapter. This section is necessary because local jurisdictions do not have authority to enforce against the state, and special procedures are necessary because enforcement action against a state agency is fundamentally different from enforcement action against other regulated entities.

##### **Subdivision (a)(1)**

The purpose of this section is to outline the enforcement time frame for issuing a Notice of Violation to a state agency. This section is necessary to notify the state agency of a violation and allow ample time to remedy the situation before the department takes enforcement action.

##### **Subdivision (a)(2)**

The purpose of this section is to outline the resulting enforcement action if the state agency fails to comply by the final compliance deadline. This section is necessary to provide transparency and notice to those who may be subject to enforcement action.

#### **Section 18996.7. Department Enforcement Action Regarding Local Education Agencies and Federal Facilities.**

The purpose of this section is to establish the enforcement procedures to be taken by the department if it finds a local education agency or federal facility in violation of this

chapter. This section is necessary because local education agencies and federal facilities, as defined, are not subject to local solid waste control, and special procedures are necessary to allow the department to enforce. Enforcement action against a local education agency is fundamentally different from enforcement action against other regulated entities.

#### **Section 18996.8. Department Investigation of Complaints of Alleged Violations.**

The purpose of this section is to outline the process for filing a complaint with the department by a person alleging a violation of requirements of this chapter. This section is necessary to ensure there is a process to notify the department of violations of this chapter since members of the public, in some circumstances, may be in a better position to discover potential violations due to practical limitations on the inspection reach of the department. This allows the department the opportunity to receive complaints, investigate complaints, and determine if the allegations are true, and if so, to issue a violation. This will also facilitate the process of identifying noncompliant activities or actions previously unknown to the department.

#### **Section 18996.9. Department Enforcement Actions Against Entities.**

Subdivisions (a) and (b)

The purpose of sections (a) and (b) is to delineate when the department will enforce this chapter in lieu of a local jurisdiction and to establish the process the department shall follow in doing so. This section is necessary to ensure proper enforcement of this chapter as a backstop in situations in which a local jurisdiction fails to enforce or the regulated entity is beyond the enforcement authority of a local jurisdiction. The enforcement process gives a regulated entity an opportunity to remedy a violation before the department imposes penalties, just as if the jurisdiction were taking enforcement action.

Subdivision (c)

The purpose of this section is to detail the department's criteria and procedures for extending compliance deadlines in a Notice of Violation or a Notice and Order to Correct. This allows additional time to comply if the department finds, based on available evidence, that additional time is necessary for compliance and extenuating circumstances beyond the control of the respondent make compliance impracticable. This section is necessary because there may be cases in which violations are beyond the control or responsibility of a regulated entity. This section is necessary to allow the department to avoid expending limited enforcement resources and subjecting regulated entities to potential administrative civil penalties when vigorous enforcement may be unjustified.

### **Article 16. Administrative Civil Penalties**

Through the creation of Public Resources Code, Division 30, Part 3, Chapter 12.9, and most recently Chapter 13.1 (SB 1383), the California Legislature has recognized the

need for the department to have oversight and enforcement authority over jurisdictions that have a role in carrying out organic recycling requirements to meet the state mandates. In order to meet the state mandates, all entities regulated under this chapter must comply with the minimum standards set forth in this chapter. The overarching purpose of this Article is to ensure compliance with this chapter and ensure a fair playing field for all entities regulated by this chapter.

The purpose of this Article is to outline the department's process for assessing penalties for failing to comply with the requirements of the chapter. The department set minimum penalty thresholds to discourage noncompliance with the requirements of the chapter. The penalty amounts provide jurisdictions a discretionary range. The range is consistent with the penalty amounts specified in Government Code Sections 53069.4, 25132, and 36900.

This Article is necessary to ensure assessed penalties are in proportion to the type and severity of a violation and applied in a consistent manner. This Article also allows respondents to appeal an accusation and it ensures proper noticing and due process consistent with the Administrative Procedure Act.

### **Section 18997.1. Scope.**

#### Subdivision (a)

The purpose of this section is to clarify administrative civil penalties shall be imposed consistent with PRC 42652.5 in accordance with the requirements set forth in this Article. This section is necessary to establish that penalties will be imposed for noncompliance with this chapter.

#### Subdivision (b)

The purpose of the section is to state that a jurisdiction shall adopt ordinance(s) and enforceable mechanisms to impose penalties on noncompliant entities as prescribed in Section 18997.2 of this chapter. This section is necessary to ensure local jurisdictions have an adequate local enforcement mechanism that includes penalties while allowing flexibility to accommodate the specialized needs of the jurisdiction as long as local requirements meet the minimum standards in this chapter.

### **Section 18997.2. Penalty Amounts.**

#### Subdivision (a)

The purpose of this section is to clarify that a jurisdiction shall impose penalties for violations consistent with the applicable requirements prescribed in the Government Code Sections 53069.4, 25132, and 36900. This section outlines the penalty for first, second, and third violations. As described in Section 18995.4(a)(3) and 18996.9(b), if an entity is found in violation and is levied a penalty, this is considered a first violation. If that entity is found in violation again for the same section (same violation) that it was previously penalized for, within one year of receiving a penalty for the first violation, this will constitute a second violation, in which the penalty amount will escalate. If an entity

is found in violation and penalized again, within one year of imposing penalty for the latest violation, this would be a third violation, and so on for subsequent violations.

The descriptions of the first, second, or subsequent violations in this section should not be misunderstood as escalating penalties for multiple violations occurring at one given time, but as multiple repeat occurrences of the same violation within one year of the last levied penalty. This section is necessary to set the minimum penalty levels for violations of adopted ordinances(s) or enforceable mechanisms and outline the penalty amounts for escalated penalties for multiple violations while remaining consistent with legislative limitations on penalty amounts outlined in the Government Code.

#### Subdivision (b)

The purpose of this section is to state that nothing in this section shall be construed as preventing a jurisdiction from revoking, suspending, or denying a permit, registration, license, or other authorization consistent with local requirements outside the scope of this chapter in addition to the imposition of penalties authorized under this section. This section is necessary to clarify that a jurisdiction is not prevented from enforcing other requirements in addition to those in this chapter.

### **Section 18997.3. Department Penalty Amounts.**

#### Subdivision (a)

The purpose of this section is to state that penalties shall be imposed administratively in accordance with the requirements set forth in this section. This section is necessary to delineate separate penalty enforcement provisions from those of jurisdictions because the subjects of enforcement are different in nature from those subject to direct enforcement by local jurisdictions, the nature of the violations are different, and the department is not subject to applicable penalty limitations in the Government Code and is instead only subject to the limitation in SB 1383 of \$10,000 per day.

#### Subdivision (b)

The purpose of this section is to outline the penalties for three types of violation categories: minor, moderate, and major. This section is necessary to provide broad enforcement discretion to the department to impose an appropriate administrative civil penalty given the circumstances of the violation. This section is also necessary to provide transparency and notice to those who may be subject to penalties and to ensure the penalty is appropriate to the violation.

#### Subdivision (c)

The purpose of this section is to detail the factors the department may consider when determining the penalty amount within the minor, moderate, or major penalty range. The factors included here parallel the types of factors that appear in a number of other department statutes and regulations. This section is necessary to ensure that an appropriate and fair administrative civil penalty is determined based on the circumstances.

#### Subdivision (d)

The purpose of this section is to outline the process used by the department to assess penalties for a violation of the Recovered Organic Waste Procurement requirements in Section 18993.1. This process is substantially different from how penalties are assessed in Subdivision (b) for other violations of this chapter. This section is necessary to allow a method to issue penalties on a per day basis consistent with the limitations of SB 1383 for a procurement target that is per year (annual). This is necessary to avoid unfairly penalizing a jurisdiction for a full 365 days even if it achieves partial compliance with the procurement requirements of this chapter. This section does not impose a per day procurement target.

#### Subdivision (e)

The purpose of this section is to clarify that the aggregated penalty amount for multiple violations shall not exceed \$10,000 per day as authorized in Section 42658.5 of the Public Resource Code. This is necessary to ensure that administrative civil penalties are not in excess of statutory limitations.

#### Subdivision (f)

The purpose of this section is to clarify that nothing in this section should be construed as authorizing CalRecycle to impose penalties on residential organic waste generators. This is necessary to clarify the department will not be enforcing administrative civil penalties against residential generators and will leave such enforcement to jurisdictions.

### **Section 18997.4. Organic Waste Recovery Noncompliance Inventory.**

The purpose of this section is to establish the department's enforcement process if a state agency, local education agency, or federal facility is in violation of this chapter. This section is necessary because enforcement against such entities is fundamentally different from enforcement against other entities subject to the chapter and requires a separate process. It is necessary to have an enforcement process in lieu of civil penalties pursuant to Section 18997.3 to discourage state agencies, local education agencies, and federal facilities from violating the requirements of this chapter.

### **Section 18997.5. Department Procedure for Imposing Administrative Civil Penalties.**

#### Subdivision (a)

The purpose of this section is to describe the process by which the department shall commence an action for administrative civil penalties through the filing of an accusation. This section is necessary to create a transparent and defined process for enforcement.

#### Subdivision (b)

The purpose of this section is to describe how an accusation commencing a penalty action shall be served. This section is necessary to create a transparent and defined process for service as well as to ensure accusations are received by respondents.



#### Subdivisions (c) through (e)

The purpose of this section is to establish timelines for a respondent to request a hearing before the department, for the department to schedule a hearing, and for a hearing to be held. The purpose of this section is also to define who the hearing officer shall be and when rights to a hearing may be waived. This section is necessary to create a transparent and defined hearing timeline to adjudicate enforcement cases in a timely manner and to put respondents on notice that hearing rights may be waived.

#### Subdivision (f)

The purpose of this section is to describe how the department may issue an order setting a penalty when a respondent has waived the right to a hearing. This section is necessary to create a defined and transparent process when a hearing does not occur but penalties remain enforceable.

#### Subdivision (g)

The purpose of this section is to establish when a written decision must be issued following a hearing. This section is necessary to create a transparent and defined hearing process and ensure hearings are brought to a timely conclusion.

The processes in this section are similar or identical to those set forth for a number of CalRecycle programs and are consistent with the APA. This section is necessary to ensure adequate due process and timely adjudication.

### **Section 18997.6. Department Procedures for Hearings and Penalty Orders.**

The purpose of this section is to establish the appropriate procedure for conducting hearings, the effective date of penalty orders, due dates for penalty payments, and the manner in which a penalty order may be served. This section is necessary to establish a transparent and defined legal process for hearings and orders to ensure due process. The processes in this section are similar or identical to those set forth for a number of CalRecycle programs, are consistent with the APA, and are necessary to ensure adequate due process and timely adjudication.

### **Article 17. Performance-Based Source Separated Organic Waste Collection Service**

The purpose of this Article is to provide local jurisdictions additional flexibility to implement organic waste collection services in a manner that meets the intent of the statutory requirements. Throughout the rulemaking process, stakeholders, particularly those with established programs and services, requested additional flexibility for implementing an organic waste collection service other than those provided in Article 3 of this chapter. The statute precludes the department from requiring each jurisdiction to achieve a unique diversion target, which is why the regulations in this chapter are more prescriptive. However, this Article allows jurisdictions to comply with the regulation by demonstrating that they meet performance standards established in this Article and avoid some of the prescriptive requirements described earlier in this chapter.

Jurisdictions that can meet the performance standards in this Article will require less direct oversight from CalRecycle because this Article establishes performance standards that provide certainty that, if every jurisdiction were to implement a program that complied with this Article, the state would achieve the statutory organic waste recovery targets that are the overall purpose of this chapter.

This Article and the following sections are necessary to provide an alternative for jurisdictions that enables regulated entities to achieve the statutory purpose in the least burdensome manner that allows the state to achieve the statutory mandate to keep organic waste out of landfills and reduce greenhouse gas emissions.

### **Section 18998.1. Requirements for Performance-Based Source Separated Collection Service.**

The purpose of this section is to establish the minimum standards a jurisdiction must meet in order to qualify for the compliance exemptions included in this Article. The necessity of this section is discussed in the sections that follow.

#### **Subdivision (a)**

The purpose of this section is to set forth the primary organic waste collection requirements required by this Article. This section is necessary to clarify the minimum standards that apply to jurisdictions that implement this compliance option.

#### **Subdivision (a)(1)**

The purpose of this section is to require jurisdictions choosing the compliance option provided in this Article to provide an organic waste collection service that meets the three-container organic waste collection service requirements prescribed in subdivisions (a), (b), and (d) through (f) of Section 18984.1. The purpose of this section is also to require that jurisdictions pursuing this compliance option provide service to 90 percent of the organic waste generators subject to the jurisdiction's authority.

This section specifies that, to comply with the minimum requirements of a performance-based source separated organic waste collection service, a jurisdiction must provide each generator with a green container, a blue container, and a gray container. By incorporating the subdivisions of Section 18984.1, this subdivision further specifies the materials that a jurisdiction may allow generators to collect in each type of container and the type of facilities to which the contents of the container must be transported. The container color and material specifications included in this section and the provisions of Section 18984.1 referenced above ensure that the color and minimum levels of acceptable materials for collection containers for this compliance option are consistent with those that are standardized with all jurisdictions throughout the state, and ensure that organic wastes are transported to the appropriate facilities for recovery.

The purpose of the requirement that jurisdictions pursuing this compliance option source separate organic waste is to keep material separate from other solid waste in order to keep it clean and recoverable. With very few exceptions, certain materials can

only be processed and recovered when they are kept separate from other materials. Materials such as metals, paper, and plastics are remanufactured through distinct processes (e.g., metal is smelted, paper is pulped and washed). Largely because of this, while a material may be valuable as a homogenous commodity, it can become difficult or impossible to recycle when it is contaminated with other materials (e.g., many materials lose their value when they are commingled with other materials). This principle holds true and is perhaps more of a factor in the recovery of organic waste than with other recoverable materials.

Likewise, some types of organic waste can be commingled with other organic wastes (e.g., food waste and green waste) during the collection or processing of that material and can still be recovered/remanufactured into new materials using the same processes/activity (e.g., composting, digestion etc.). In addition, due to certain technologies, other types of recoverable materials can be effectively resegregated after they have been mixed with other recoverable materials (e.g. metals and certain plastics).

However, in most cases when organic waste is mixed with non-organic recyclable waste, the recoverability of both materials is compromised, the recovery options become increasingly limited, and the value of at least one material can be lost (e.g., broken glass mixed in with food waste can render each material exceedingly more expensive and technically challenging to recover). That is because most organic wastes are wet and putrescible and, once commingled with other wastes, cannot be effectively separated from other wastes and therefore cannot be recovered. This is due to two factors: First, the nature of organic waste (wet and putrescible) makes it difficult to separate from other materials; second, the recovery activities allowed for organic waste under Article 2 and the products created through those activities are subject to strict quality standards such as minimum pathogen reduction levels and maximum contaminant levels to ensure the protection of public health and safety. There is a lack of data demonstrating the existence of a commercially viable process that can effectively separate organic waste and process it in a manner that meets acceptable final product standards.

The requirement to source separate organic waste is necessary because source separated collection, as provided for in this section, is a proven method for effectively collecting and recovering organic waste because it keeps material separated from non-organic recyclable waste clean, so the maximum amount of organic waste can be collected and recovered.

The purpose of the requirement to provide service to 90 percent of generators is two-fold. First, jurisdictions that provide a performance-based source separated organic waste collection service are not required to issue waivers to generators that are not subscribed to an organic waste collection service. Organic waste collection services that are established in Article 3 of this chapter are only authorized to issue waivers under the conditions prescribed in Section 18984.11. Jurisdictions that implement a performance-based source separated organic waste collection service may waive up to 10 percent of

commercial and 10 percent of residential generators at their discretion. The purpose of authorizing jurisdictions that provide performance-based source separated organic waste collection service to allow up to 10 percent of their commercial and 10 percent of their residential generators to forego service without the explicit granting of a waiver is to reduce the compliance burden upon these jurisdictions that meet the alternative performance standards established in this section. Second, it is estimated that the waivers authorized under Section 18984.11 will allow jurisdictions to waive up to 10 percent of their generators from the organic waste collection service requirements. Therefore, requiring jurisdictions providing a performance-based source separated organic waste collection service to provide service to 90 percent of their generators provides parity with other jurisdictions.

The requirement that no less than 90 percent of generators have service is necessary to ensure that jurisdictions implementing a performance-based source separated organic waste collection service collect a sufficient amount of organic waste to allow the state to achieve the organic waste recovery targets. If less than 90 percent of generators receive service in jurisdictions implementing a performance-based source separated organic waste collection service, the ability for the state to meet the statutory organic waste recovery targets will be compromised.

#### Subdivision (a)(2)

The purpose of this section is to require that the contents of the source separated organic waste collection stream collected in a jurisdiction implementing a performance-based source separated organic waste collection service are only transported to a designated source separated organic waste recycling facility. This section is necessary to ensure that source separated organic waste is not mixed with non-organic waste after collection or transported directly to disposal facilities. This section is also necessary to ensure that the clean material is only transported to a facility that achieves the minimum level of recovery necessary for the state to achieve the statutory organic waste recovery targets.

#### Subdivision (a)(3)

The purpose of this section is to require jurisdictions that implement a performance-based source separated organic waste collection service to ensure that the amount of organic waste collected in the gray container does not exceed an annual average of 25 percent by weight. This section further establishes the method that the jurisdiction must use to determine the 25 percent annual average of organic waste that can be collected in the gray container. This section is necessary to ensure that a substantial amount of organic waste is not incidentally or intentionally disposed of in the gray container. The section is also necessary because, absent the provisions of this subdivision, a jurisdiction could meet the recovery requirements for organic waste collected for recycling but still dispose a significant amount of organic waste in the gray container, which would compromise the state's ability to achieve the statutory organic waste recovery targets.

#### Subdivision (a)(4)

The purpose of this section is to clarify that jurisdictions implementing a performance-based source separated organic waste collection service must provide organic waste collection services to all of their generators within their authority and ensure that 90 percent of those generators participate in the services provided. Under previously enacted laws, jurisdictions were required to offer organic waste collection services to their businesses but were not required to make participation mandatory. Accordingly, those jurisdictions currently experience average business participation of 25 percent. By contrast, jurisdictions that make participation in the service mandatory and take enforcement action against generators that do not participate have an average compliance rate of 75 percent; some are as high as 99 percent. This section is necessary to ensure that jurisdictions electing to provide performance-based source separated organic waste collection service provide services to 90 percent of their generators so a sufficient amount of organic waste is collected to ensure the state can achieve the statutory organic waste recovery targets.

#### Subdivision (a)(5)

The purpose of this section is to clarify that in order to be eligible to implement a performance-based source separated organic waste collection service, a jurisdiction must first notify the department and provide the information listed in Section 18988.3. This section is necessary so the department is aware that the jurisdiction's compliance with the collection requirements of this chapter will be measured by the standards established in this Article.

#### Subdivision (b)

The purpose of this section is to clarify that a jurisdiction implementing a performance-based source separated organic waste collection service may delegate collection services to a designee such as a private solid waste hauler, provided that the delegation contract or other agreement explicitly requires the designee to transport the contents of the source separated organic waste collection stream to a designated source separated organic waste recycling facility. This section is necessary to ensure that jurisdictions that delegate services to haulers satisfy the requirements of subdivision (a)(2) so generators are confident that the material they are separating for recovery is actually recovered, and to ensure that the state is able to meet the statutory organic waste recovery targets.

#### Subdivision (c)

The purpose of this section is to require a jurisdiction that elects to implement a performance-based source separated organic waste collection service, but fails to meet the minimum requirements, to implement a collection service that complies with the requirements of Article 3 and that failure to do so will make the jurisdiction subject to enforcement actions by the department until the jurisdiction has implemented that service. The purpose of this section is also to clarify that jurisdictions subject to enforcement action for failure to implement one of the collection services provided in Article 3 are not subject to the compliance exceptions in Section 18998.2. This section is necessary to clarify the action that a jurisdiction must take if it fails to successfully implement a performance-based source separated organic waste collection service.

#### Subdivision (d)

The purpose of this section is to clarify that a hauler providing organic waste collection services to a jurisdiction that is implementing a performance-based source separated organic waste collection service is not required to comply with the provisions of Section 18988.2. The purpose of this section is also to clarify a hauler providing services pursuant to this subdivision must transport the contents of the source separated organic waste collection stream to a designated source separated organic waste recycling facility, and must keep a record of its approval from the jurisdiction to transport materials on its behalf. The section is necessary to clarify that hauling provided under this Article is not subject to the requirements of Section 18988.2 because those provisions pertain to compliance with collection services provided under Article 3 but are not necessary to ensure compliance for this type of collection service.

#### Subdivision (d)(1)

The purpose of this section is to specify that, if a hauler is transporting source separated organic waste to a community composting site in a manner consistent with Article 1, Chapter 9, Part 2, Division 30, commencing with PRC Section 41950, then the provisions of Subdivision (d) do not apply to that hauler. This section is necessary to provide department with the ability to ensure that the safe and lawful transport of source separated organic waste to community composting sites is unimpeded.

#### Subdivision (d)(2)

The purpose of this section is to specify that, if a hauler is transporting construction and demolition debris in compliance with Section 18989.1 of this regulation, then the provisions of section (d) do not apply to that hauler. This section is necessary to ensure that the requirements of this section are not applied to the hauling of construction and demolition debris, which is already subject to requirements under the CALGreen Building Code and are referenced in Article 8 of this chapter.

#### Subdivision (e)

The purpose of this section is to describe the types of haulers that are not required to comply with the provisions of subdivision (e) because those provisions only pertain to compliance with collection services provided under Article 3 but are not necessary to ensure compliance for this type of collection service.

#### Subdivision (e)(1)

The purpose of this section is to specify that if a hauler is transporting source separated organic waste to a community composting site in a manner consistent with Division 30, Part 2, Chapter 9, Article 1, commencing with PRC Section 41950, then the provisions of section (e) do not apply to that hauler. This section is necessary to provide the department with the ability to ensure that the safe and lawful transport of source separated organic waste to community composting sites is unimpeded.

#### Subdivision (e)(2)

The purpose of this section is to specify that, if a hauler is transporting construction and demolition debris in compliance with Section 18989.1 of this regulation, then the provisions of subdivision (d) do not apply to that hauler. This section is necessary to ensure that the requirements of this section are not applied to the hauling of construction and demolition debris, which is already subject to requirements under the CALGreen Building Standards Code and are referenced in Article 8 of this chapter.

### **Section 18998.2. Compliance Exceptions.**

The purpose of this section is to specify that a jurisdiction implementing a performance-based source separated organic waste collection service is not subject to certain requirements pertaining to the implementation of an organic waste collection service under Article 3. This section is necessary because the requirements from which jurisdictions are exempt under this section are not essential to ensuring compliance with this Article. This section is also necessary to allow jurisdictions demonstrating that they meet performance standards established in this Article to avoid some of the prescriptive requirements from earlier in this chapter without compromising the ability of the state to achieve the statutory organic waste recovery targets.

#### Subdivision (a)(1)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the two-container and one-container organic waste collection requirements of Sections 18984.2 and 18984.3. This section is necessary because this Article requires a jurisdiction to implement a three-container collection service, therefore the two-container and one-container services are unavailable to the jurisdiction.

#### Subdivision (a)(2)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the container labeling requirements in Sections 18984.8 and the exemptions allowed by 18984.11. This section is necessary because the requirements for collection services meeting the standards of this Article contain requirements that make the labeling requirements unnecessary. This section is also necessary because the waiver and exemptions allowed in Article 3 are projected to apply to ten percent of the generators, and the requirement in this Article that jurisdictions implementing collection services must provide services to 90 percent of their generators accounts for that 10 percent exemption.

#### Subdivision (a)(3)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the recordkeeping requirements in Sections 18984.4 and 18984.14 of Article 3. This section is necessary to clarify that these recordkeeping requirements are replaced by the recordkeeping requirements contained in Section 18998.4 of this Article.

#### Subdivision (a)(4)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the education and outreach requirements of Section 18985.1 of Article 3. This section is necessary to clarify that education and outreach are not required for the collection system provided by this Article.

Subdivision (a)(5)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the recordkeeping requirements in Section 18985.3 except as related to edible food recovery education and outreach performed under Section 18985.2. This section is necessary to clarify that jurisdictions implementing the collection system provided by this Article are only required to keep records relating to edible food recovery requirements in Section 18985.3 and the recordkeeping requirements contained in Section 18998.4 of this Article.

Subdivision (a)(6)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the regulation of haulers in Article 7 of this chapter. This subdivision is necessary because the haulers used by jurisdictions to transport materials under the collection system provided by this Article have different requirements.

Subdivision (a)(7)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the annual reporting requirements in Sections 18994.2(c)(1) and (2), (d) through (f), and (k). This section is necessary to clarify that a jurisdiction implementing a collection system under this Article is only required to report certain information under the reporting requirements and to comply with the recordkeeping requirements contained in Section 18998.4 of this Article.

Subdivision (a)(8)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the jurisdiction inspection and enforcement requirements in Section 18995.1 except for the provisions related to edible food generators and food recovery organizations and services in that section. This section is necessary to inform jurisdictions that, except with respect to edible food, they are required to comply with the recordkeeping requirements contained in Section 18998.4 of this Article.

Subdivision (a)(9)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the implementation recordkeeping requirements in Sections 18995.2(f)(3) through (7) and (11) through (14) except for the inspection- and enforcement-related requirements



related to edible food generators and food recovery organizations and services. This section is necessary to clarify to jurisdictions that, with the exception of these requirements related to edible food, they are only required to comply with the recordkeeping requirements contained in Section 18988.4 of this Article.

Subdivision (a)(10)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the jurisdiction investigation requirements in Section 18995.3 except as it pertains to entities subject to the edible food recovery requirements of Article 10 of this chapter. This section is necessary to clarify to jurisdictions that, with exception of the requirements related to edible food, they are only required to comply with the recordkeeping requirements contained in Section 18988.4 of this Article.

Subdivision (a)(11)

The purpose of this section is to provide that a jurisdiction implementing a performance-based source separated organic waste collection system is exempt from the jurisdiction enforcement requirements in Section 18995.4 except as it pertains to the edible food recovery requirements of Article 10 of this chapter. This section is necessary to clarify to jurisdictions that, with exception of these requirements related to edible food, they are only required to comply with the recordkeeping requirements contained in Section 18988.4 of this Article.

**Section 18998.3. Notification to Department.**

The purpose of this section is to require that a jurisdiction intending to comply with the collection requirements by implementing a performance-based source separated organic waste collection service notify CalRecycle of that decision by providing the information specified in this section. This section is necessary to provide CalRecycle with pertinent information that will allow the department to verify that a jurisdiction meets the minimum program requirements of this Article and effectively monitor compliance with the requirements of this Article.

Subdivision (a)

The purpose of this section is to specify that a jurisdiction implementing a performance-based source separated organic waste collection service beginning in 2022 must notify the department of that decision on or before January 2022. The purpose of this section is also to require that jurisdictions deciding to implement a performance-based organic waste collection service in any subsequent year to notify the department on or before January 1, 2022. This section is necessary because the requirements of a collection service pursuant to this Article differ from those discussed in Article 3, and in order to effectively monitor and evaluate a jurisdiction's compliance with this Article, the department must know which jurisdictions are subject to the requirements of this Article.

Subdivision (b)

The purpose of this section is to specify the information that must be included in the notification required by this section. This subdivision is necessary to ensure that the department has the information required to monitor and evaluate a jurisdiction's compliance with the requirements of this Article.

Subdivision (b)(1)

The purpose of this section is to require that the notice required by this section include the name of the jurisdiction. This section is necessary so that CalRecycle knows which jurisdictions have decided to implement the performance-based source separated organic waste collection service so the department can effectively monitor and evaluate the compliance by those jurisdictions with the requirements of this Article.

Subdivision (b)(2)

The purpose of this section is to require that the notice required by this section include the date that the jurisdiction has decided to implement the performance-based source separated collection service. This section is necessary so CalRecycle can determine the date when the jurisdiction is required to comply with the requirements of this Article.

Subdivision (b)(3)

The purpose of this section is to require that the notice required by this section include the name, address, and telephone number of the jurisdiction representative with primary responsibility for ensuring compliance with this Article. This section is necessary to allow effective communication between the jurisdiction and the department.

Subdivision (b)(4)

The purpose of this section is to require that the notice required by this section include the address within the jurisdiction where all records required by this chapter are maintained. This section is necessary so that CalRecycle can inspect these records and monitor the jurisdiction's compliance with the requirements of this Article.

Subdivision (b)(5)

The purpose of this section is to require that the notice required by this section include a list of each designated source separated organic waste facility, landfill disposal facility, and any other solid waste facility that will be receiving solid waste directly from the jurisdiction, and that facility's Recycling and Disposal Reporting System number. This information is necessary to allow CalRecycle to effectively monitor and evaluate whether jurisdictions are transporting source separated organic waste to a designated source separated organic waste facility in compliance with the requirements of this Article.

Subdivision (b)(6)

The purpose of this section is to require that the notice required by this section contain the name of any designee to which a jurisdiction has delegated the jurisdiction's responsibilities pursuant to Section 18998.1 as well as any other information that verifies that the designee is in compliance with the requirements of this Article. This

section is necessary to allow CalRecycle to evaluate the jurisdiction's compliance with the requirements of this Article by monitoring the actions of its designee.

Subdivision (b)(7)

The purpose of this section is to require that the notice required by this section contain a statement, under penalty of perjury, by the representative designated by the jurisdiction under Section 18998.3(b) to have the primary responsibility for ensuring compliance with this Article, that the information contained in the notice is true and correct to the best of their knowledge and belief. This section is necessary to ensure the jurisdiction and its representative understand the importance of the accuracy of the information required in the notice.

Subdivision (b)(8)

The purpose of this section is to require that the notice required by this section contain the percentages of the commercial businesses and the residential sector that are enrolled in organic waste collection services provided by the jurisdiction at the time the notice is provided to CalRecycle. This section is necessary to allow the department to determine whether the jurisdiction is providing service to 90 percent of the commercial businesses and 90 percent of the residential sector in compliance with Section 18998.1(a)(1) of this Article.

Subdivision (c)

The purpose of this section is to require that the initial report to CalRecycle required by section 18994.1 contain a certification by the jurisdiction that 90 percent of the commercial businesses and 90 percent of residential generators subject to the jurisdiction's authority are enrolled in the jurisdiction's performance-based source separated organic waste collection service. This section is necessary so the department can evaluate and monitor a jurisdiction's compliance with this Article.

**Section 18998.4. Recordkeeping.**

The purpose of this section is to specify the documents that a jurisdiction implementing the collection program described in this Article is required to include in the Implementation Record required by Section 18995.2 of this chapter. This section is necessary to ensure that the jurisdiction provides the records for CalRecycle to access to verify that a jurisdiction is in compliance with the requirements of this Article.

Subdivision (a)

The purpose of this section is to clarify that, if a jurisdiction is using a designee to implement a performance-based source separated organic waste collection program the jurisdiction is required to keep a record of the geographical area served by each designee. This section is necessary to allow the department to verify whether the jurisdiction's designee is complying with the requirements contained in this Article.

Subdivision (b)

The purpose of this section is to require a jurisdiction to keep a record of the contract or agreement for each designee specifying that the designee must transport source separated organic waste to a designated source separated organic waste recycling facility. This section is necessary to allow CalRecycle to verify whether a jurisdiction's designee is complying with the requirements for implementing a performance-based source separated organic waste collection service contained in this Article.

#### Subdivision (c)

The purpose of this section is to require a jurisdiction that implements a performance-based source separated organic waste collection service to maintain an Implementation Record containing the documentation in the following section. This section is necessary to allow CalRecycle to verify whether a jurisdiction's designee is complying with the requirements for implementing the performance-based source separated organic waste collection service contained in this Article.

#### Subdivision (c)(1)

The purpose of this section is to require the jurisdiction to include a current list of generator addresses subject to its authority. This section, and Sections (c)(2) and (c)(3), are necessary to allow CalRecycle to verify that the jurisdiction is complying with the requirement in Section 18988.1 to provide a three-container waste collection service to at least 90 percent of both the commercial businesses and the residential sector.

#### Subdivision (c)(2)

The purpose of this section is to require the jurisdiction to include a current list of generators in both the commercial business and residential sector that are subject to its authority that are served by the performance-based source separated collection service required by this Article. This subdivision is necessary to allow CalRecycle to verify that these each category of these generators constitute at least 90 percent as required by Section 18998(a)(1).

#### Subdivision (c)(3)

The purpose of this section is to require the jurisdiction to include a current list of generator addresses subject to its authority that the jurisdiction does not require to use the performance-based source separated collection service required by this Article. This section is necessary to allow CalRecycle to verify that these generators do not comprise more than 10 percent of the generators subject to the jurisdiction's authority.

#### Subdivision (c)(4)

The purpose of this section is to require jurisdictions to include documentation of the enrollment system that they are using to comply with Section 18998.1(a)(4) of this Article. A previous draft of this subdivision required that enrollment in the jurisdiction's collection system be automatic for new businesses and residents moving into the jurisdiction. Stakeholders requested that, instead of using automatic enrollment, a jurisdiction have some flexibility. Accordingly, this provision was revised to state that jurisdictions could not wait until generators requested service but could select the method they would use to achieve a minimum participation rate of 90 percent.

Jurisdictions will have to demonstrate compliance with the minimum service requirements upon inspection of the Implementation Record by CalRecycle. This section is necessary to allow jurisdictions flexibility while ensuring that the state is able to meet the statutory organic waste recovery targets.

#### Subdivision (d)

The purpose of this section is to list the specific records required in Section 18995.2 that a jurisdiction must continue to maintain in the Implementation Record required by Section 18995.2. of this chapter. This section is necessary to clarify that, although jurisdictions implementing a performance-based source separated organic waste collection service are exempt from maintaining certain records required in Section 18995.2, other records must be maintained. This section is necessary to ensure that the department can access information necessary to verify that a jurisdiction is in compliance with the requirements of this Article.

#### Subdivision (d)(1)

The purpose of this section is to require a jurisdiction to maintain copies of ordinances or other similarly enforceable mechanisms, contracts, and agreements required by Section 18995.2(f)(1). This section is necessary to allow CalRecycle to verify that a jurisdiction is in compliance with the requirements of this Article.

#### Subdivision (d)(2)

The purpose of this section is to require a jurisdiction to maintain a written description of the jurisdiction's inspection and enforcement program required by 18995(f)(2), as well as all education and outreach records required by Section 18995(f)(6) pertaining to the edible food recovery requirements of this chapter. This section is necessary to ensure CalRecycle can access the information necessary to verify that a jurisdiction is in compliance with the requirements of this Article.

#### Subdivision (d)(3)

The purpose of this section is to require that a jurisdiction maintain all education and outreach records required by Section 18995.2(f)(8), all recovered organic waste procurement target records required by Section 18995.2(9), and all recycled content procurement records required by Section 18995.2 (f)(10). This section is necessary to ensure that department can verify that a jurisdiction is in compliance with the requirements of this Article.

#### Subdivision (d)(4)

The purpose of this section is to require that a jurisdiction maintain all inspection, route review, and compliance review records required by Section 18995.2(f)(11), all records of enforcement actions required by Section 18995.2(f)(12), and all records of complaints and investigations of complaints required by Section 18995.2(13). This section is necessary to ensure that CalRecycle can verify that a jurisdiction is in compliance with the requirements of this Article.

## **TITLE 27. ENVIRONMENTAL PROTECTION**

## **DIVISION 2. SOLID WASTE**

### **Chapter 3: Criteria for All Waste Management Units, Facilities, and Disposal Sites**

#### **Subchapter 4. Criteria for Landfills and Disposal Sites**

#### **Article 3. CalRecycle—Handling, Equipment, and Maintenance**

The purpose of section is to revise the title to delete “CIWMB” and replace it with “CalRecycle.” This section is necessary to update the subdivision with the accurate name of the department pursuant to the changes made by SB 63 (Strickland, 2009).

#### **Section 20750.1. CalRecycle—Organic Waste Handling.**

The purpose of this section is to require new or expanding landfills to implement an organic waste recovery activity. The state needs to greatly expand its organic waste recycling capacity, and co-location of organic waste recycling facilities at existing landfills is one mechanism that can help increase capacity while taking advantage of existing infrastructure. This section is designed to ensure that before landfill disposal capacity is expanded, landfill operators take measures to establish organic waste recovery activities that can process and reduce the amount of organic waste sent to landfills. This is necessary support the state’s efforts to keep organic waste out of landfills and reduce greenhouse gas emissions.

##### **Subdivision (a)**

The purpose of this section is to clarify how operators that are subject to this section are required to implement organic waste recovery activities. This section is necessary to clarify the standards that apply to landfill operators complying with this section to protect public health, safety, and the environment.

##### **Subdivision (a)(1)**

The purpose of this section is to specify that the solid waste received that has already been processed through a high diversion organic waste processing facility or a designated source separated organic waste facility does not require further processing at a landfill. This section is necessary to clarify which types of solid waste are required to be processed at a landfill’s organic recovery activity and to eliminate redundant processing when waste has already been processed at another facility that meets high diversion facility standards.

##### **Subdivision (b)**

The purpose of this section is to clarify what constitutes an organic waste recovery activity. This section further clarifies that operators of a new or expanding landfill have the option to either implement an organic waste recovery activity on-site or send the material to a site that will comply with this requirement. This section is necessary to clarify for operators how to comply with the requirement in this section to have “organic

waste recovery activities” on-site. The section will also provide operators with the flexibility to choose the option that best fits their operation in order to comply with the requirement. Operators that do not have available land or the financial ability to implement an organic waste recovery activity on-site can choose to send the material to a site that can comply with this requirement.

#### Subdivision (c)

The purpose of this section is to define what constitutes “expanding” a solid waste landfill. This section further clarifies that for the purpose of this section, a significant change would not include a change in hours of operation. This section is necessary to provide landfill operators clarity as to when they are subject to the provisions of this section.

### **Chapter 4. Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans**

#### **Subchapter 3. Development of Waste Discharge Requirements (WDRs) and Solid Waste Facility Permits**

##### **Article 2. CalRecycle—Applicant Requirements**

##### **Section 21570. CalRecycle—Filing Requirements.**

The purpose of the revision to Subdivision (f)(1) is to replace “8-04” with “11-15.” This section is necessary to update the section with the current application form number.

#### Subdivision (g)

The purpose of this section is to require that an operator of a new or expanding solid waste facility provide evidence that a public meeting was held for any affected disadvantaged communities. This section is necessary to ensure the affected groups and/or communities are provided an adequate opportunity to attend the meeting and comment on the project. This section is necessary to reflect the statutory intent of SB 1383, which states: “To the extent possible, efforts to reduce emissions of short-lived climate pollutants should focus on areas of the state that are disproportionately affected by poor air quality.” Approximately one-third of disposal occurs within 1 kilometer of disadvantaged communities, creating poor air quality in these communities. The amendments to this section are necessary to implement the statutory purpose of SB 1383 by encouraging efforts to reduce emissions in areas of the state affected by poor air quality.

#### Subdivisions (g)(1) and (g)(2)

The purpose of this section is to list the records the operator is required to maintain and submit to the EA as evidence that a meeting was held with any affected disadvantaged communities. This section is necessary to ensure operators are aware of the type of documents needed to comply with this section.

#### Subdivision (g)(3)

The purpose of this section is to define the term “affected disadvantaged communities.” This section is necessary to clarify the term to help operators identify who would be represented in this group so they are notified and are provided the opportunity to attend meetings and provide comments on the project.

### **Section 21590. CalRecycle—Joint Technical Document for Disposal Facilities.**

The purpose of the revision to Subdivision (c) is to replace the word “magnetic media” with “electronic copy.” This section is necessary because the reference to “magnetic media” is outdated.

### **Article 3. CalRecycle—Enforcement Agency (EA) Requirements**

#### **Section 21650. CalRecycle—EA Processing Requirements.**

##### Subdivisions (a) through (h)

The purpose of the revisions to these subdivisions is to replace “CIWMB” with “CalRecycle.” This section is necessary to reflect the accurate name of the department pursuant to the changes made through SB 63 (Strickland, 2009).

##### Subdivision (g)(5)

The purpose of the revisions to this section is to require the EA to submit copies of its responses to the comments received and any further steps to be taken. This section is necessary to ensure comments received during the process are properly considered by the EA.

#### **Section 21660.2. Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications.**

The purpose of the revision to subdivision (b) is to replace “CIWMB” with “CalRecycle.” This section is necessary to reflect the accurate name of the department pursuant to the changes made by SB 63 (Strickland, 2009).

##### Subdivisions (c)(1) through (c)(3)

The purpose of the revisions to these subdivisions is to specify that the informational meetings required under this section take into consideration the disadvantaged communities affected by new or expanding solid waste facilities. This section is necessary to allow the affected disadvantaged communities an adequate opportunity to attend the meeting and provide comments.

##### Subdivision (e)

The purpose of this section is to define the term “affected disadvantaged communities.” This section is necessary to better clarify the term to help the EAs better identify who would be represented in this group so they are notified and provided the opportunity to attend meetings and provide comments on the project.



## **Article 3.2. CalRecycle—Other Requirements**

The purpose of the revision to this Article heading is to replace the term “CIWMB” with “CalRecycle.” This section is necessary to reflect the accurate name of the department pursuant to the changes made by SB 63 (Strickland, 2009).

### **Section 21695. CalRecycle—Organic Disposal Reduction Status Impact Report.**

The purpose of this section is to require solid waste landfill operators to submit a Status Impact Report (SIR). This section is necessary to evaluate the potential impacts to landfills from the organic waste disposal reduction requirements pursuant to SB 1383. This section is necessary to determine and assess the timing of those impacts to encourage operators to plan in advance for permit changes or modifications that will require action by EAs, CalRecycle, or both. This is to ensure that permitting actions proceed efficiently and well in advance of any changes.

#### Subdivision (a)

The purpose of this section is to clarify those operators of solid waste landfills that are required to comply with this section. This section is necessary to clarify the entities subject to the regulations.

#### Subdivision (b)

The purpose of this section is to specify that a California-licensed civil engineer or engineering geologist prepare the SIR. This section is necessary to ensure the operator produces the most accurate information in order to determine the potential impacts to the landfill.

#### Subdivision (c)(1) through (c)(13)

The purpose of this section is to outline the potential impacts a landfill operator must consider in the SIR. These sections are necessary to clarify the list, which is not all-inclusive, of the items to be considered to help assist the operator complete the SIR. If there are no changes to a specific item, then a statement that explains why there will be no changes will be adequate.

#### Subdivisions (d) through (f)

The purpose of this section is to establish the timeframe for the submittal, review and approval of the SIR. This section is necessary to allow the impacts to be reviewed and approved within a timely manner. The review by CalRecycle will align with the current standard of reviewing any other state minimum standard which includes reviewing the assumptions and the methodology used by the operator to determine the appropriateness. This section does not require the EA to review the SIR but to direct the operator based on CalRecycle’s review and determination.

#### Subdivisions (g) and (h)

The purpose of this section is to establish the time frame for the submittal of a Joint Technical Document (JTD) if one is needed as a result of the SIR. This section is necessary to clarify the compliance obligations of both the EA and the operator and to allow for a timely submittal of the JTD.